The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable William Proxmire, a Senator from the State of Wisconsin.

The PRESIDING OFFICER. Our prayer today will be offered by Rev. Edwin S. Harper, pastor of the Staunton Street Apostolic Church in Huntington, WV. Reverend Harper is sponsored by the majority leader, Senator Byrd.

PRAYER

The Reverend Edwin Stephen Harper, D.D., pastor, Staunton Street Apostolic Church, Huntington, WV, offered the following prayer:

Let us pray.

Unto Thee Our Mighty God Jesus Christ, we come to thank You, praise You and seek Your favor for our humble request today.

We thank You for the bountiful provisions You have given, allowing this land to be blessed by the presence of these United States of America. Righteousness exalts a nation. Here, regardless of persuasion, righteous faith has been honored and You have opened the window of Heaven and poured out blessings our barns cannot contain. Receive our heart given worship.

Praising Thee who art worthy to receive worship, Your Holiness humbled to help our faltering steps. Power meted to keep us in our weakness without destruction. Peace that overlooks our turmoil and heals our differences. We thank You for the bountiful provisions You have given, allowing this land to be blessed by the presence of these United States of America. Righteousness exalts a nation. Here, regardless of persuasion, righteous faith has been honored and You have opened the window of Heaven and poured out blessings our barns cannot contain. Receive our heart given worship.

In the name of the Lord Jesus Christ, To Thee be glory and honor forever. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will read the appointment of the Senate from the President pro tempore (Mr. Stennis).

The assistant legislative clerk read the following letter:

U.S. SENATE

PRESIDENT PRO TEMPORE

WASHINGTON, DC, FEBRUARY 23, 1988

TO THE SENATE:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable William Proxmire, a Senator from the State of Wisconsin, to perform the duties of the Chair.

John C. Stennis,

President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT PRO TEMPORE. Under the standing order, the majority leader is recognized.

TODAY’S GUEST CHAPLAIN

Mr. BYRD. Mr. President, I want to thank our guest chaplain, the Reverend Dr. Edward S. Harper, for his uplifting prayer.

In addition, I welcome him and his family to the Capitol today, and I hope that their visit with us will be enjoyable and enlightening.

The Reverend Mr. Harper is the pastor of the Staunton Street Apostolic Church in Huntington, WV. A native West Virginian, Mr. Harper studied at the Texas Bible College prior to accepting his first pastoral charge, which was in Dupo, IL. From Dupo, he went next to Morgantown, WV, where he served a church until moving to his current ministerial duties.

Besides his church work, Mr. Harper has also served as chairman of the United Way for the River Cities, headquartered in Huntington, WV. He is also the president of the West Virginia Jobs Foundation, Inc.

Accompanying Mr. Harper to Washington today are his wife, Sharon, and his three daughters, two of whom are twins.

May I say that I have visited in the church of Mr. Harper on more than one occasion. He is a minister who leaves one feeling spiritually renewed and filled, after one hears his sermons. They are great sermons.

His wife accompanies his singing. He sings well, may I say to our Senate Chaplain, who also sings well. I have had the privilege, upon one occasion, of hearing our dear Chaplain sing Amazing Grace, which is one of my favorites and a favorite of a good many of our Baptists from West Virginia, although we love all the old songs. But the Reverend Mr. Harper is also excellent in singing the old hymns and his wife accompanies him on the piano.

They are both very accomplished musicians. I wish that our Senators could hear this man deliver a sermon from the pulpit. They would never forget it. I am glad that they have the revival that they have had the privilege, upon one occasion, of hearing him sing Amazing Grace, which is one of my favorites and a favorite of a good many of our Baptists from West Virginia, although we love all the old songs. But the Reverend Mr. Harper is also excellent in singing the old hymns and his wife accompanies him on the piano.

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DO THE SOVIETS REALLY PLAN TO LEAVE AFGHANISTAN?

Mr. BYRD. Mr. President, earlier this month, Soviet General Secretary Gorbachev announced that if Pakistan and Afghanistan reach agreement by March 15 at the upcoming round of U.N.-sponsored negotiations in Geneva, the Soviets could begin withdrawal of their troops from Afghanistan on May 15. Mr. Gorbachev also said that withdrawal could be completed in 10 months. Is it possible that more than 8 years after they invaded Afghanistan the Soviet Union really, really intends to leave Afghanistan? Do they really intend to leave Afghanistan?

I do not know the answer to that question. I do not think anyone knows what the Soviets really intend to do. It may be that they have taken a firm decision to get out of Afghanistan regardless of the cost. I know that some of the administration leaders are convinced that Mr. Gorbachev has really made a decision to get out of Afghani-
stan. But when? And under what circumstances? 'Thereby hangs a tale.' After all, the Soviets have lost nearly 55,000 to 40,000 dead and wounded. It may be that it has become too costly for them to stay, but they will withdraw only if they are able to maintain the governments of Pakistan and Iran in Kabul or if they are able to accomplish their goals through subversion rather than fruitless and costly fighting. Or it may be that they have no intention of withdrawing, but are gambling that final agreement at Geneva will be so difficult to reach, that Mr. Gorbachev could gain in the public relations arena where he is very good, and still win on his earlier announced withdrawal.

What I do know is that the United States did not create this mess and it is not our responsibility to solve it for the Soviets. It is not our responsibility to make them get out.

There is a very simple bottom line here: In December 1979, the Soviets invaded Afghanistan, they have brutally occupied it for over 8 years, and they must leave. They do not need our help to do it. They need it to turn their troops, their divisions, their guns, their planes, and head north, back to the Soviet Union where they belong. It's as simple as that.

So if they want to get out, what is holding things up? According to the Soviets, the problem now is that Pakistan will not sign the Geneva accords with the Soviet puppet leader. The Pakistanis are insisting—rightly, I believe—that an interim government acceptable to the resistance be formed before they are willing to sign. They also suggest that the signing be delayed until the end of March to allow more time to form a coalition government. Why should we ask Pakistan to endorse the credibility of the Afghan puppet rulers? Why should we legitimize the partners of the Soviets occupation?

The Pakistani Government should not be put under any pressure to agree to Soviet terms for a settlement. The future of Afghanistan should not be driven by some United States-Soviet summit schedule.

Let us watch that very carefully. Are we going to be driven by a summit schedule? Let us hope not. We are on the summit binge, it seems, and many, many questions are being asked as to whether or not we may make some deal, either on the table or under the table, make some deal, directly or indirectly, in order to further a summit meeting, in order to have a summit meeting on nuclear arms.

I suggest that we have a summit meeting when we are ready, and certainly that we have a treaty when it is ready; that we not be guided by any deadline in dealing with the Soviets anent the START Treaty. Time deadlines are not important. Let us have the treaty when it is ready. Contents of the treaty and the security interests of the United States and her allies are what should drive us.

The Soviets naturally seek opportunities to negotiate with the West under conditions of a West which is under some pressure of deadline, be it political deadline, summit deadline, or election deadline. The Soviets, of course, do not operate under deadlines. They can string the Afghan question out as long as they like.

The next round of United Nations-Geneva negotiations between Pakistan and Afghanistan is scheduled for March 2. There is still much to be negotiated at Geneva, and there are a number of very critical problems which must be addressed outside the framework of the Geneva negotiations. One of the four documents which the United States is to submit is a declaration of guarantees by the Soviets and the United States, stating our support for a political settlement and ensuring that there is nonintervention by Pakistan and Afghanistan in each other's affairs. The United States would be foolish to sign up to such a declaration without the settlement of some very troublesome issues. First, in the context of the Geneva negotiations, the exact terms and conditions of the Soviet withdrawal still must be addressed. The Soviets are talking about withdrawing over a period of 9 or 10 months, a quite leisurely pace. The Pakistanis have suggested a 3-month timeframe, which is closer to the mark. After all, Mr. President, what is the purpose of an Afghan settlement? It is to get the Soviets out, first and foremost. Second, it is to ensure that Afghanistan can take its place as a neutral and nonaligned country, with its own political integrity, able to exercise self-determination. Third, it is to allow such an Afghan state to absorb the refugees which now reside in those countries.

There are a number of issues separate from the specific Geneva accords which demand attention. These include aid to the resistance, the status of Soviet advisers, the future of the nearly 400 bilateral treaties the Soviets have made with the puppet Afghan regime, and the positioning of Soviet troops across the Soviet-Afghan border. None of these issues have been resolved.

What about the aid question? The Soviets have been silent on the question of assistance to the regime and supporters in Afghanistan during and after a political settlement, and during other affairs. But the United States, of course, are demanding the U.S. terminate its aid to the Mujahadeen at the first sign that Soviet forces seem to be withdrawing.

Are we silly? Are we foolish? Are we dumb? This, in my view, is an absurd proposition. I oppose it strongly. Why should the United States terminate its assistance to the resistance the day the Soviets begin their withdrawal, the Soviets are under no reciprocal requirement to terminate their assistance to the puppet regime? That is a recipe for disaster. Under those terms the Soviets would have 9 or 10 months to continue to equip the Afghan military and prepare it for a bloody civil war, while the resistance would be cut off.

American aid should stay in place until it is absolutely, indubitably and unquestionably clear that the Soviets are mainly out and that they are not redeploying their forces to be inserted again, and that the Mujahadeen is well enough equipped to maintain its integrity during the delicate period of a transition government leading up to new elections.

Furthermore, what are the Soviets leaving behind, even if they withdraw their regular troops? They have made it clear that they will not remove the 3,000 to 5,000 PAGE 219-199 D-09-17 (pt. 2)
makinings of an interim coalition with some elements of that party is available. That is quite a concession on the part of the mujahedin, and they should not be pressured to go further.

What exactly is it that the United States is being asked to guarantee? We cannot guarantee anything in that way until we see that there is a guarantee that the Soviets would not invade in the first place, and we will not be able to guarantee that they will not reinvade. Are we being asked to guarantee that there will not be a resistance to the resistance if the Soviet Union undertakes yet another brutal invasion and occupation of Afghanistan once it gets out, if it gets out?

Are we putting ourselves in the position of guaranteeing a medal of good behavior to the Soviets for withdrawing their military units, with the bonus of being able to maintain an overbearing presence, and to continue an aid program to be the primary force behind events in that nation? I see no sense in that at all.

Mr. President, there have been suggestions that a U.N.-sponsored peacekeeping force would be useful to keep a guarantee that Soviet forces can withdraw in an orderly way without being attacked on the way out. Such a force might also help keep the peace in the major cities while an interim government organizes the nation’s political future. I would suggest that it might be helpful for the Soviets to seriously consider the creation of such a force. I believe it would be in the interests of all parties if such a force were to be included in the fourth Geneva accord which deals with withdrawal.

Mr. President, we can expect the Soviets now, after a decade of warfare against the Afghan people, to claim that the United States and Pakistan are holding up their withdrawal from that country because of unreasonable demands on the Soviets. We have to be prepared for that kind of disinformation. The government of Pakistan all the support possible to hold firm against the expected Soviet negotiating and disinformation tactics.

The Soviet Union invaded Afghanistan and carried out a scorched Earth war against a nation with little more than the courage to defend itself. After nearly a decade and 1 million deaths, the Afghan people have refused to collapse. With public opinion mounting, general strikes, and millions running against further engagement, Mr. Gorbachev is looking for a graceful, easy way out. His hope is to make the Soviet withdrawal appear to be an act of generosity, good will—rather than a necessity. We should not reward the Soviets for having failed to devour Afghanistan, nor must we let the Soviets quit Afghanistan wrapped in clouds of glory. Their brutal occupation has not been honorable. To their defeat should not be rewarded. They should simply get out.

Mr. President, there was an excellent analysis of this February 21 edition of the Washington Post in the Outlook section. The article was titled “Does Moscow Really Plan on Leaving Afghanistan?” by Lally Weymouth.

I ask unanimous consent that that article appear in the Record.

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

**DOES MOSCOW REALLY PLAN ON LEAVING AFGHANISTAN?**

**(By Lally Weymouth)**

ISLAMABAD, PAKISTAN—“I have never seen a test case like this,” says French diplomat Jean-Francois Deniau of the proposed Soviet pullout from Afghanistan. “It’s the only non-annexation solution for what he says. It’s so important for freedom and for hope. It’s like D-Day. . . . We can’t accept the question like this will receive a false solution.”

A real solution, says the French special envoy on Afghanistan, would be the complete withdrawal and the creation of a truly independent country—as friendly with Pakistan as with the Soviet Union.

The French diplomat is asking the right questions: Is Mikhail Gorbachev’s announcement that the Soviets will withdraw from Afghanistan—trumped around the world this month—for real? Does Moscow plan a “real solution,” or just a cosmetic one that maintains a Soviet proxy government in Kabul? And will the Reagan administration, anxious for a foreign-policy success after years of détente, accept a false solution?

Answers to these questions could begin to surface tomorrow, as Secretary of State George P. Shultz holds talks in Moscow on Afghanistan. Conservatives worry that he may accept a deal that would halt the Soviet military buildup at the start of a 6-month period of promised Soviet troop withdrawal. Such a deal, made without the participation of the Afghan resistance fighters who waged the war, could well collapse—with the resistance fighting on and Afghanistan becoming a second Lebanon.

A clear picture of what’s at stake in the current diplomatic debate over Afghanistan emerges from conversations with some of the key players—in the Soviet Union, Afghanistan, Pakistan, and China. What comes through above all is a sense of uncertainty about what really lies ahead in Afghanistan. Many of those most closely involved are skeptical about Soviet intentions and doubtful that it will be possible to create the neutral, nonaligned Afghanistan that nearly everyone proclaims as the goal. These comments provide a healthy antidote to the optimistic expectations prevalent now in Washington that a lasting settlement of the Afghan conflict has at last been achieved.

Here’s a summary of what some of the key officials told me in interviews during the last two months.

The Soviet Union. Soviet First Deputy Foreign Minister, Yuli Vorontsov, claims that as a result of the so-called “new thinking,” the Soviets would withdraw their forces from Afghanistan and to arrive at a political settlement. But Vorontsov insists that withdrawal from Afghanistan does not mean defeat. Indeed, he notes that “we haven’t used all the military power we could have applied.”

Dobrynin, head of the Soviet International Department, says he favors withdrawal but warns that if the withdrawing Soviet troops come under attack, “it will take time to recover their combat capabilities. We are not prepared to withdraw at any cost.”

The future of Afghanistan that Dobrynin says he envisions is a “neutral or nonaligned country with no foreign bases.” (The Soviets use the words neutral and nonaligned interchangeably, indicating a belief that there is no real distinction between a neutral, pro-West country, and a Marxist regime that describes itself as nonaligned.) Asked where the neutrals will come from—in a country where one side has been killing the other for the last eight years—Dobrynin admits it is “an aid program to be the primary source.”

The Soviets expect that the Geneva accord between Pakistan and Afghanistan will stop western aid to the mujahedin from flowing across the border. But Iran, home to another 1.5 million Afghan refugees, is another gateway for aid. Iran is not part of the Geneva talks. Vorontsov says the Soviets are hoping to get the Iranians to seal their border, too.

Even if the Soviets withdraw their troops, their influence will remain, and they will continue “to provide assistance to Afghanistan.” Economic relations, he says, have good prospects. After all, the Soviet Union has signed 10 economic treaties with the Soviet-backed Afghan government and it is hoping that the next government will assume the obligations in these treaties. One treaty is thought by Pakistani intelligence to cede the Wakhan corridor to the Soviet Union.

Both Kozyrev and Vorontsov say that Soviet advisors will remain in Afghanistan even if troops are withdrawn. At present there are said to be 8,000 Soviet advisors in Afghanistan. And there is no sign of their destructing every aspect of Afghan life.

Afghanistan. In Kabul, signs of Soviet control are evident everywhere from the moment you land at the airport. My Afghan, a Western source in Kabul.

It’s easy to spot Soviet convoys rolling down the road. And you can’t overlook the number of head-to-head friendly traffic accidents. There are said to be 8,000 Soviet vehicles and 200 tankers and trucks located. The KGB, and its Afghan counterpart, known as KHAD, are said to rule the city. Remarks one western diplomat: “Here, there is not one centimeter of freedom.”

“It’s a complete and methodic colonization,” explains one diplomat in regard to the Sovietization of Afghanistan. Since 1980 when the invaded, the Soviets have taken about 60,000 young Afghans to the Soviet Union to be educated.” All the main officers of the main military administration were formed in the USSR,” says a knowledgeable western source in Kabul.

In Kabul, I found the diplomatic community united in their conviction that the Soviets aren’t likely to withdraw from Afghanistan—and that even if they do, the Afghan troops, Soviet influence will not disappear.

One senior western diplomat in Kabul made the case most effectively, “The Soviets will never leave Afghanistan,” he says. “The Soviets want you, by diplomatic means, to help them stay in Afghanistan. . . . They want to deceive your country. . . . Afghanistan isn’t Vietnam. Af-
ghistan is at the border of the Soviet Union. They want to stay and they want the guarantee of the United States that they can stay. The West is overstating the mujaheddin, says this veteran diplomat in Kabul. He insists that western analysts are wrong in predicting a bloodbath if Soviet troops withdraw. They make the reverse assumption: that even if the Soviet troops pulled back, the Kabul regime would be aided by advisors, weapons and money. It is possible that it is strong enough to resist and the mujaheddin are divided and will not succeed.

The pressure on Pakistan to agree to a settlement at the upcoming Geneva meeting with the Afghan government, scheduled for March 2, Gorbachev said in a way that if an agreement is a real agreement that Islamabad is worried that if Pakistan

Congressional Record-Senate
February 23, 1988
Mr. President, I apologize to the distinguished acting Republican leader for the time I have taken this morning, and I also apologize to the occupant of the chair.

Recognition of the Acting Minority Leader
Mr. SIMPSON. Mr. President, it is a pleasure always to hear the majority leader speak on things for which he has a passionate belief, and that is obviously one, and I understand that. It is certainly no transgression upon my time, I was well worth hearing.

The REVEREND EDWIN S. HARPER
Mr. SIMPSON. I do want to thank Rev. Edwin S. Harper, of the Stauton Street Apostolic Church in Huntington, for certainly a fine opening prayer. I am certain that Reverend Harper is, indeed, an inspiration to his congregation, and the words of the majority leader, being as commendatory as they are, will certainly give that every credence. I thank the reverend.

Momentarily, we will have morning business. Senator Brown is here, Senator ERICKSON is here, and Senator Proxmire, of course, the occupant of the chair, is here for his daily remarks, which are actually read by me. I greatly admire the man who is the occupant of the chair, and have since he came here, because of his spirit and honesty and zeal.

The Soviet Presence in Afghanistan

Mr. SIMPSON. Mr. President, the remarks of the majority leader about the Soviet presence in Afghanistan should be heeded by us. We do have that need for healthy skepticism about the proposed pullout until the Soviets are truly out, I certainly agree, with all their forces. Certainly we cannot go wrong when we approach our relationships at this time with the Soviets with skepticism. That does not mean cynicism but certainly skepticism. History has shown us that our efforts, indeed, have been undertaken with good faith with regard to arms reduction and that good faith, seasoned with the skepticism of these latest Soviet moves, will, as the majority leader has indicated, serve us well.

Campaign Finance Reform
Mr. SIMPSON. Mr. President, just one other thing. We are obviously la-
boring along with S. 2. Maybe we can get there, maybe we cannot. But the issue is this, and I want to get it crystalized in the minds of those on both sides of the aisle: The ordinary amendment process in the Senate is usually very open and very free.

There is in our usual deliberations a very clear test of germaneness, and even if an amendment is ruled out of order, the Chair can be reversed on a simple majority vote. But please heed that in this current situation the amendment tree is filled, in a very, very skilled way, and we are all aware of that, nothing sneaky about it, nothing of that nature, but it is filled.

Now, both on the bill itself and on the motion to recommit with instructions, the practical effect actually is S. 2 is not really amendable at all at this point. Of course, once an amendment is agreed to or after the bill is reported back pursuant to the motion to recommit, further amendments would be in order.

(Mr. BYRD assumed the chair.)

Mr. SIMPSON. But if cloture is invoked—and I hope all are heeding this—then a very different situation is created with regard to S. 2. In addition to the limitations on debate, cloture makes it exceedingly difficult to go to any other amendments. Only amendments filed by certain times are in order; a much tighter test of germaneness is applied. Amendments must be not only germane to the subject matter, they must be germane to provisions actually in the bill. No "new matter" may be introduced. I think that since most of the amendments of those opposed to S. 2 would be considered as "new matter," the effect of cloture would be effectively to prevent us from offering amendments.

That is the law of the land right now. Amendments to raise or lower the spending limitations, amendments to omit or include soft money, amendments to deal with in-kind contributions, would very likely be ruled nongermane.

I think that needs to be said. Anyone opposed to this basic bill should not be led to believe the plea of just helping to get it before the body, to help us get it before the body, to assist us with cloture to do that. But a cloture vote in this situation with the tree built as it is, all done very adroitly and honestly, pretty well closes up shop for the opponents.

So I know the majority leader has indicated to the fourth estate that there are some on his side of the aisle who have never had the pleasure of all-night sessions, at least 20. I have not done a poll on our side as to how many have been unable to savor the joy of an all-night session, but it must be a similar number. We hope they have their knapsacks and sleeping bags and will be prepared, because it might come to that. I do not think the majority leader wants it. We do not want it. But it is obviously one of those gut hard issues that come before a legislature when you struggle and then you do the usual procedures you need to do, and then you do something which is the most extraordinary thing, you vote. And that is the reason we spend so much time in this place doing other things, because usually on one side or the other does not want to vote and that is something we eventually have to do.

WILL BALL

Mr. SIMPSON. Just in my remaining 2 minutes, let me comment on Will Ball, who is a former staffer here in the Senate and who now will become the nominee for the Secretary of the Navy, as Mr. Webb resigns.

Certainly Mr. Webb served with distinction. I came to know him when I was on the Veterans' Affairs Committee. He is a distinguished veteran and author. He will go on to great things. He is a splendid man and I wish him well. I do not know the circumstances of his leaving.

But I do know that we will miss Will Ball. He served here for Senator John Tower. He went on to serve in the executive branch at the Pentagon, and most recently served with distinction as congressional liaison for the White House where we have all come to know him on both sides of the aisle. I have a great respect for his actions and integrity in what is surely a most difficult post, being strung out between the sometimes contentious forces of the executive and legislative branches of our Government.

So I have found him to be a very pleasant and able man, an unfappable type of individual, always with good grace and good humor, and ultimate patience. I have watched that in him. I shall personally miss him. I know the minority leader shares my views. Senator Dole worked with him very closely on so many issues.

So he is a very special man. He is very well qualified for the new position for which he has been nominated, and he is a known quantity to all of us. I trust he will be swiftly confirmed as Secretary of the Navy.

I believe that concludes my remarks, Mr. President. I thank the majority leader.

I thank the Chair.

MORNING BUSINESS

The PRESIDING OFFICER (Mr. DASCHLE). Under the previous order, there will now be a period for the transaction of morning business for not to exceed 20 minutes, with Senators permitted to speak therein for not to exceed 5 minutes each.

The Senator from Wisconsin.
hearing the Afghanistan war, is one the Politburo wants him to know about. In prosecuting its war against Afghanistan for 8 years, the Soviet leaders didn't have to worry about a critical press or critical TV commentaries. President Lyndon Johnson is said to have remarked that when he lost Walter Cronkite, he lost the Vietnam war. The Soviets have no Walter Cronkite. Oh, yes there have been recently reported Soviet citizen criticisms of the Afghanistan war and pleas to end the fighting and bringing the boys home. You can be sure those protests were scripted and orchestrated by the Politburo. Gorbachev and his Kremlin team want out of Afghanistan. The protests serve their purpose.

So what do these two defeats of the world's preeminent military powers tell us about the limits of modern day super technological power in conventional war? They tell us that neither country fighting a conventional war outside its territory—that is, an aggressive war invading another country's homeland—that neither of the superpower has the power of a butterfly's hiccup. Can anyone really believe a Soviet Union that in 8 long years was unable to overcome the little neighboring country of Afghanistan could sweep through western Europe and overwhelm a North Atlantic Treaty Organization that has fewer but far better warplanes, far more experienced pilots, fewer but far newer and better tanks, fewer but far newer and better artillery, and a far better and more cohesive military alliance in NATO than the Warsaw pact? The Levin study shows the Soviet Union generally superior in number of tanks, planes, artillery pieces, and personnel, but inferior in quality and specially deficient in the training, readiness, mobility, and morale of its troops. The Soviet forces are also weak in the very areas such as the German front where conflict is most likely to begin. Senator Levin sees the conventional forces in Europe as "roughly equal." His right.

Here is the ideal situation for an agreement for both sides to reduce—in concert—the conventional forces that represent such a painful economic burden on the United States and the Soviet Union. Mutual, verifiable negotiations could free tens of billions of dollars of resources for improving the economic life of people in both countries, while strengthening the national security of both. Both sides fully understand that a war between NATO and the Warsaw Pact would swiftly become a nuclear war and that therefore such a war is a very distant possibility. Even that most unlikely possibility would be clearly reduced by an agreement for conventional arms reduction on both sides. The United States misadventure in Vietnam and the Soviet disaster in Afghanistan should have convinced both sides of the folly of waging conventional war on foreign soil. Thanks to that understanding the time for conventional arms control has come.

BANKING LAWS AND THE CONSUMER

Mr. PROXMIRE. Mr. President, as the Detroit Free Press stresses, it is high time that Congress address the needs of the consumer as we consider banking law. This, in the editorial writer's mind, means that banking services should be expanded while regulation is strengthened.

As the author of the legislation that does exactly this, I ask unanimous consent that this editorial be printed in the Record.

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

(From the Detroit Free Press, Aug. 18, 1987)

CAVEAT: NEW BANK LAWS DO NOT MUCH HELP CONSUMERS

A lost opportunity: Congress passed and the president signed major new banking legislation that does little to modernize the antiquated laws that govern America's banking industry. Competition among various financial institutions remains severely restricted and U.S. banks, excluded from some profitable areas of business at home, are likely to watch their position continue to deteriorate in the global market. This result is not only a setback for major banks and a political defeat for the Reagan administration, but a loss for the consumers as well.

In essence, Congress succumbed to pressure from the securities underworld, brokerage and insurance industries to bar banks from competing in those areas. While the existing laws—the most important of which were passed in 1927, 1933 and 1987—sought to divide the financial business by product and geography, many banks have been exploiting the loopholes. The new law orders banks not to start any new such ventures until next spring, when Congress will decide whether to make the ban permanent. Congress also caved in to nonbank companies from competing with banks on their traditional turf; newcomers won't be able to offer checking accounts or make commercial loans. "Nonbank banks" already in existence, such as Sears or Merrill Lynch, have had a seven percent cap put on their annual growth.

The legislation includes minor improvements in the consumer protection department. Beginning in September 1988, banks will have to clear checks faster, and they will have to advise in advance the buyers of adjustable rate mortgages on how high the rate can climb. On balance, however, the new law denies Americans the benefits of increased flexibility and competition.

The issue of bank powers is back in the Senate Banking Committee now. There is no reason, however, that the committee's hearings will lead to prompt action unless the potential beneficiaries of deregulation—such as the American Bankers Association—spend more time and energy to speak out and better organize their lobbying efforts.

Mr. PROXMIRE. I yield the floor.

(The remarks of Mr. Bown and Mr. Reed relating to the introduction of legislation are printed later under Statements on Introduced Bills and Joint Resolutions.)

Mr. BYRD, Mr. President, I suggest the presence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

SOUTHEAST ASIA REFUGEES AND U.S. FOREIGN POLICY

Mr. HATFIELD. Mr. President, events over the past several weeks in Southeast Asia have exposed all of the weaknesses of our current foreign policy there, and the most unlikely and unwelcome of outcomes looms possible: a weakening in the friendly, important relationship between the United States and Thailand. I rise today to discuss these events, to state my hope that no damage will be done to our relationship with Thailand, and to discuss a strategy that would avoid a recurrence of such problems in the future.

The point of confrontation involves the fourfold increase in Vietnamese boat refugee arrivals in the Trat Province of Thailand, the majority of these refugees being escorted across Cambodia and to a coastal area only an hour or two boat ride from Thai shores. It is a big cash business in Vietnam and it has led to tens of thousands of refugees paying their way out of Vietnam; perhaps more accurately, bribing their way out of Vietnam because of the country's economic needs.

In January, the Ministry of Interior in Thailand attempted to stop this wave of refugee migration by pushing the boats back. These pushbacks led to scores of deaths, and now hundreds of refugees are marooned on little islands off the coast of Trat Province in Thai territory. Some of these refugees went days without food and water, and all of them are living in danger this very moment.

I do not suggest that I have a solution to the problems of first asylum. But the United States and Thailand have joined hands for a decade in dealing with the Indochinese refugee problem, and today we must renew our vow to be compassionate and humanitarian when people reach out to us from countries that are mired in hellish economic and political conditions. We have stuck together for 10 years in this unprecedented response to the misery and suffering pouring out of Cambodia, Vietnam, and Laos, and we cannot walk away from the problem now.
It appears that the worst is over, and that the Thai National Security Council announced last Friday that it does not endorse a policy of pushbacks. They do want the world to know that the Thai cannot bear the refugee burden alone. I am confident that the worst is over. When the Thai see thousands of refugees arriving at a time when resettlement countries are becoming increasingly reluctant, they become concerned that no one cares. That is why the United States must live up to its commitment to maintain a humane and generous refugee resettlement and protection policy in Southeast Asia. That very issue was debated and voted upon last October and passed the Senate by a 2-to-1 margin, and became part of the continuing resolution adopted 2 months ago.

But today there are three major problems which must be addressed if the United States is to honor its commitment to Thailand, the region, and the region's refugees. First, the United States must maintain an active embassy operation in the provincial areas of Cambodia to help monitor protection problems vigorously. The Appropriations Committee last year put report language in the Foreign Operations Appropriations bill mandating a vigilant protection effort. That is why the U.S. must maintain an active embassy presence throughout the region, and the United States must live up to its commitment to maintain a humane and generous refugee resettlement and protection policy in Southeast Asia. That very issue was debated and voted upon last October and passed the Senate by a 2-to-1 margin, and became part of the continuing resolution adopted 2 months ago.

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nizing wait for an answer must linger further because of the aforementioned structural problems in current negotiations with the Vietnamese.

Mr. President, three Sundays ago, in the Washington Post, Frederick Downs wrote an op-ed piece which I believe is the single most persuasive and articulate presentation of the dilemma facing the United States in its relationship with Vietnam. He is a veteran who lost a limb and nearly his life in the war, and if ever there were an individual who could justifiably argue against any improvement in relations with Vietnam, it would be Frederick Downs.

But something happened. He went to Hanoi and saw what had happened to the country in the two decades since his departure. His observations of modern Hanoi were identical to mine when I visited Hanoi for the first time since my time with the Navy there in 1945. He saw the terrible poverty and the destruction of a once great city by war. Vietnamese, citizens. It seemed to me Hanoi hadn't seen a new coat of paint since my last visit. I asked unanimous consent that Mr. Downs' article and one from the New York Times appear in the Record after my remarks.

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

(See exhibit 1.)

Mr. HATTEN, Mr. President, there may be some who believe that the question of the future of United States-Vietnamese relations can be tabulated for the next administration to decide. I am not one of those. Such a policy would contribute to the suffering of the innocent victims of the Vietnam war's ugly aftermath: the families of MIA-Pow's in America who deserve more frequent, higher level contact between our two governments; the refugee camp inmates; the refugees in the region's camps; the Vietnamese children and the other American families broken in two by separation; and the Vietnamese civilians who have been uprooted from the world's most devastated city as a people to whom the United States turns a deaf ear to their cries of hunger and despair.

Last year Congress remained silent on the question of United States-Vietnamese relations. Many of us felt that it would be imprudent for the Senate to interfere with General Vessay's incipient diplomatic efforts. It is my strong belief that the Senate now should consider adopting a posture on the question of United States-Vietnamese relations similar to that seen in this Chamber on the question of Central America or other areas where United States interests are at stake—a posture of open debate.

I believe the United States Senate should take a vote this year, up or down, on the question of whether the United States should support any regional initiative which includes the murderous Khmer Rouge and Pol Pot in a Cambodia resolution strategy. Let's face it: the Khmer Rouge are alive and well today because the United States has not seen fit to pressure China to do what should have been done immediately after the news of the killing fields reached the civilized world—place Pol Pot in the history books next to Adolf Hitler.

Second, the United States Senate should vote on whether we believe the current stalemate in United States-Vietnam relations is serving the interest of the families of the MIA's in America and our much broader foreign policy interest in Southeast Asia.

The United States Senate should vote on what the speed limit should be on the "two-way traffic" arrangement that General Vessey and the Vietnamese leadership have characterized as the current relationship. Right now things are moving at a snail's pace. This matter cannot wait until next year.

I am not advocating a full diplomatic relationship with Vietnam. No, I am not advocating that. Until the MIA-Pow issue and Cambodia are dealt with on a bilateral basis, but there are many intermediate steps which would further United States interests, help United States families, and assist Thailand as it bears the weight of a decade of refugee migrations.

Until these steps are taken, the United States will continue to apply patches to the predictable and periodic ruptures that burst in the refugee camps and in our relationship with our strategic and local friend in the region, Thailand.

EXHIBIT 1
VIETNAM: MY ENEMY, MY BROTHER
(By Frederick Downs, Jr.)

Twenty years ago this month, in Tam Key, Vietnam, I stepped on a land mine. It was a type we called a "Bouncing Betty," because when you stepped on it, it bounced into the air and exploded waist-high, so that the explosion did not off-set my left arm. My left arm was blown off; grievous damage was also done to my right arm, both buttocks, both legs and both feet. Five of the men in my platoon were wounded along with me.

Within a four-week period after that, my platoon—already reduced from 40 men to 27—was destroyed. All but seven of those remaining 27 were killed or wounded, and the platoon, Delta 1-6, my family and my responsibility, ceased to exist as a fighting unit. I had given my all to Vietnam. I was proud to have been an infantryman. I was proud of my men. I wept when South Vietnam fell.

So I had good reason to be carrying a lot of hate when I returned to Vietnam for the first time last August, as part of a team sent by President Reagan to explore greater cooperation with Vietnam on a range of humanitarian issues. The leader of our group was retired Gen. John W. Vessey, Jr., a former chairman of the Joint Chiefs of Staff. I was included because I am head of prosthetic services for the Veterans Administration. My job was to study the needs of disabled Vietnamese and see how we could help, particularly in the area of prosthetics. It was a trip that changed the way I think about Vietnam—and maybe about America, too.

We let down through a clear sunny sky. Hewn out of the side of a hill, we could see "Uncle Sam's Duck Ponds," our slung for bomb craters, scattered across the landscape. I was surprised at the large American aircraft we could see." The Khmer Rouge and Pol Pot in a Cambodia resolution strategy. Let's face it: the Khmer Rouge are alive and well today because the United States has not seen fit to pressure China to do what should have been done immediately after the news of the killing fields reached the civilized world—place Pol Pot in the history books next to Adolf Hitler.

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The signs of poverty were everywhere. Women stood in line to buy a single smear of lipstick; street vendors used hypodermic needles to refill ballpoint pens; fixing flats was a job for the street. In the villages, there was very little soap in the country (which perhaps accounts for the gray drabness of the clothing). Cigarettes were sold one at a time, and we had to hand over the money before they all seemed to depend on the big clock on the main post office for telling time. What a sound it made. Not a bell but a gong.

We often walked in the park observing the people and in turn being observed by them. The kids were fascinated by my hook. They gathered around us, their faces full of curiosity and wonderment. They followed along for a short distance until their parents called. I was fascinated by the number of fathers who had their children on outings or spins around the lake. I did not expect to see this from hard-core Vietnamese. I hadn’t imagined that these men I had hated for so long could love their children. That is what war does to us: It prevents us from seeing our enemies as human beings.

One evening, the Vietnamese delegation hosted a dinner for us. At the dinner I spoke to a Vietnamese who was presented to me as a quintessential North Vietnamese. He had been a prisoner of war under the Japanese. When we landed in the middle of Hanoi, he was a hard-core soldier who had been fighting for his country’s freedom from foreign occupation for his determination and sacrifice. He had been a prisoner of war under the Japanese. When we landed in the middle of Hanoi, he was a hard-core soldier who had been fighting for his country’s freedom from foreign occupation for his determination and sacrifice.

As a soldier in Vietnam 20 years ago, I had always wanted to be able to take a walk, to go for a stroll and look around without having to worry about getting shot or blown up by the Vietnamese. Now here I was in the middle of Hanoi, among friendly people, having a good time. I could relax. The war was over.

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February 23, 1988

CONGRESSIONAL RECORD—SENATE

Thais they will take no more Vietnamese until the total of more than 12,000 already in the camp that receives Vietnamese is reduced by resettlement. Public passions in Thailand are rising against the refugee influx.

This year, the United States has agreed to admit 29,500 Southeast Asians. More than ever, Washington needs to show its commitment to upholding its end of this bargain. Yet State is pondering the opposite policy instead, cutting the number of slots for Asian refugees to make room for Soviet refugees.

There's no need to choose. The Refugee Act of 1980 provides that in "an unforeseen emergency refugee situation," the limits for various refugee categories can be changed. With Vietnamese dying off Thailand's shores and Soviet refugees increasing, this is plainly an emergency.

If the number of slots available to Soviet refugees were simply increased rather than taken from other regions, the total would grow by no more than 15,000. Compare that with the 68,500 refugees the U.S. has agreed to take this year, and the half-million legal immigrants. The numbers are hardly overwhelming.

Two important humanitarian concerns are involved here. One is the need to meet the one-time emergency. Mr. HATFIELD, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

SENATORIAL ELECTION CAMPAIGN ACT

Mr. BYRD. Mr. President, has the unfinished business been laid before the Senate?

The PRESIDING OFFICER. It has not.

Mr. President, the unfinished business. The legislative clerk read as follows:

A bill (S. 2) to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and partial public financing of Senate general election campaigns, to limit contributions by multi-candidate political committees, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Boren motion to recommit the bill, with instructions to report back forthwith, with Boren amendment No. 1403, in the nature of a substitute as modified.

Byrd amendment No. 1404 (to amendment No. 1403), of a perfecting nature, as modified.

Boren amendment No. 1405 (to amendment No. 1404), of a perfecting nature, as modified.

Mr. BYRD. Mr. President, I know of no matter that is more important to the integrity of this institution or the integrity of our political and electoral process than the matter of campaign financing reform.

I shall cite some examples of abuses in campaign financing. These are the facts taken from campaign reports. As we build the wall, the Wall Street Journal on October 24, 1988, said:


A new tally shows the National Republican Senatorial Committee has quietly funneled near $13 million into coffers of GOP Senate candidates, using a technique that effectively nullifies federal limits on financial aid parties may provide. Big Bundle—Contributions funneled to Republican Senate candidates by National Republican Senatorial Committee through "bundling.": Total (all candidates) $6,999,855.

A quotation from the New York Times reform, the Committee on Rules and Administration, November 5, 1985, testimony of Philip Stern, former assistant to Senator Paul Douglas, founder of the Center for Public Financing in Congress

A decade ago, only 28 percent of House races increased only 25 percent or so in the last five elections, Will Rogers once wrote, "That was more than three times what it had been because the limits for unopposed candidates just four years earlier.

On the subject of PAC's, the New York Times report, the Committee on Rules and Administration, November 5, 1985, testimony of Philip Stern, former assistant to Senator Paul Douglas, founder of the Center for Public Financing in Congress

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On the subject of campaign spending, from the campaign finance reform hearings, Committee on Rules and Administration, January 22, 1986, testimony of Mark Green, President, Democracy Project:

"If you take inflation into account, campaign spending has increased only 20 percent so far, he said. So wrote Charles H. Percy in the Chicago Tribune.

Boren amendment No. 1408 (to amendment No. 1407), of a perfecting nature, as modified.

Mr. BYRD. Mr. President, the issue of the integrity of this institution or the integrity of our political and electoral process than the matter of campaign financing reform.
In 1986, PAC's contributed 27 percent of what winning Senate candidates collected. In 1976, it was 15 percent. This comes from the Augusta, Maine, Kennebec Journal, February 9, 1987.

Furthermore, PAC giving has outpaced the overall increase in candidate receipts and spending. In 1976, PAC's contributed 10 percent of the money that Senate and House candidates collected. In 1986, PAC's contributed 31 percent of what Senate and House candidates collected. In 1986, the top three PAC's contributed $2.8 million, $2.1 million, and $2.1 million respectively, to Federal candidates. Indeed, the top 10 PAC's all contributed more than $1.3 million each to Federal candidates in 1986, with an average contribution of more than $1.7 million, according to FEC records.

The combination of spending limitations and public financing in Federal elections is not a novel idea. For 12 years, such a system has operated with great success in our Presidential elections. An incredible rate of expenditures in Presidential campaigns has been eliminated when there were no spending limits. President Nixon financially overwhelmed his opponent by spending $62 million. Adjusted for inflation, a comparable amount in 1984 would have been more than $150 million. But with spending limits and public financing, President Reagan spent $68 million—in other words, just $6 million more than Mr. Nixon had spent 12 years before. President Reagan's expenditure of $68 million in 1984 represented a 10-percent increase in 12 years. During that time, the cost of congressional campaigns rose 485 percent.

The law limiting spending and public financing for presidential campaigns has been so successful that 34 out of the 35 candidates for the presidency since the law went into effect have participated in the public financing system. In the 1988 elections, this year, all the major candidates of the Republican and Democratic Parties have accepted spending limits and public financing—all of them. President Reagan accepted public financing in the 1976, 1980, 1984 Presidential campaigns.

The spending limits and public financing of Presidential elections has made elections more competitive as well as less subject to abuses. This system of financing has not proved to be an incumbent's protection plan. In 1986, one of three Presidential elections under public financing, the challenger has defeated incumbents. In 1976, a challenger defeated a Republican incumbent for President. In 1980, a challenger defeated a Democratic incumbent for President. In 1984, a Republican incumbent won.

It is interesting to note in the February 14 edition of the Charleston, WV Gazette an article by a Richard L. Burke, New York Times Service. Here is the headline: "PAC's Found Resentful of Greedy Lawmakers, Yet They Go Along on Their Own Terms" From that article, headlined Washington:

Political action committees say they are increasingly resentful of greedy lawmakers, and yet they go along on their demands for new legislation, for fear of losing vital access to Congress.

This is the PAC's talking. This bitterness repeatedly comes to the surface in a new study based on extensive interviews last year with officials of 80 political action committees that represent business, labor, trade and ideological groups. The study, to be made public all week next few days, was conducted by the Center for Responsive Politics, a bipartisan organization that examines political trends. It is the first detailed study of operations among PAC directors and lobbyists working for them.

Although the study did not make specific recommendations for changes in the relationship between political action committees and legislators, it concluded: "Underlying our interviews was an undercurrent of resentment and frustration with the way the congressional campaign finance system operates."

In the interviews, the directors of the political action committees recounted how legislators keep black books that listed their contributors; how the lawmakers were offered when PAC representatives did not attend their fund-raising events, and how the committees were constantly badgered by members or their aides for contributions.

The 65-page report, titled "PAC's on PACs: The View from the Inside," is filled with quotations from officials of large and small PAC's. Some who consented to interviews with the center on the condition that they not be identified.

The PAC directors sought to debunk the notion that officials of the committees enjoy the neverending stream of Washington fund-raising meals and cocktail parties for which members of Congress serve as hosts. Many said they felt they had no choice but to attend.

They're a real hassle for me," one PAC official said of the meetings. The reception breakfast circuit is backbreaking. They're bad on your cholesterol level and everything else. Some of the receptions are five, six or seven a night and it's impossible to make them all. Then you just end up sticking your head in and out, hoping the member is there when you are."

Mr. President, the bill before the Senate will cure all that, and the American people should rise up and demand that the Senate act on this legislation.

I will do that. Whether they will do it this year or not, I cannot say. But, sooner or later, they are going to do that.

The framers of the Constitution provided that the Members of the Senate should be elected by the members of the State legislatures. That became a widely perceived mechanism as being flawed and as leading to corruption. It continued to be the mode for selection of Senators until it was introduced in the House of Repre-
The integrity of this institution is at stake. The integrity of the electoral and political process is at stake. The integrity of representative democracy is at stake. And the integrity of the people's choice, the people's choice in the selection of Senators, is at stake.

Sooner or later, the William Randolph Hearst of this country—going back to the early 1900's in my reference—the editorial writers of this country, commentators, the columnists, the media, are going to arouse the people to the danger to the institution of representative democracy.

It is happening right under the noses of people and they need to be awakened to it and we, who are supporting this bill, are doing everything that we know how to awaken the people.

I hope the people can see through the flim-flam arguments that are being made against this bill. Campaign financing reform cries out for enactment and until there is a limit on campaign expenditures—and our friends in the Republican caucus say no—until there is a mechanism to enforce that limitation and until there is a limitation on the aggregate contributions that can be received by any candidate, campaign financing reform will not be genuine.

But our friends in the minority caucus draw the line and they say never; no. They will not agree to any limitation.

Mr. President, I hope that there are those on the other side of the aisle who are our friends who will decide to stand against the conference, if it continues to maintain that position, and in the interests of good government will decide to join those who are proposing and who are dedicated to genuine campaign financing reform. We welcome them and we hope that this year we will take this all important step which is in the interests of good government.

There should not be a "for sale" sign on this place, but the American people are going to believe there is and if we do not do something about it we cannot blame them.

CAMPAIGN FINANCE REFORM

(By request of Mr. Simpson, the following statement was ordered to be printed in the Record)

Mr. DOLE. Mr. President, here we go again on campaign finance reform. We're all familiar with the issue by now. As the distinguished assistant Republican leader, Mr. Simpson, pointed out recently, the 100th Congress has set a record—the distinguished majority leader has filed seven cloture motions on S. 2. Each of those motions failed, and I am hopeful that, if another cloture motion on this so-called reform bill is made, the eighth will too.

Let's face it: If you attach the word "reform" to anything it sounds good; it looks good; it even feels good, but, attaching "reform" to S. 2 won't hide the fact that this bill is anything but reform. It is unfair and unbalanced.

RESPONSE TO THE CRITICS

I have been criticized by some special interests, including Common Cause, for not caving in to their demands that I support S. 2. Let me set the record straight.

Now, the special interests suggest that in opposing S. 2, Republicans are acting as obstructionists—that we are acting as critics rather than participants in the process: but that's just not truth in advertising. Look at the record: Campaign finance reform began in earnest with the introduction of the Boren-Goldwater bill in 1986, and it was the majority leader. The bill introduced at that time had something that S. 2 doesn't have: a balanced, bipartisan approach.
In the words of Archibald Cox and Fred Wertheimer, chairman and president of Common Cause, "The Boren-Goldwater bill [had] garnered support from a wide-ranging bipartisan group of cosponsors, whose views span ideological and party spectrums and who represent every region of the country."

A CONSTRUCTIVE ALTERNATIVE

On September 9, 1987, a number of my colleagues joined me in introducing the Congressional Campaign Finance Reform Act, S. 1672. This legislation is similar to the Boren-Goldwater bill. In my view, it is a much more balanced effort at reform than S. 2. It attempts to bring the individual back into the political process by limiting PAC contributions and adjusting the limits on individual donations—first imposed in 1972—for inflation.

It requires full disclosure of so-called soft money expenditures through which corporations, labor unions, and nonprofit organizations may influence the campaigns of candidates. It attempts to close the millionaire loophole so that wealthy individuals will not have such a tremendous advantage in financing their own campaigns, and, most importantly, it keeps the door open for all challengers in all Congressional elections, House and Senate.

In addition, S. 1672 provides for future reform under the auspices of a bipartisan commission which would make periodic recommendations to Congress based on their own study and the recommendations of the Federal Election Commission.

S. 2—IS THIS REALLY REFORM?

Mr. President, everyone will agree that campaign spending is out of hand. But, in my view, S. 2 goes about solving the problem the wrong way. Taxpayer Financing

Under S. 2, it is the taxpayer who shoulders the burden of this so-called reform. It is the American people demanding that we increase their taxes or increase the deficit just to pay for political campaigns. They are demanding a voice in the political process.

As I have stated, the original campaign finance reform bill was a bipartisan proposal introduced by Senator Barry Goldwater and Senator Boren. But, as soon as taxpayer financing was added to the bill, Senator Goldwater pulled his name off the bill. He said, "One of the surest ways I know to raise havoc with our election system, Federal or local, would be to have the Federal Government finance part, or all, of a campaign which I think Barry has raised a valid point.

SPENDING LIMITS—EFFECT VERSUS INTENT

On the surface, spending limits sound like a good idea. I do not question the intentions of S. 2's sponsors. But, as a legislator, I have a responsibility to examine the effects that spending limits might have on the electoral process. In my mind, a number of problems arise.

You might as well call S. 2 the incumbent protection act. Pass this bill and you can tell the competition to stay off the field.

Members of Congress already enjoy advantages such as franking, free media, and professional staff, which, when conservatively, are worth $200,000 per year. Most also enjoy relatively high name recognition within their home States. One study estimated that a challenger in an average Senate race would have to spend almost $300,000 just to neutralize his opponent's name recognition.

In disallowing any effort to offset these advantages, S. 2 would make it even more difficult for a challenger to win a Senate seat.

Let's face facts: The Democrats enjoy the privilege of having a majority in both the House and the Senate. It follows that an incumbent protection bill favors the Democrats.

This is one Republican who insists on broadening the party, the Republican Party. But, I am outnumbered in many parts of the country. In the South, for example, registered Democrats outnumber Republicans by a 4-to-1 margin. How in the world are we going to compete—or even hope to get our message out—if we are not allowed to wage an aggressive, fair and square fight.

So, this does become a partisan issue. But, the problems don't stop there. I also believe that if S. 2 were enacted, candidates would focus more of their attention on the big contributors and the PAC's than on their grassroots fundraising efforts. Why? The answer is money.

If S. 2 were enacted, fundraising expenses would count against the overall spending limits for each candidate. Campaigns currently spend some 50 percent of their money raising more money. With the limits in place, candidates would naturally focus more of their attention on the big contributors and the PAC's, and less on the average voter.

We are having a hard enough time convincing Americans to participate in the electoral process. Across the country, voter participation is down. In fact, the Federal election commission estimates that it dropped to 36.3 percent in 1986. S. 2 would alienate voters even further. In my view, it is the man on the street, who should ultimately have the influence in the electoral process.

PAC's

Many of those critical of the current system, including common cause, consider PAC's a corrupting influence. If PAC contributions are corrupting the system then cut their contribution limits directly, as the Republican bill does, or eliminate PAC's altogether, as Senators Packwood and McConnell have suggested.

There is a misconception that S. 2 would cut overall PAC spending; it won't. PAC's will simply shift their emphasis to so-called "independent expenditures" which are not subject to the bill's spending limits. S. 2 would also effectively increase the influence of specific PAC's by providing an aggregate limit on PAC spending without reducing individual PAC contributions. Under this system, the best organized PAC's will have even more political clout than under current law. No one has been able to convince me that a $5,000 PAC contribution under S. 2 would have less influence than a $5,000 PAC contribution under current law.

Costs

As an added incentive for a candidate to abide by the spending limits imposed under S. 2, a postal subsidy with an estimated cost of $70 million per election cycle—House and Senate combined—has been provided. This subsidy would be paid for by the U.S. Postal Service with the likely outcome being increased postal rates.

The Congressional Budget Office has conservatively estimated that 20 percent of all qualified candidates will not opt to comply with S. 2's spending limits. At an average cost to U.S. taxpayers of $20.5 million per Senate race, this legislation could be astronomically expensive. In addition to these costs, the FEC has estimated that its annual administrative costs would increase substantially.

INDIVIDUAL CONTRIBUTIONS

By indexing both the current $1,000 limit on individual contributions and the $5,000 PAC contribution limit, S. 2 fails to make the individual a real participant in the political process. A prominent concern of those supporting campaign finance reform has been that individuals no longer feel that they can make a difference.

Many of those same critics charge that the Republican bill S. 1672, favors the wealthy. They're wrong. The $1,000 contribution limit has been in place since 1972, and it has never been adjusted for inflation. By combining an increase in individual contributions with a reduction in PAC contributions from $5,000 to $3,000, the Republican bill goes much further than S. 2 in giving the individual a meaningful voice in the political process.

PUBLIC FINANCING

A few special interests question my decision to accept public funding for my 1988 Presidential campaign when I opposed this provision in S. 2. My answer is simple: I voted against public financing in 1971. But, as a candidate who wants to win this race, I must play by the rules of the game, as they now stand. I will not voluntarily give...
my opponents an advantage. As I recall, another Presidential candidate, Senator PAUL SIMON, has said the same thing.

Mailings and advertisements by Common Cause single out PACs as special interest groups which are able to distort and control elections. Why then has Common Cause chosen to endorse a bill which does nothing to reduce the maximum contribution which individual PACs are allowed to make to each Senate campaign? S. 2 would give PACs more influence at the expense of the average American.

In recent years, the Democrats have relied more heavily on big contributors and PACs than the Republicans. The year-end reports on House and Senate campaign fundraising for 1987 will back me up on this. An analysis of these reports, which I wrote for the Wall Street Journal and appeared in yesterday's Wall Street Journal.

Mr. President, I ask that this article be inserted in the Record immediately following this statement.

Mr. President, I urge my colleagues on both sides of the aisle to join me in calling for a fair and effective campaign reform bill.

G.O.P. INCOME FALLS SHARPLY AS REAGAN ERA ENDS; BIG GIVERS, PAC'S SPUR RISK IN DEMOCRATIC GIFTS

By Brooks Jackson

WASHINGTON - Campaign-financed reports show Republican Party income is dropping sharply as the Reagan era draws to a close, reflecting a rapid decline in both large and small gifts.

Democratic contributions meanwhile are rising bullishly, but entirely because of gifts from big donors and special-interest groups. Small gifts to the Democrats are slipping a bit.

The GOP's three main national committees still maintained better than a 3-to-1 advantage over their Democratic counterparts last year, but that lead was down from the nearly 6-to-1 edge they enjoyed in 1985, the previous non-election year.

Republicans took in $68.5 million during 1987, a 29% decline from the earlier period. The decrease ushered in unaccustomed advantage over their Democratic counterparts last year to purchase a television studio here to a commercial

North's coattails

The Iran-Contra hearings also hurt, Mr. Olsten says, by creating a poor political environment for Republicans. Even so, Rep. Guy Vander Jagt, chairman of the G.O.P. congressional committee, capitalized on the aftermath of "Olstergate" with an unscheduled televised testimony of Lt. Col. Oliver North. He sent a fund-raising letter announcing the committee would make a $50,000 donation to North's legal defense fund. It produced more money from the committee than any letter sent in the previous two years, the congressman says.

Mr. Vander Jagt fears his donors have grown complacent. "People are thinking, the conservative Republicans, that Reagan has done it all, he's solved the problems, he's lowered inflation and interest rates and put people back to work," he says. He cheerfully predicts that donors will reopen their checkbooks as campaigns heat up: "Things will get better in 1988."

Meanwhile, to compensate for the decline, Rep. Vander Jagt last September set up a National Advisory Board whose members each pledge to raise $50,000 a year in large gifts. And a spokesman said the G.O.P. senatorial committee recently set up a program to increase its income from PACs.

Mr. BYRD. Mr. President, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.
Sam sent that Mr. Gatton's tribute to received by the mind of Ervin loved this country with an unentertainment was ordered to be printed in the RECORD, as follows:

Mr. HELMS. Mr. President, as in the morning hour, there was a ceremony in Morganton, NC, back in November that deserves to be noted in the RECORD. On November 8, 1987, an historical marker was dedicated at the birthplace home of Ervin, Jr. by an historical marker. The ceremony was conducted at 517 Lenoir Street in Morganton, the site of Senator Ervin's birth. At that ceremony, meaningful remarks were made by Senator Sam J. Ervin, who served as assistant to Senator Ervin and who was the Senator's good friend and confidant.

Mr. President, I ask unanimous consent that Mr. Gatton's remarks about Senator Ervin be eloquent—and accurate. Sam Ervin was a statesman. Sam Ervin loved this country with an unyielding fervor. And he believed the U.S. Constitution was the greatest document, as he often put it, "ever conceived by the mind of man."

Mr. President, I ask unanimous consent that Mr. Gatton's tribute to Senator Ervin be printed in the RECORD.

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

SAM J. ERVIN, JR.: A MARKER IS ERRECTED TO A STATESMAN WHO LEFT HIS MARK ON HISTORY

President Katie Snyder, Judge Claude Sifton, ladies and gentlemen:

You are assembled today for this significant action to designate the birthplace home of U.S. Senator Sam J. Ervin, Jr. by an historical marker. The marker is further evidence of the broadening shadow of his intellectual competence. Moreover, it is very appropriate that this be done in the Bicentennial Year of the United States Constitution. I am quite certain that Senator Ervin would salute his native Burke County for the work that has been done to observe the Bicentennial. "The Constitution is the wisest instrument of government the Earth has ever known," he wrote in an article published a month before his death in 1983. "If America," he said, "is to endure as a free republic as ordained by it, Presidents, Supreme Court Justices and other public officials must do what they have sworn to do, that is, support it."

He believed that the Founding Fathers had indeed produced a miracle in Philadelphia. As a youth he memorized the document and used it gingerly and effectively for the rest of his life. "The Constitution and the freedom it enshrines," he wrote in his remarkable autobiography, Preserving the Constitution.

You of his family, friends and neighbors know of his contributions locally. My purpose is to state briefly a sketch of the magnitude of his influence on North Carolina and the nation. Long before that, this statesman's life and services cannot be adequately chronicled in a few minutes. I believe in Saluda and at Tryon, at Chimney Hill in 1913-1917 that men such as William B. Umstead and Albert Coates first gauged the capacity and character of this unusual student from Morganton. Many years later—in 1954—Governor Umstead appointed then Supreme Court Justice Ervin to the Senate of the United States.

Next was his heroism in World War I. On a battlefield in France, seriously wounded, he was belived dead. That lonely night as he lay wounded, Judge Ervin told the story of another young man, mortally wounded, begging for water. It was a young German—the enemy—and Sam Ervin shared his canteen's water, remembering his valor and his high awards for it.

Graduating from Harvard School of Law, he was elected to the North Carolina House of Representatives, serving in the sessions of 1923, 1925 and 1931. One of his colleagues later also became a United States Senator. His colleagues quickly learned that young Ervin was a person who never shirked his duties as a public servant. He attended legislative debate, and one who sprinkled his position with wit and humor. His reputation for intellect, honesty and common sense spread across North Carolina and the nation.

Governor Clyde R. Hoey appointed Sam Ervin to the Superior Court bench. Holding courts throughout the state, his reputation for wisdom, fairness, wit and judicial temperament became his hallmarks.

And in 1948, when Governor R. Gregg Coffey appointed him to the Supreme Court of North Carolina, the appointment was applauded. At the time, many political leaders suggested that Sam Ervin was the logical candidate for Governor, but he did not seek the office.

His willingness to serve for a brief time in the U.S. House of Representatives, following the tragic death of his brother, demonstrated his standing in the district and his desire not to make service in the House a career.

So it was in 1954 that Sam Ervin went to Washington to begin his long service as a Senator of the United States.

What an impressive record! His competence and impeccable reputation were quickly recognized. He was selected for some of the most responsible assignments. He was on the Watkins Committee that investigated the McCarthy matter. He argued scholarly and masterfully for his views on constitutional principles for years. He became widely known for his chairmanship of the Watergate Hearings.

Senator Ervin occupies a unique, revered place in the annals of this Senate and nation. In our memories we can see him—a tall gentleman in so many ways—physically strong, morally sound, intellectually honest, compassionate and competent. We can remember the warmth of his smile, the sincerity of his greeting, and the captiive tone of his voice for "Miss Margaret," his family and friends.

He missed the 200th birthday of the U.S. Constitution by twenty-nine months, but he knew his role in the modern-day Founding Father is clearly established. I have often thought that had Sam Ervin been a delegate to the Constitution Convention, his notes would have been carefully and fully documented.

On September 27, 1896, this fifth child of Samuel, Sr., and Elizabeth of Burke, NC, was born at this place, 517 Lenoir Street, Morganton. From his earliest years he was fearless in the performance of duty.

The Senator Ervin. In 1954, the Detroit News published an editorial tribute to him that recites some of his fine characteristics known by so many.

"To folks in North Carolina, he was Sena­tor Sam. To his neighbors in the mountain town of Morganton, he was the Senator or the Judge. And to millions of Americans, Samuel James Ervin was the 'country lawyer'. . . . Of all the people involved with the Watergate scandal, none made a more endearing or indelible impression on Amer­ica than Senator Sam because he sought no political or financial benefit from the ordeal. . . . Although he spoke with a slow backbowing and broad drawl, he knew the constitution and American history better than most of his colleagues. He believed fiercely in the rule of law, and defended it endlessly in the ravages of lies and corruption. . . . He was unpopular in some parts be­cause he was a thinking man . . . and was concerned about preserving the distinguishing values that made America prosperous, vigorous and untamed."

The editor concluded: "Perhaps the finest tribute one can pay is that no one will have to distort history to make Sam Ervin a legend. It's all there in print and on tape. And in years to come, when people survey his works and deeds, they will slap their knees in delight and say, "Now that was a life!""

"The evidence shows he could make a trivial matter blossom with the adornment of his prose and his use of poetry. Peersless in combat and advocacy, he could instill a sympathetic tear for the sorrows of humanity."

In 1958, upon the death of U.S. Senator W. Kerr Scott, he spoke in the Senate: "Mr. President, it is relatively easy to apportion an expanding budget. Tough decisions are
required, however, when the budget is steady or shrinking.

That is the situation we face now as a nation. Many worthwhile programs and activities by the Federal Government are being subjected to close scrutiny, and even some worthwhile ones are being deferred or canceled. Throughout my service in the Senate, I have been a strong supporter of national defense. I think that President Carter was right in recognizing the deterioration of readiness in our military strength and starting, in the last few years of his term, the current build-up which has also been supported by President Reagan. We have achieved a much stronger defense force as a result.

But now it is time to level off that build-up. We have seen the national debt more than double in the last 8 years, and we are facing enormous budget deficits.

This great country's future can be put at risk through military conflict or through economic bankruptcy. That is the tightrope that must be walked. It will take a team effort to achieve the right balance.

For example, he has said that America wants a hollow Army, an unready Air Force, or a Navy tied up at the dock. Mr. President, the Navy has been the difficult job won.

Defining the mission of the United States Navy.

Secretary Carlucci has to keep us strong and ready with less money than he, or I, or the Joint Chiefs, or the President would prefer.

I believe that Secretary Carlucci is off to an excellent start. He has accepted the new economic realism and has been willing to work with us to build a strong defense. He has established priorities and has made decisions consistent with those judgments.

Well, I am pleased that the Pentagon is better off with a "smaller, effective force than a larger, ineffective force."

That is an appropriate decision under the circumstances. We do not want a hollow Army, an unready Air Force, or a Navy tied up at the dock. We want and we need a tough, combat ready force and well-managed programs to give us better weapons in the future.

Secretary Carlucci has demonstrated leadership above and beyond the call of duty. He has clearly enunciated his goals and his constraints, and he has brought his subordinates into line.

Except for one. Except for the Secretary of the Navy, James Webb, who suddenly announced his resignation yesterday.

Secretary Webb told President Reagan, in his letter of resignation, that he was "unable to support—Secretary Carlucci—personally, or to defend this amended budget during budget deliberations."

I am sure that some people will praise Mr. Webb's action as a resignation on principle, as an honorable way to deal with a situation he could not tolerate.

I do not agree. Instead, I see a pattern of conduct by Mr. Webb and his predecessor, John Lehman, which is shortsighted, close-minded, and parochial.

The two Secretaries were ardent advocates for their service and unwilling to subordinate it to our national interest. Both had intense loyalty to their Department, and not to the overall national defense or higher ranking civilian leadership. Secretary Lehman was a loose cannon, undisciplined and unwilling to listen to those who disagreed with him. Defense Secretary Cap Weinberger, unfortunately, chose to let Mr. Lehman march to his own drummer. Both Lehman and Webb prided themselves on a Lone Ranger attitude which I consider irresponsible.

Only a few weeks ago, Mr. Webb alarmed our European allies suggesting with data of some United States forces from Europe in order to concentrate more on naval power. Statements such as that undermined United States foreign policy just at a time when the United States has been boosted by our successful conclusion of the INF Treaty with the Soviet Union.

Mr. Webb reportedly quit because the Defense Secretary rejected his proposal to keep some 16 frigates in the fleet while denying Navy personnel the planned 4.3-percent pay raise. I cannot judge the full range of military consequences of such a choice, but it seems to me that it is better to give our sailors decent pay rather than heedlessly pursuing the arbitrary goal of a 600-ship Navy.

It is the sailors who are separated from their missions in the Persian Gulf or on our nuclear submarines. It they lose faith in our support for them, they will return to civilian life and our Navy will have to rely on less experienced people.

Mr. President, the Navy has been the favored service of this administration. With one exception, 1984, the Navy received more funds than the Army or the Air Force throughout the Reagan years. For fiscal year 1989, however, the President agreed to a 33.2-percent share for the Navy, slightly less than that requested for the Air Force.

One budgetary silver medal does not cripple the Navy. They should not expect a gold one each time. The loss of one round in the never-ending debate over resource allocation should not prompt the team captain to grab the ball and go home.

Admiral Crowe, Chairman of the Joint Chiefs of Staff, obviously would have preferred a larger budget, but he accepted civilian leadership and Presidential guidance and supported the budget. In his congressional testimony last week, he made an eloquent defense of the priorities in that budget.

He said:

"The budget elects a slightly smaller force in an era of reducedพระ" The Navy is better off with a smaller, effective force than a larger, ineffective force." The most precious assets the Services have are people—trained and skilled people. In times of stringency, we are even more important, because we traditionally depend on our personnel to compensate for drawdowns.

We can disagree and debate these priorities, but tough choices cannot be ignored or run away from.

Mr. President, I strongly support Mr. Webb's reported successor, Will Ball. He represents a different tradition in public service. He has always been a team player, putting our common goals and national interests ahead of his personal preferences. He also has uncommon leadership skills and a unique appreciation of the way our Government functions, and how to make it work effectively. I am sure the new Defense Secretary will be a fine person because, like Secretary Carlucci, exhibits quiet strength and intelligent toughness.

Those are the qualities the Navy needs and the Pentagon needs, and our Nation needs if we are to make it safely through this difficult period.

PETER McGUIRE

Mr. KENNEDY. Mr. President, the first session of the 106th Congress was winding down, as a Washington institution died December 11 at age 81 in Fort Lauderdale, FL. He wasn't the Peter McGuire who some claimed founded Labor Day in this country. He wasn't Tip O'Neill or Eddie Patton, of New Jersey, both for whom he was frequently mistaken in this town. He was instead the Peter McGuire who represented the Hotel Employees and Restaurant Employees Union, the Transportation, Communications Union, now TCU and formerly called the Brotherhood of Railway and Airline Clerks, and a variety of other labor and retiree organizations.

A large affable Irishman with distinctive growl in his voice he had the advantage of being once met, always remembered. Even after only knowing him briefly all had to be impressed with other qualities. He was the kind of human being for whom the words honesty, decency, and loyalty were intended to describe. He "gave a damn." As a recent article in the January 1988 article of "The Catering Industry Employee" said "Pete believed there still was room in life for compassion and consideration for the little people."

Pete was born in New York City in 1906. He spent most of the last 25 years of his life away from New York,}
in Washington representing working people and retired working people. Nevertheless, he remained the quintessential West Side Irishman. He was raised in Manhattan's Hell's Kitchen and never relished explaining to the uninformed that it was more accurately held's Kitchen named after Hell, the German proprietor of a frequently visited watering hole on the West Side.

Before his move to Washington, DC, he worked intensively with volunteer groups, to preserve the idea among young people that decency was right, and delinquency wrong. To the people in his old neighborhood, he became "Mister Volunteer." Because of this he was subsequently recognized by the West Side Businessman's Association as the Honorary Mayor of Hell's Kitchen.

When Pete graduated from Blessed Sacrament Elementary School on the West Side, he went to work, out of necessity, as an electricians' helper wiring the luxury mansions of uptown Manhattan. Then he joined the International Alliance of Theatrical Stage Employees. As HERE President Ed Hanley said in a recent tribute to Peter "There's no way Pete's special brand of Irish charm and fellowship can be duplicated."

Pete was survived by his sister, Marie Clito, of Pompano Beach, FL, a brother, Charles, of New York City, and several related nieces and nephews and scores of adopted ones who all came to know and love him as "Uncle Buster." We have all lost a lot by his death but we all gained so much more because he lived and worked among and for us.

The RETIREMENT of DR. LUCILLE JORDAN

Mr. NUNN. Mr. President, I rise today to honor Dr. Lucille Jordan upon her retirement from the Georgia Department of Education. She has served for 10 years as the associate superintendent for instruction. Her many years of dedication to academic excellence have contributed significantly to the strength of Georgia's educational system. In particular, I want to recognize her national leadership in the area of parental involvement in citizenship education. Her refusal to accept voter apathy and her tireless efforts to excite young people about the political process are hallmarks of her brilliant career. Today, the National Student/Parent Mock Elections is honoring Dr. Jordan for her support of civic education.

I know that her skill and leadership will be greatly missed by all who have known her. I offer my best wishes to Dr. Jordan for happiness and prosperity in the years ahead.

CHILD CARE

Mr. REID. Mr. President, the family unit as we knew it 30 years ago, and as remembered in such television classics as "Ozzie and Harriet" and "Leave it to Beaver," is fading fast. It increasingly is being replaced by single-parent families and those in which both parents must work outside the home.

I found out about this firsthand a week ago when I conducted a field tour in Nevada. About 35 percent of Nevada's population is on the issue of child care. This was done under the auspices of the Senate Appropriations Committee. Through 3 hours of informative and often moving testimony, I learned that many of these families are barely holding on. If working parents can find suitable child care, they often have to spend more than half of their salaries to pay for it.

The statistics I heard from experts in the fields of juvenile delinquency, education, social work, and child care were staggering. For instance: divorce often plunges custodial mothers and their children into poverty. Did you know that the income of custodial mothers after divorce drops by 70 percent?

Here is another statistic. Single mothers with children are unquestionably the most visible growing group of poor people. About 35 percent of single women with children living in poverty are working, but three-fourths of them are employed only part-time. They are usually young women with limited job skills. That creates a difficult situation with the cost of housing, energy, food and child care.

Yet another statistic shows that roughly 35 percent of those who drop out of the Clark County Community College single-parent program cite child care as the reason why. This is 21.3 percent of the total dropout rate at the college level.

Single-parent families in Nevada have more than doubled from 1970 to 1980. In 1970, there were 9,600 single-parent families and by 1980, this number increased by 146 percent—that is right, 146 percent—to more than 23,000 single-parent families.

That is up to 1980. We do not have any idea of what it now is, but it is now over 50,000 in the State of Nevada. This is in a State with a population of little more than 1 million people.

The National Commission on Working Women states that no more than 10 percent of gross income should be spent on child care. In Nevada, the average child care costs range from $50
to $75 a week for each child under 6 years of age. That translates into roughly $2,600 a year. If a family in this time Clark County Juvenile Court Judge John McGroarty outlined at the hearing. He spoke literally with tears in his eyes about the problems he faced on a daily basis, relating most of the problems to a lack of supervision when the child got out of school.

I could relate about community child care services, a child care center in Reno that helps low-income families with their child care needs. They now care for about 45 children at the facility—but have a waiting list of more than 200. The list would be much larger, but people do not try to get on it because it is almost impossible.

I could talk about little Lashona Henry, a 12-year-old girl who has to pass by drug pushers on her way home from school—only to be greeted by an empty house because her mother does not get home until after 5 o'clock.

Mr. President, these people are looking for leadership on an issue that is rapidly coming to affect us all. That leadership is provided by Senator Boren's Act for Better Child Care, which I have cosponsored. It is a comprehensive child care bill that is a bipartisan move. It is a profamily, prochildren and pro-American problem, a fundamental one. Whatever the solution may be, it is one we must confront. That is why we need to have a waiting list of 200.

Mr. President, we have just completed party caucuses on the pending question, the campaign reform proposal. Yesterday we had a meeting of the group of eight Senators who have been working to try to negotiate a bipartisan consensus on this matter. That group of eight, as my colleagues will remember, includes Senator McConnell, Senator Packwood, Senator Stevens, and Senator Boschwitz on the Republican side of the aisle; and Senator Exon, Senator Mitchell, Senator Levin, and myself on the Democratic side of the aisle.

The Senate continued with the consideration of the bill S. 2.

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from the State of Nevada, suggests the absence of a quorum.

The clerk will call the roll.

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

Mr. Boren. Mr. President, I ask unanimous consent that I might make some introductory comments about the pending matter, S. 2, without it counting against the number of speeches that I may give on this issue.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. Boren. Mr. President, we have just completed party caucuses on the pending question, the campaign reform proposal. Yesterday we had a meeting of the group of eight Senators who have been working to try to negotiate a bipartisan consensus on this matter. That group of eight, as my colleagues will remember, includes Senator McConnell, Senator Packwood, Senator Stevens, and Senator Boschwitz on the Republican side of the aisle; and Senator Exon, Senator Mitchell, Senator Levin, and myself on the Democratic side of the aisle.

We have been meeting in good faith trying to reach a bipartisan consensus on this important problem because we feel very strongly we are facing an American problem, a fundamental problem with the way we finance campaigns in this country and that we should try to find a solution to that problem in a manner that will not tilt and give a partisan advantage to one party over the other in the political process.

Yesterday at that meeting of the group of eight, Senators McConnell, Packwood, Stevens, and Boschwitz presented a plan on behalf of that side of the aisle. It was entitled "The Campaign Spending Reform Act of 1988." I have long said that if any bill does not include in some way a limit of overall campaign spending it could not be considered to be a real reform; that any bill that did not have some form of aggregate limits on political action committee campaign contributions would not be a real reform; and that any bill that did not have some effective mechanism of enforcement to keep candidates within those limits and also to assure that independent expenditures would not get out of hand with negative advertisements aimed against Members of the Senate, the House, and candidates for office could not really constitute real reform.

Before I mention what was in the proposal, let me state that I was disappointed that there was no overall spending limits or a way to enforce them in the proposal. There were no aggregate PAC limits. I do not believe sincerely that there are adequate protections against the pop-up problem throughout the ad. That certainly is a try to squeeze some of the money out of one part of the system only to have it pop up someplace else in the rest of it.

I was pleased, however—and I think my colleagues on this side of the aisle were also pleased—that there were several recommendations patterned after the proposal that Senator Byrd and I, Senator Exon, and others had made in the latest compromised version of S. 2.

There were several things included in that proposal that we welcomed, including closing the bundling loophole. That was proposed by the group of negotiators on that side of the aisle. There is a provision stating that any group or person who independently finances a political ad must disclose the name of the person or organization paying for it and carry that disclaimer so that it could certainly result where we do not go far enough.

There is disclosure of independent expenditures above a $10,000 threshold level, as well as prior notice of independent ads. This also is certainly a welcome proposal. There is disclosure of independent expenditures above a $10,000 threshold level, as well as prior notice of independent ads. This also is certainly a welcome proposal.

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Congressional Record—Senate
February 23, 1998

First of all, the proposal on the millionaire's loophole just is not sufficient. The proposal by Senator McCollum would allow candidates whose opponents spent more than $250,000 of their own money in their own campaigns to receive contributions from individuals in the amount of $10,000, up to the maximum of $1,100. And afraid this practice would just lead to a further arms-race type of competition for money.

S. 2, on the other hand, deals with the ability of wealthy candidates by limiting personal wealth in the form of a direct contribution or a loan to their campaign level at $20,000 instead of the $250,000 threshold that has been proposed and by allowing a limited grant of funds from the voluntary tax checkoff account to candidates who abide by the spending limit but whose opponent does not abide by it, whether through the use of personal wealth or otherwise.

We have an effective means to combat extensive spending by another candidate, whether it be from personal wealth or from contributions. Spending of personal funds by candidates cannot be directly limited except through constitutional amendment to overturn Buckley versus Valeo and some kind of mechanism as we have adopted.

There is also included in the McCollum proposal that we adopt a provision that would define the lowest unit rate cost for advertising. That would require that the broadcasters give the lowest unit rate to candidates based upon a 1-year average of rates for the prior year. Again, we think this is a very meritorious proposal and one that many of us feel should and could be included in a final compromise package.

I would point out that I think, again, absent the overall spending limits, it will not, by itself, cure the increasing and escalating costs of campaigns or of campaign financing, but it is something that is very helpful.

It was also the proposal that we lower the PAC contribution from the present $5,000 to a maximum limitation of $1,000. Again, this is something that simply will not solve the problem that we have been talking about on the floor of the Senate. Less than 6 percent of the total PAC money that is contributed comes from PAC's that are contributing the maximum allowed now of $5,000. The vast amount, the millions of dollars of PAC money coming into campaigns, is coming from PAC's that are giving in the neighborhood of $1,000 or less.

We also have this concern: That if there is not a limit on the aggregate amount that a candidate can receive from PAC's there will simply be an easy way for PAC's to get around the provision of lowering the maximum contribution from $5,000 to $1,000.

They will simply create more PAC's. A company will simply create a separate PAC for each of its subsidiaries. So, instead of one PAC giving $5,000, they will now have five PAC's giving $1,000 each. Instead of having 4,000 political action committees in the country, we will end up with 20,000 political action committees in the country.

So we simply do not see how we can control the effect of this imbalance that now exists between grassroots contributors and the special interest groups, the political action committees mainly controlled in Washington, DC. The problem is that we have almost 200 Members of Congress that have received a half or more of their total contributions from these groups instead of from the people back home.

The only way to restore some coherent balance to that and to put campaigns back to the grassroots level to be financed is to have some sort of aggregate limit.

In our bill, we set a dollar limit, figure by State based upon a formula that works out roughly to about 20 percent of the average contribution from the grassroots. It means it would be thrown back to individuals, hopefully in your home State, hopefully at the grassroots, to raise the bulk of the contribution.

Under our system, we require a sizable proportion of qualified amounts of contributions will have to come from inside the home State and they have to be $250 or less.

I think we also have to be concerned about the need for overall spending limits. We are simply not going to be able to squeeze the money out of the campaigns that would be squeezed out from the direct contributions of political action committees and not have it pop up someplace else if we do not have some kind of overall limitation and if we do not have some kind of effective means for making sure there is a way to offset the independent expenditure.

If we were to drop the political action committees, let us say, from being able to contribute about $46 million, as they did to the Senate candidates in the last election, and say they can only contribute about $16 million, as would be the case under our bill, the question arises: What happens to the other $30 million? Will it disappear? Will it be returned to the contributor? Will it be donated to charity? It is not likely that will happen.

What might well happen is those groups will simply call themselves independent committees and use the $30 million to begin independent negative campaigns on behalf of groups against candidates. That is why we have a provision in our bill that allows for funds from the checkoff fund to be used as a disincentive to groups. If a candidate is attacked unfairly by these groups, they would get checkoff funds to match and to offset the negative advertising. It makes it very unlikely that a candidate would ever seek to form and to put forward that advertising in the first place.

So we have some inadequacies here in the proposal and some good points in the proposal which has been referred with a good deal of enthusiasm on this side of the aisle: The idea that we should define the annual and average advertising rate, that we make that provision of the lowest unit rate a meaningful one; the idea that the very wealthy candidates should not be able to loan his campaign a vast amount of money and then go around afterward or give his campaign a vast amount of money and then go around raising contributions later to pay themselves back.

There are some very meritorious provisions. There is a willingness on our part to discuss additional possible disclosure of soft money if we can find practical ways to do it. And I would say that.

We are ready to vote on the question of the Senate's business.

We have to make sure that negotiations do not become a method by which we defer action. We have only so many weeks on the Senate Calendar, and therefore we must press ahead and, therefore, as I understand it, the leadership intends to push this and we are ready to vote on this side of the aisle on the package. The motion is pending. We are not going to hold the floor. We are not going to continue to give our arguments. We are ready to vote.

After that vote, of course, that proposal would be open to amendment from the other side of the aisle or to anyone on this side of the aisle that sees a way to improve it, and we hope, since 52 Members have sponsored this bill, since up to 55 Members have already indicated last year their desire to bring debate to a close, that there will not be an effort made to prolong debate, there will be a willingness to let us go ahead to go to a vote and then go to consideration of individual amendments to change this proposal.

But let me say again, we discussed this matter in our caucus today. We have the strong feeling on this side, and I would say it is the feeling of the vast majority of those sponsors of this legislation who constitute a majority of the Senate that it is not healthy for campaign spending to be increasing at the current rate, that simply should not be in a position of having to pay with $10,000 every single week for 6 years, week in and week out of a 6-year Senate term to raise the amount of money that on the average—not in a big State but on the average—is needed to run a successful campaign.
for the U.S. Senate. It is not healthy. It is not healthy for the next generation to allow campaign costs to continue to escalate 500 percent, 500 percent and 600 percent every decade.

Where is it going to end and what is it going to do to the process and what is it doing to this institution? We do not have time to deal with the problems because we are too busy using our times and our energies, out having to raise the moneys to run for election.

So we would say that the proposal so far, made on the other side, simply does not really constitute true reform. It resists the idea that we try to get campaign spending under control. It resists the idea thus far that we could have any kind of aggregate limit on PAC's. It sets in motion a plan that would be very easily evaded by simply creating more PAC's and having the same $46 million or $50 million or $100 million enter into the system, but this time $1,000 at a time for more PAC's instead of $5,000 at a time from fewer.

So we feel we must go back to the drawing boards and try again. So let me make this point for this side of the aisle our willingness, as we have the debate proceed here, to continue. I hope that the other side will be willing to continue these good-faith efforts. Let me say, Mr. President, that in the best tradition of tolerance and those differences, I think, with this body even at moments when we are afraid that he has been taken in by the other side will be willing to go out afterward and try to recover the money. We accept that. We would be willing to talk about more disclosure in the area of soft money contributions. We would be willing to talk about that particular provision. We would hope that they would come to us with an agreement to look at aggregate PAC limits. We think that is very important.

So I guess let me say this. We are willing to sit down on another matter that I think is extremely important and perhaps this is the most important one of all. There seems to be a perception on one side of the aisle that somehow we are trying to seek some kind of partisan advantage with this legislation. Senator Goldwater and I had the same experience when we were offering our first bill several years ago. The Republican Caucus in essence told Senator Goldwater they were afraid that he had been taken in by the Democrats and was trying to help them inadvertently. I was told by the Democratic Caucus that they thought I was well-meant but I had been taken in by a Republican plot to help the Republicans.

I think whenever you start talking about campaign changes and campaign reform in the way that we finance campaigns, there is always a suspicion on both sides of the aisle that an attempt is being made to craft a package with partisan advantage.

That honestly and sincerely is not our point. It has been mentioned here several times and I have had these discussions with Senator Dole, who has raised this point with me in private as well as in public. There is a real concern in areas of the country where there is an historic imbalance between the parties, either an imbalance in registration, or in those States which do not have registration, by party; an imbalance in the historic outcome where two or three times as many people over, say, a three or four decade period are elected to Congress from one party than are elected from the other.

Mr. President, our colleagues from one side of the aisle and the group of four from this side, are willing to sit down and talk about that. Specifically, we are willing to offer a change in the formula for the overall spending limits to make it higher in those States where there is an historic imbalance in either party registration or where there is a historic imbalance in the numbers of people entering Congress from those States, by party.

We are willing to do that. We would welcome a proposal from the other side of the aisle as to the amendment by which they think the ceiling should be raised in those States so that the challenging candidate from a party that has historically been in the minority in those States would be able to raise an adequate amount of money to be sure that they could make their cases given the incumbent of the other party. We are willing to talk about that.

So we do not seek a partisan advantage and we want to make that very clear. We do not seek a partisan advantage and we want to make that very clear.

So we have several points that we can accept now and accede to. We have additional willingness to sit down to talk on soft money disclosure; we have additional willingness to talk about changing the formula as long as we keep an overall spending limit, to review that limit in those States or in States where we have a historic imbalance between the parties.

So that we make it crystal clear, no one here is seeking a partisan advantage.

What we are seeking to do is something beneficial to this country and that is have politics which competes on the basis of issues and candidates and their qualifications and not on the basis of who is richest, which candidate is able to raise the most money in a campaign. It has simply been unhealthy and unwholesome and all of us know what is happening to the political process in this country.

I think many of us have a feeling of great concern when we are forced to spend so much of our time and when we are forced to go to interest groups who have pending legislation in front of us to try to raise money for campaign funds. It puts us in a very awkward situation and when the amount of money involved is so high it also means we have to spend more and more of our time not in our home States, because very few of us have the time from States that have the financial resources available in this day and time with which to finance campaigns.

It means the Senators and Congressmen are having to go increasingly to other States where they do not live and that they do not represent, to try to raise money from people there with financial means instead of spending time with their own constituents at the grassroots.

So there are problems we think, very sincerely, and the proposal has been made from the other side of the aisle in one of the limitations they propose. They propose not only disclosing soft money but actually limiting what can be done in a volunteer way in terms of
volunteering time or advice to candidates and I do not think we can really do that. There we really do get in, directly, into the problem of free speech. We also get into mechanical problems. You have some organization that has a statewide get-out-the-vote effort, let us say, on behalf of the Republican Party or Democratic Party. How in the world could you possibly give an exact proportion of the benefit drive to the candidate for the U.S. Senate or House or Governor or county sheriff or county judge or something else? So that becomes difficult.

But I think in the area of disclosure we can talk more and we are going to make it clear that we are willing to come to the table and talk again, especially with an eye toward making sure that the overall spending limitation would not be at the disadvantage of any one party and we would welcome a proposal from the other side as to how much they would believe the ceiling should be adjusted upwards in States where there is a traditional imbalance, historic imbalance between the parties.

So, as we press ahead, let me say to my colleague, and I will yield the floor now, we press ahead but we still want to leave the door open. We are ready. We want to have further discussions. These discussions have been conducted in good faith by both sides; they have in good faith by both sides, and I hope while the leadership which has an obligation to push ahead with the schedule of the Senate does so, I hope the other side will simply allow us to have a chance to vote and will offer their amendments that they sincerely believe should be adopted. We are ready to vote on the amendments that they have, discuss them in a brief and timely fashion, and vote on them and then try to move us toward a general solution. I hope they will do that instead of deciding to mount a filibuster to keep us and the people and the majority of the Senate from working its will.

But whatever happens on that score, procedurally on the floor, we do hope to continue our negotiations and I, again, have summarized the points that we are willing to adopt out of their proposal and the further steps that we are willing to take or to discuss with them as we try to move toward some end, positive result.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, let me first comment that I appreciate the efforts of the Senator from Oklahoma on the pending legislation, and I endorse the present posture of both sides in legislation concerning this money chase we have seen in these campaigns.

In the last Senate race in my State, the two candidates spent over $10 million apiece. The last Governor's race, they spent over $10 million apiece. I am looking at my own reelection. The estimates are we will have that kind of expenditure in my Senate race.

We have put some limits on it, and we ought to do it right now. I strongly support efforts to accomplish just that.

Mr. McCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, I ask unanimous consent that my remarks not be included under the two-speech rule.

Mr. BYRD. Mr. President, reserve the right to object. I will not object in this instance. I do not know when or whether we will start enforcing the two-speech rule, but would the distinguished Senator allow me to make just a few comments before he proceeds?

Mr. McCONNELL. I will be happy to accommodate the majority leader, if I could just make one observation. My colleague, Senator Boren, has performed the same function on that side as I am. He made precisely the same unanimous consent request a few moments ago before he reported on his policy luncheon, and I was seeking recognition simply to do the same thing.

Mr. BYRD. Yes.

Mr. McCONNELL. And not to make very lengthy remarks.

Mr. BYRD. I certainly will not object. I will await the conclusion of the Senator's remarks.

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

Mr. McCONNELL. Senator Boren also wanted to return to the floor, and I have asked a page to get him. So I am hoping he will be here momentarily, as he was in the cloakroom.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky has the floor.

Mr. McCONNELL. I would say to my friend from Nebraska—

Mr. EXON. Will the Senator yield so that I might make an inquiry of the Chair?

Mr. McCONNELL. The Senator from Kentucky will be happy to yield for that purpose.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Since it has just been granted, as I understood the discussion between the majority leader and the Senator from Kentucky, that the remarks the Senator from Kentucky is about to make will not be counted under the two-speech rule, I ask unanimous consent that the same rule be applied as had the Senator from Oklahoma made such a request.

The PRESIDING OFFICER. I am so informed. Then I ask unanimous consent that the Senator from Oklahoma made such a request.

Mr. McCONNELL. Yes.

Mr. EXON. Did the Senator from Oklahoma make the request that the Senator from Kentucky just made?

Mr. McCONNELL. Yes.

Mr. EXON. Then I ask unanimous consent that any speeches made on this subject previous to this particular time not be counted as part of the two-speech rule, up until now. And, of course, the Senator from Kentucky has already been granted an exemption in that case.

The PRESIDING OFFICER. Is there objection to the Senator's request? Hearing none, that is the order. The Senator from Kentucky has the floor.

Mr. McCONNELL. I thank the Chair.

First, let me say we discussed, again as the group of eight indicated its desire that we do, the question of expenditure limitations in congressional races, and I would like to respond to my friend from Oklahoma that our position on that issue remains the same. It is the feeling of the Senator from Kentucky that is not one of the negotiable items.

Having given the bad news, let me respond with the good news. I am pleased at the response of my friend from Oklahoma about the proceedings at the Democratic policy luncheon and would like to make a similar report with regard to the Republican policy luncheon.

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Mr. McCONNELL. Good. There is some concern, and I think something we have to talk about further, I think legitimate concern about raising the limits of contributors. We were afraid that might spark an additional money race. But as to the point of my friend from Oklahoma liked our proposal, that you at the very least prohibit the millionaire from getting his money back by going around town and shaking down, if you will, every political action committee in Oklahome and try to get them to help get him out of debt after he won the race. I gather that is an acceptable proposal. I gather the Senator was not quite as sanguine about the other proposal requiring one to certify to the FEC that he is winning the primary, that the Senator was not quite as sanguine about the other proposal. But I think as our discussions have been useful. I think that there has been a total absence of hostility and rancor in those negotiations as we have discussed our differences rather frankly. It seems to me we have come a long way. I hope we can continue and possibly reach some kind of agreement.

Mr. President, I yield the floor.

Mr. McCONNELL. Mr. President, I wonder if I might ask unanimous consent to respond to the comments of the Senator from Kentucky without having it count as a speech under the two-speech rule.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. McCONNELL. Mr. President, I again what to thank my colleague and commend him again for the spirit in which these negotiations have been conducted; and his colleagues with him. I think all of us realize we are dealing with a very difficult problem. It is intellectually a challenging problem to determine how to reform the campaign laws and not have unintended consequences.

I think we all realize that the problem that there is just too much money pouring into the campaign process period. It is so ordered.

Mr. BOREN. Mr. President, I again what to thank my colleague and commend him again for the spirit in which these negotiations have been conducted; and his colleagues with him. I think all of us realize we are dealing with a very difficult problem. It is intellectually a challenging problem to determine how to reform the campaign laws and not have unintended consequences.

I think we all realize, and to me we have come a long way from where we were 5 years ago and 10 years ago. We have all realized there is something wrong with the current system. It is obviously something that is just not working as it should; that it is broken and it does need fixing. I think that is a very important start.

We have also, as has been outlined in this colloquy back and forth, found quite a few areas of agreement. I would say that having just heard my colleague, it sounds like we are in some fundamental agreement on several points and potential agreement on one of the two major areas of reform as we have outlined them here on this side of the aisle; that is, the possibility of talking about aggregate PAC contributions. We feel that is a very important part of any final agreement.

Let me go back again to the fundamental question where we obviously do have some very strong disagreement. I think again if you went back to the polls of the American people, if you talk to people around the country, they are concerned about the imbalance between the PAC contributions and the amount of money and number of contributors that are coming from the grassroots and the people back where the money was coming from. They are worried about the people back home being displaced out of the funding of campaigns because special interest groups are controlling elsewhere. They are concerned about that.

But I think there is probably an even higher level of concern, and I would say it is a level of concern reflected again in all honesty on this side of the aisle; that is, that the cost of campaigns are simply going up too much.

If we are going to put together an effective package, we have to have a mechanism that deals not only with aggregate PAC contributions or the contribution of money coming in by PAC's. We have also to have to deal with the problem that there is just too much money pouring into the campaign process period.

Part of the problem is the matter of concern that that is a very important part of any final agreement.
say there is a philosophical difference between those in the Senate and we who think there is nothing wrong, nothing alarming, nothing bad about the fact that the cost of campaigns has gone up roughly 500 percent in the last 10 years.

Mr. MCCONNELL. Would the Senator yield?

Mr. BOREN. They do not see anything wrong with that. They do not think it is bad for the country. There are many of us who feel it is bad for the country. In our judgment, one of the problems that is going to plague us is the up and down. If it went up another 500 percent, it would be worse still.

If the average cost, which has already gone from $600,000 to $3 million in just 10 years that I have had the privilege of serving in the Senate, is going up to $15 million, another five-fold increase, some say that it would be good. I do not see it as a positive good. I see it as an evil. I say that very sincerely. I do not think it is good for the country that it costs more and more to run for public office.

I do not think it is good for the country that we make and compete on the basis of who can raise the most money. I do not think it is good for the country for Senators to have to spend time to raise $10,000 each and every week, and in some States it is more like $50,000 to $100,000 each and every week, in order to run for the U.S. Senate or to seek reelection to the United States Senate.

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

Mr. BOREN. I will yield in just a moment.

So I think there is a fundamental difference on that point. In the debate now, it is clearly revolving around that point, and I do not mean to say they are not very worthwhile areas of agreement that we have reached. There are. I hope it will set the stage for us to work out some kind of formula where one can have reasonable limits on independent expenditures they can offer and how many others. It is a problem that we are now trying to deal with and find some way to have a meeting of the minds.

I think unless we have reform in a comprehensive way, and I am one that started out attempting piecemeal reform. Senator Goldwater and I, in all sincerity, started out on that path together several years ago. It was a privilege to work with him, a person from whom I have very great respect in that cause.

We kept coming up against problems. They shut off the right of PAC's to give certain amounts of money to candidates. Why would they just want expenditure controls? Of course there is an advantage that holding out the olive branch to those on the other side will have a particular issue, and we would hope that holding out the olive branch to show we do not seek a partisan advantage; that we are willing to talk about formulas; to have higher spending limits in States where there are historical imbalances between the parties that we demonstrate we do not seek a partisan advantage; that is a true philosophical commitment; a feeling on our part that the money chase is bad; that the cost of campaigns continuing to go up is not good for the country, is not good for this institution, and it is not good to take Senators away from their jobs and from meeting with their constituents. It is not good in terms of the appearance it creates to the American people that we are on the auction block. We spend too much time and energy trying to decide how to raise money for our campaigns. I hope we can find some way around that, because I am convinced the American people agree with us.

When those on the side decide to stop talking on this matter, we are ready to vote. We are ready now to vote on this package. As soon as I sit down, we will be ready to vote, and we have 55 Senators who have said they are ready to vote right now. As soon as I sit down in this chair, we are ready to vote. If no one wants to continue the debate or the filibuster, the question will be put, and the American people will have an opportunity to have their representatives vote.

Those on the other side who do not like the current form of this proposal will have a chance to offer amendment after amendment after amendment. There is no limit on how many amendments they can offer and how many votes they can get on changing this package. We have already indicated on this side that we will vote for some of the proposals that have been made for changing this package. There can be a bipartisan effort on the other side to offer amendments that will be offered.

I say again to my colleagues that I hope he will let us vote on this package and that he will then offer the amendments he has, make improvements where we can, and in the meantime we will talk. We will talk about how different a posture we will take. I think the American people would vote with us on.

If we went out of here, I am convinced, and ask the American people, "Do you think it is good for the cost of campaigns to have gone up 500 percent over the last 10 years; do you want the cost of campaigns to go up another 500 percent over the next 10 years?" I think the American people by and large, near unanimous vote would say, "No, that is not good for the country."

So I would just urge again. It is a matter of sincere philosophical feeling that we would very much like to talk to those on the other side about this particular issue, and we would hope that holding out the olive branch to show we do not seek a partisan advantage; that we are willing to talk about formulas; to have higher spending limits in States where there are historical imbalances between the parties that we demonstrate we do not seek a partisan advantage; that is a true philosophical commitment; a feeling on our part that the money chase is bad; that the cost of campaigns continuing to go up is not good for the country, is not good for this institution, and it is not good to take Senators away from their jobs and from meeting with their constituents. It is not good in terms of the appearance it creates to the American people that we are on the auction block. We spend too much time and energy trying to decide how to raise money for our campaigns. I hope we can find some way around that, because I am convinced the American people agree with us.
February 23, 1988

CONGRESSIONAL RECORD—SENATE

Mr. McCONNELL. Mr. President, I would like to spare the Senator, the Chair, and the listeners my response to the arguments about spending limits. We have made those arguments a number of times.

A question to the Senator from Oklahoma is simply this: When shall we meet?

Mr. BOREN. I am available.

Mr. McCONNELL. Why do we not work that out?

Mr. BOREN. We will try to figure out what time we can meet and discuss this. So far as I am concerned, we can meet later today. I have not heard from the majority leader. We could arrange for postuppper, perhaps, this evening. I understand that we may be spending a lot of time with each other. Hopefully, we will not. Hopefully, they will be prepared to vote on the other side. We are ready. I have talked with my three colleagues on this side of the aisle, and they share the desire to continue these negotiations.

I thank my colleague.

Mr. President, may I ask unanimous consent that I may ask that somebody get the distinguished Senator from Kentucky back on the floor?

I want the Senator from Kentucky on the floor.

Mr. President, I ask unanimous consent that I may speak for not to exceed 3 minutes, without it counting as a speech against the Senator from Nebraska under the two-speech rule.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BYRD. Mr. President, I sought the attention of the distinguished Senator from Kentucky for this reason: This Senate is in a full-fledged filibuster. We have been on this bill now for 5 days, not including the many days of last year which spanned from the date of February 15, 1987.

Of course, the Senate took up many other measures during that time last year. On this occasion, this bill has been before the Senate and has been debated on February 17, 18, 19, 22, and 23. That is 5 days.

We sought to reach some accommodation by having two groups of colleagues meet, and I and others on my side have come to the conclusion that we cannot go on spinning our wheels. In the first place, we do not have the time to spend this year.

We have, hopefully, a trade conference report that will come along within a few days or weeks. We will have the catastrophic illness conference report. Around April 1, give or take a little, I would say that we should be ready to take up the INF Treaty.

There will be other legislation, such as polygraph legislation, Price-Ander son, intelligence oversight. There will be the budget resolution in due time.

These matters are not ready for action yet. Until the budget resolution is passed, we cannot take up appropriation bills.

So, in due time, there will be a heavy workload here.

Having experienced last year the futility of engaging in many, many weeks of debate, and going through seven cloture votes, and finding that little interest was stirred because we had a very casual filibuster that lasted from 9 o'clock in the morning until 5 or 5:30 in the afternoon, and in the meantime we would take up other measures, and so forth, it is the conclusion reached by a consensus on this side of the aisle that the attention of the country needs to be called to the fact that there is a filibuster going on; that our good friends across the aisle, with the exception of three on that side of the aisle, are bound and determined that they will not let this bill pass as long as it has in it a limitation on overall campaign expenditures, as long as it has in it a mechanism to enforce the limitation on campaign expenditures, and as long as it has in it a limitation on aggregate contributions from PAC's that may be accepted by candidates for the House and the Senate.

There that line is drawn. There is no point in having a nice, easygoing filibuster here, carrying on a slow filibuster in the back rooms. Let us have it out here on the floor. That is where it ought to be, where the American people can see it, right through their cameras; where they can see, through the representatives of the fourth estate, that this is a filibuster. The American people need to know what it is about, and they need to know who is keeping the Senate from coming to a vote on this.

As the distinguished Senator from Oklahoma has said, we on this side are ready to vote. The minute it's shut down here, I am ready for the Chair to put the question. The Chair would have put that question had I not called the distinguished Senator from Kentucky back from the cloakroom.

Ordinarily, we protect each other here. I am a strong advocate of comity between the two sides, fairness in dealings and protecting the other side, and not taking advantage of the other side if it back in our favor. So no Senator on the other side has ever been fearful of walking out of the Senate and having something happen to him. If no Senator is on that side, it will not happen. A Senator on this side will put in a quorum or some such and alert Senators on that side.

But, we have to deal with a filibuster a little differently because a filibuster is something that is quite out of the customary. The ordinary filibuster, the Chair is going to put the question. At any time a Senator does not seek recognition, it is the duty of the Chair, whether there is filibuster or not, it is the duty of the Chair to put the question. Anytime a Senator sits down and no Senator seeks recognition, it is the duty of the Chair to put the pending question before the Senate. That is the rule. That is the precedent. But we do not ordinarily press that rule for reasons I have already said.

But, the next time a Senator on the other side of the aisle walks into that cloakroom and leaves nobody on that side to ever engage the floor or to protect the Chair, the Chair will put the question. I have instructed the Chair to put the question.

I told the very distinguished acting leader Mr. Simpson, yesterday, that this would be the case, and that I was telling him at that time so that he could bring the matter before the Republican Conference today and they would all be alerted, so that they would protect themselves.

I say this for the last time so that all Senators on the other side may hear and understand that if they want to protect themselves, they have to do so themselves because the Senate needs to vote on this question that is before it.

We are ready to vote. I am willing to enter into a time agreement to vote on the Boren amendment in the second degree before this day is over, or tomorrow, or whatever. We are willing to enter into a time agreement to vote on the bill. And, as far as I am concerned, on the amendments that the other side of the aisle wishes to push, we are willing to enter into a time agreement and include their amendments in that time agreement.

Let the chips fall where they may. Let the Senate vote on whatever amendments they have to propose. They say, "Oh, we don't want to invoke cloture because we wouldn't be able to get to call up our amendments." One of the advantages of cloture is that it precludes nongermane and nonrelated amendments. And there are amendments pending right now in the lines of amendments to this bill that are nongermane. One deals with contra aid; another deals with the Monroe Doctrine. They have nothing to do with campaign financing reform. So those are the kinds of amendments we want to preclude.

As far as I am concerned, we can have an agreement to include certain amendments that the other side wishes to vote on and we will vote on them. But let's vote.

But, Mr. President, the only way that this Senate can pass a genuine campaign financing reform bill is to include limitations on spending. Now if a party is so bereft of ideas—and I do not believe the Republican party is bereft of ideas. It has produced good Presidents. It has produced good Sena-
for sale? Is that what the American limit placed on campaign spending. And we are drawing a perception if this bill is not passed and the current system prevails.

We will fight it out on that line if it matters that the minority side is taking. We will let them know that; let the people have forgotten. I would simply ask that Mr. President, the majority leader has said a great deal of what I was about to say. Therefore, there is no use repeating that. I think he said it very well.

The point that I wish to make is that I believe that my friend from Kentucky has been negotiating with us in good faith. We have had several meeting. The results of those meeting were highlighted in the report to the Senate given by the Senator from Kentucky and the Senator from Oklahoma.

The last comment by the Senator from Kentucky was that, well, he was pleased that we had accepted or tentatively accepted some of the suggestions they have made and that maybe if we go on talking this evening, we can accomplish something. Let us not mislead the American people. There has been no give on the central issue of S. 2 as just outlined very adequately by the majority leader, and that is simply whether or not that side of the aisle will accept reasonable campaign spending limits. The answer has been no, no, no. We will talk about other things, but we will not compromise on the central issue of S. 2.

So, therefore, I simply say that, while I want to talk and while I am willing to compromise, I am not willing to play the political games that some of us. Maybe the American people are upset. I am simply saying that, that the political campaigns of the United States of America today, and that is simply the fact that we are spending an obscene amount of money—obscene, Mr. President. I do not know whether the American people are upset about this yet, but I assure you they are going to be.

If they are not concerned about it, they should be. Because I think what we are talking about here is the very fiber of this body: The respect that I think U.S. Senators are entitled to be elected by their people in their State and by the people of the United States. And then, Mr. President, when the heat is on in the countryside, then we will all rush in here and we will say, "Is this not time for campaign reform?"

So, I am simply pointing out that in 1974 the vast majority of Democrats and Republicans in the U.S. Senate and in the House of Representatives thought campaign spending limits were a good idea. What has happened in the meantime? I suggest, Mr. President, that we may have forgotten, some of us. Maybe the American people have forgotten. I would simply say that that Campaign Reform Act passed at another time, in another era, when this country was shaken to its foundation or shortly thereafter, when we had a resignation of a President of the United States, and it had to do, that resignation, with a political campaign from another era.

The majority of the U.S. Senate and the majority of the House of Representatives could not afford to not be for true campaign reform at that time. And so, if that is the case, then I believe that Congress, if the American people want it, can bring about this change at this time.

In fact, the conference report passed the Senate by 64 to 16, with the vast majority of both Democrats and Republicans voting in support of it. That conference report passed the House of Representatives by 365 to 24. Just so that we can keep this in perspective, what did that 1974 act do? That 1974 Campaign Act recognized that we thought we were spending too much money on campaigns then and it has gone up dramatically since 1974. That Campaign Act of 1974 set a limit on how much money could be spent on a per capita basis for election to high public office. That was the act, of course, Mr. President, that the Supreme Court later threw out on the basis that a millionaire, or someone of whatever means, had the right to spend whatever amount of money they wanted to get elected to public office and that prohibition by the Supreme Court is what we think we have successfully gotten around by making the arrangement that we did in S. 2 before us.

So I am simply pointing out that in 1974 the vast majority of Democrats and Republicans in the U.S. Senate and in the House of Representatives thought campaign spending limits were a good idea. What has happened in the meantime? I suggest, Mr. President, that we may have forgotten, some of us. Maybe the American people have forgotten. I would simply say that that Campaign Reform Act passed at another time, in another era, when this country was shaken to its foundation or shortly thereafter, when we had a resignation of a President of the United States, and it had to do, that resignation, with a political campaign from another era.

The majority of the U.S. Senate and the majority of the House of Representatives could not afford to not be for true campaign reform at that time. And so, if that is the case, then I believe that Congress, if the American people want it, can bring about this change at this time.
Therefore, I say, Mr. President, that the filibuster that was mentioned by the majority leader a few moments ago is not a fix. I regard this side of the aisle. I say, again, what Senator Boxer and the majority leader just said: We would be willing to enter into some kind of an agreement, time agreement, a number of hours that we would debate this. We do not want to vote right now? Maybe we could vote this evening at 9 o’clock? Or the day after tomorrow at 11 a.m.? Or a week from Thursday at 2 p.m. in the afternoon? Just so we can get to some time agreement and not have the use of the filibuster, which we suspect is about ready to take place on that side of the aisle, to prevent the majority of this body from working its will.

I would hope that reason would prevail, Mr. President. I would hope that we would not become involved in a shouting match, this side of the aisle against that side of the aisle, and vice versa, about who is all right and who is all wrong. I would think that that I would think that as reasonable people who have an ability to agree on most things, let us at least come to a vote and let the U.S. Senate work its will.

We would agree that entirely too much money is being spent for political elections and re-elections these days. I think it is becoming a national disgrace and is going to become more of a national disgrace in the future than it is right now unless we have the will.

I think it is becoming a national disgrace in the future than it is right now unless we have the will.

As a matter of fact, I am not ready to start giving a talk now, although I may, if the Senator would respond to a question or two.

Mr. EXON. I would be glad to.

Mr. PACKWOOD. If we want to reduce the amount of money that is raised and spent in campaigns, why not just reduce the contribution limit to a dramatically smaller amount?

Mr. EXON. I would not object to reducing the campaign spending limits. In fact, had the Senator from Oregon been here a few moments ago he would see that, indeed, we agreed that this time agreement to reduce the contributions, during the negotiations that were carried on between the pack of eight or whatever we are called.

Mr. PACKWOOD. I mean more than just that. Why not reduce the individual spending limit to $100 instead of $1,000? Why not force the costs of campaigns down by cutting down the amount people can give in campaigns?

Mr. EXON. I have no reason to believe that the ethics is any particularly the matter of respect and for whom I get a courage to do something about it.

I think it is becoming a national disgrace in the future than it is right now unless we have the will.

So I appeal to all of my friends and colleagues on both sides of the aisle, for whom this Senator has a great deal of respect and for whom I get a great deal of respect, more and more, as I serve in this body each and every day despite the fact that we do not move things along as rapidly as many of us would like. There is a good group of people here representing their States and the States that they can. I would just hope that in this instance we would protect this institution. Get away from the business of expending an excessive amount of time on raising money for re-elections, clean up our campaigns so that even we politicians could be proud.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Would the Senator from Nebraska yield for a question, or, since he has yielded, respond to a question?

Mr. EXON. I have already yielded the floor, but I certainly would not object if my colleague has a request. If that talk he is about ready to give would not be carried under the two-speaker rule?

Mr. PACKWOOD. As a matter of fact, I am not ready to start giving a talk now, although I may, hoping the Senator would respond to a question or two.
I am not sure that I would agree, though, that limiting expenditures to $100 or $50 or $500 would necessarily constitute...

Mr. PACKWOOD. Limiting contributions to $100, not expenditures.

Mr. EXON. Contributions.

Mr. PACKWOOD. Contributions.

Did I hear the Senator from Nebraska say that in his experience the public is not so much concerned about how much we spend but where we get the money?

Mr. EXON. No, you did not hear him say that. I said my view is that it would be better if we did whatever is donated in a campaign to come from a larger group of people rather than a smaller number of people. That is what I said.

Mr. PACKWOOD. We can agree on that. Would that be achieved, in your judgment, by lowering the contribution limit?

Mr. EXON. It might be achieved by lowering the contributions so long as you can legislate some kind of a bill that did not provide for organizations of various persuasions going about the country and calling for grassroots political contributions from those in Nebraska to elect a Senator in the State of Oregon.

Mr. PACKWOOD. You are back to bundling, again, I sense.

Mr. EXON. I guess so. I think bundling is a very serious matter and I think the Senator has agreed that it is. We would still legislate some kind of a bill that did not provide for the general guidelines of the Constitution, I am not sure.

Mr. PACKWOOD. Well, I think both sides are operating on a presumption.

I see the majority leader here and I would be happy to have him interrupt. Mr. President, might I also say a word of appreciation to the majority leader. I was watching when he called for Senator MCCONNEL to come to the floor. That was very generous of him. I appreciate it.

I might say in the 18 or 19 years I have been here, this has been the habit of the majority leader, even before he was leader, that he has never taken advantage of a Senator who was not present. I appreciate that.

Let us say in Nebraska or Oregon, and our populations are not that far apart, that it was going to cost you $2 million to run a campaign, or whatever. Under the present limits, political action committees can give you up to $10,000. Most of them do not, but they can. Individuals can give $1,000, or $2,000 for the primary and general. So we could raise our $2 million.

I want to say again I spent a great deal more than that in the last campaign. I am using this for purposes of discussion now.

Let us say that we would have had 5,000 donors from whom we raised $2 million with those limits. If we were to get rid of PAC contributions altogether, they are out, and lower the contribution for individuals to $100, I would assume that in order to raise $2 million we would have to have a lot more than 5,000 donors. Perhaps 10,000 or 20,000.

I would also expect if you cannot bundle that you would have a dickens of a time raising money in small amounts in Oregon and I would have a tough time raising money in small amounts in Nebraska. The likelihood of my going door to door, my volunteers going door to door, in Omaha and getting people to give $20 to my campaign in Oregon, I think would be pretty slim. I think yours would be practically the same in Oregon.

Mr. EXON. I think that would probably be very difficult, but I would simply say, let us not underestimate the demonstrated talents of raising money on purpose due to the very sophisticated direct mail techniques.

Mr. PACKWOOD. I am very familiar with direct mail techniques, and we should in the future deal on it. Direct mail fundraising is not cheap fundraising. It is expensive fundraising.

I would say there are 5 or 10 Senators in this body who can raise money nationwide by direct mail, but most of us are just not that well known outside our area. That is, I would like to think we are that well known, we are not.

All I am saying, and I say this in good faith because on our side we honestly think it—and this is not being benevolent—spending caps favor, and you can spend the same amount as your opponent, the majority party and favor incumbents. That is our fear. We do not mind lowering the contribution limits, and I think, frankly, what would be done if they were low enough, and this would be a reverse of the advantage, if they were low enough so that the bulk of the money raised, almost perforce, would have to be raised in your State, it would probably flip the advantage of the purpose of raising money to a home State challenger who is on the ground in the State all the time instead of here in Washington 8, 9, 10, or 11 months of the year.

And that difference on spending limits I think is a modest difference of opinion.

What I am saying is that what you want to achieve with spending limits, and it can only be done with some form of public financing under the present Supreme Court decision, some measure of public financing, can be achieved without going that route, and I fail to understand the unwillingness of the majority to accept another alternative to achieve the end they want to achieve.

Over and over and over it has been—if we are not spending caps, we are going to fight this out; we will both U.S. Grants and fight it out on this line all summer, but if we will not agree on the Republican side to spending caps and therefore some public financing we believe, and I believe, the Court decision, there will be no bill, and we will take this to the public and we will let the public know who stands for reform and who does not. I am saying we can achieve that same reform without the public funding and without the spending caps and what is wrong with that alternative?

Mr. EXON. I would simply say to my friend that he may—I do not know whether he is making it or not—be offering a compromise that is worthy of consideration that so long as you would agree that you would reduce the total amount anyone can give, we would also put on a reasonable spending limit, and it would be possible to have the best of both worlds.

Mr. PACKWOOD. No. I think the majority leader has stated it well. A spending cap on the Republican side I think is simply unacceptable, and there are enough votes, because we feel it would put our party at an unfair disadvantage.

Now, if you lowered the limits dramatically, maybe you could spend as much as you spend now—maybe, if there are enough votes, because we feel it would put our party at an unfair disadvantage.

But I am saying, and I say this in good faith because on our side we honestly think it—and this is not being benevolent—spending caps favor, and you can spend the same amount as your opponent, the majority party and favor incumbents. That is our fear. We do not mind lowering the contribution limits, and I think, frankly, what would be done if they were low enough, and this would be a reverse of the advantage, if they were low enough so that the bulk of the money raised, almost perforce, would have to be raised in your State, it would probably flip the advantage of the purpose of raising money to a home State challenger who is on the ground in the State all the time instead of here in Washington 8, 9, 10, or 11 months of the year.

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we came up with a formula that I had a considerable amount to do with that was, in the end, public funding if and when candidates would agree that a reasonable spending limit would be in order. So I would simply say that part of the argument that the Senator from Oregon has just done, comes to the floor, participates in a little colloquy, puts in a quorum and every body sits down and the clock continues to run and nothing happens. Now, we are either going to talk or we are going to vote. The Senator is certainly capable of talking, I am sure, but I do not want us to get the idea that this is just going to be a matter where we蹉遗 colleagues on his side of the aisle and he will come over and make some remarks, and he will put in a quorum and sit down and we will just beat around the bush, and a quorum that will last 15, 20 minutes. As he said, he will be back in 10 minutes, but where are all the other Senators?

Mr. PACKWOOD. If the majority leader will yield, the majority leader raises a good point. I did not mean to give the impression that I singly was going to try to conduct a filibuster by quorum call.

Mr. BYRD. No; I am not implying that.

Mr. PACKWOOD. If the majority leader will yield, the majority leader continue and then I have a few more remarks to make.

Mr. BYRD. I have finished.

Mr. PACKWOOD. It was going to say that years ago—and my good friend from West Virginia will recall Senator Williams from Delaware, a wonderful gentleman who overlapped 2 years here with me. He retired in 1970. When I first came here in 1968, we had a debate on whether or not we should change the rules for shutting off a filibuster.

The Senate will recall it was two-thirds present and voting and we moved it to 60 percent. I supported that. He opposed that.

Mr. BYRD. That was my proposal.

Mr. PACKWOOD. Yes.

Mr. BYRD. That it be 60 votes—three-fifths.

Mr. PACKWOOD. At the time, though, I do recall—and refresh my memory on this—we did not change the requirement for shutting off a fili­bust­er on a rules change. That is still two-thirds, is it not?

Mr. BYRD. That is correct.

Mr. PACKWOOD. On a rules change.

Mr. BYRD. It takes two-thirds to shut off a filibuster on a rules change.

Mr. PACKWOOD. The majority leader will recall the famous ruling we had from Vice President Rockefeller when he was in the chair that angered some people on both sides a bit. But when I was here in 1969 as a young Member, I probably thought and would have been willing at that time to reduce the margin for shutting off a filibuster to a majority vote. I might have voted with a normal parliamen­tary requirement in Europe where the majority shut it off. And I remember the counsel that Senator Williams gave me at the time. He was opposed to the change. He said, “Bob, after 21 years here, I have come to the conclusion we make more mistakes in haste than we lose opportunities in delay. If something should pass, it will one day pass.”

Now, I do not think that is my absolute view. But I think it. Mr. Carter defeated Mr. Ford the first go around; the Republican challenger, Mr. Reagan, then defeated Mr. Carter. The next time around, Mr. Reagan, the incumbent won. So the Republicans have fared very well under that experience.
Surely they ought to fare as well under campaign financing reform that has a limitation on the campaign expenditures for Senate seats. After all, they have the same opportunities.

I just cannot understand why they would not want to have a limitation on campaign expenditures. They are able to raise more money. That is obvious. They can pull more money than the Democrats can raise.

The distinguished Senator has talked about lowering the limitation to giving $100. There will be all kinds of ways that can be found around that.

Mr. PACKWOOD. How? How do you get around that?

Mr. BYRD. The distinguished Republican Senator knows that his national committee has depended upon the people on his side of the aisle are light years ahead of the Democrats when it comes to raising money by mail. They can do it. I say, why not put a limitation, a reasonable limitation, on campaign expenditures that would be as fair for the Senator’s side as it is for this side of the aisle.

Mr. PACKWOOD. I think now it begins to come into focus a little bit. The Republican Party has been much better than the Democratic Party in raising money by direct mail from small contributors. The Democratic Party, probably in terms of the total amount of money they raise, is much more dependent than the Republican Party on political action committee money and big money. There has been enough articles on that now. I think on occasion it is news to the public.

But to put it in the crassest terms, the Republican Party uses the fat cats, the Republicans not nearly to the same degree. But we raise a lot of our money by direct mail; our average contribution is about $20. That may be off $1 or $2, one way or the other.

In order to raise $9 million with a $100 contribution limit, you assume an average contribution of $20, you have to have 450,000 donors. As I indicated earlier to the Senator from Nebraska, I think 90 percent of the Senators have to raise the bulk in their home State.

I put this to the majority leader: I think it would be good for democracy if you in West Virginia, I in Oregon, and the Senator from Nebraska had about 400,000 contributors in our home States give $20 apiece. That is not the policy that I think we should put a limit on Nebraskans or West Virginians being able to give $20 apiece, and it is a good test of whether or not we have a good organization. You and I cannot go out and bring in $50,000. We might do it. There is nothing wrong with encouraging that many people to give.

We used to have a tax credit which encouraged people to give, and unfortunately we got rid of it. I think that rather than public financing and taking money out of the Treasury for candidates, if you want to have public financing, we would do better to go back to the tax credit of $50 or $100.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. PACKWOOD. I yield.

Mr. BYRD. The Senator makes two points I would like to address.

First, he talks about public financing. The so-called public financing we are talking about is the voluntary checkoff by taxpayers when they file their income tax forms—voluntary, of their own free will.

Milton referred to “Paradise Lost” to many of us. I will not read the will. Taxpayers make this checkoff of their own free will. Here, I give a dollar. Here it is. Nobody held a gun to my temple. That is of my own free will.

The distinguished Republican leader last year was very much against public financing, but he is now accepting it. That is the law and he is acting under it.

Mr. PACKWOOD. Let me ask—

Mr. BYRD. Let me continue my point. The Senator said he would yield to me, and I will not take advantage by being overlong.

That is public financing, and it has provided worth, its merit, in the Presidential campaigns.

We are talking about a voluntary checkoff. Senator Boxer and others have modified the original stand twice, so that it is merely there now as an enforcement mechanism. It is an insurance feature.
Mr. BYRD. The Senator has not answered my question. Why is he unwilling? Why is the Republican Party on that side of the aisle unwilling? Some of our greatest Presidents, some of our greatest Senators have been Republicans, and three of the Republicans on that side of the aisle support our proposal. Why is it that the Republican Party, on that side of the aisle, is so dug in against having a limit on campaign expedi-
tures based upon the populations in each of the various States?

Mr. PACKWOOD. I thought I answered that several times in previous speeches last year and this year.

On average, I say once more, incumbents beat challengers. More incumbents win than lose. On average, the majority party beats the minority party, all other things being equal. The Democrats are a majority in Congress, overwhelmingly so in the House, slightly so in the Senate. The Democratic Party is the majority party in this country, on average. Some States more so, some States less.

So the feeling on this side is that if you say here is a spending bill that allows the incumbent in West Virginia, who probably starts with 99 percent name familiarity—it is hard to get 100 percent, but if anybody could, the majority leader may approach 100 percent—starts with high name familiarity, it is an incumbent's advantage.

If we then say that the incumbent Democratic leader, who is well known in a State with a heavy Democratic majority, can now be challenged by somebody who can spend no more than $20, we can't automatically guarantee an advantage to the incumbent majority party member. That is our objection.

I do not know how the argument can be refuted that more incumbents win than challengers and the majority wins more often than the minority party. Therefore, if we start from a deficit position and a challenging party starts from a deficit position vis-à-vis the incumbent, how is that going to do anything but favor the incumbent?

Mr. BYRD. The Senator is, in essence, saying that ideas and individuals do not count; money counts. That is what I assumed you were saying. I do not mean to put words in his mouth. I do not presume to do that.

He talks about the majority leader as being the incumbent and a challenger as not having the advantage that the minority leader has, or any other incumbent. This majority leader has over 11,000 rollcall votes to be picked apart, misrepresented, distorted by any challenger. I have a challenger in the primary; I have a challenger in the fall. The challenger in the primary has no voting record that I can criticize, but I do have one. That may not be an advantage to an incumbent. So there are advantages and there are disadvantages to being incumbents and to being challengers.

The distinguished Senator says that Democrats, on the average, are the majority party. Is that because they have been able to raise more money, or is it because of their ideas? Is it because of the individuals who are running? Is it because of the record, the programs that the Democratic Party has advocated—education, health serv-
ices, scientific research, programs to help people?

I am willing to let the party stand on its record, on its program, and I am not going to argue that because I do not believe that the Democrats, because they have been in control all these years in the Senate or the House or whatever, it is because they were able to raise more money. They were just able to produce more bodies. Those bodies went to the ballot boxes because more bodies believed in the programs that were being espoused by the Democratic Party in the Congress.

I see my friend has left the field, so I yield. You have a majority in 1986.

Mr. STEVENS addressed the Chair. The PRESIDING OFFICER (Mr. BURDICK). The Senator from Alaska.

Mr. STEVENS. I have been asked to come and sort of stand in for a while but, as I have analyzed those involved in the debate, I am delighted to be here with my good friend from West Virginia.

I am constrained to say that, in view of the very extreme difference of opinion of the Congress and the各种收据 as far as Federal campaigns are concerned, it appears that it would not be possible to work out the kind of compromise that the Senator from West Virginia seeks. And yet if we look at the history of recent years, the campaign laws that we have operated under have found that the Republicans were able to elect a majority in 1980 and the Democrats were then able to elect a majority in 1986.

An old friend of mine used to make quite a point out of the fact that if the watch is not broken, it should not go to the repairman. This law is working. There are some severe attacks against it, in terms of limitations on expenditures as far as Federal campaigns are concerned, it appears that it would not be possible to work out the kind of compromise that the Senator from West Virginia seeks. And yet if we look at the history of recent years, the campaign laws that we have operated under have found that the Republicans were able to elect a majority in 1980 and the Democrats were then able to elect a majority in 1986.

There are several problems that are involved in the current law in view of the inflation since the time that the limits were put into effect. We have strange circumstances now that individuals can contribute $1,000 per election. The political action committees can contribute $5,000. We have suggested that those be expedited and that the political action committees be limited to $1,000 and the individuals be limited to $1,000. That would make the task of raising more money more difficult. It may even be that, if the limits on political action committees were reduced down to 20 percent of their current level, that the actual money available for the expenditure would be limited
and achieve a portion of the goal that the majority leader seeks.

But, in my judgment, we ought to look at some of the very basic problems and some of the solutions that we were prepared to agree with. I was in hopes—and I am still in hopes, because I am meeting with the Members on the other side appointed by the majority leader, attempting to work out some agreed solution to the overall problems of S. 2—that we can deal with soft money.

Mr. President, a friend of mine, who is in the labor movement, the other day said to me there are three things that an individual can do in this country to really be active in campaigns short of becoming a candidate. One is to vote—and we hope that more people will vote; the second is to participate in the election process; and the third is to help finance it.

This bill, obviously, does not seek to put any limits on people voting. We ought to encourage more, as I said. It does not do much about the involvement of individuals in campaigns. It seeks to limit the amount that people can contribute.

In some areas of my State, we have a great amount of voluntarism, substantial participation in elections. In other portions of the State, those portions that are more related I would say to the metropolitan type economies, where people have apparently less time to participate in politics, we have greater financial support.

What this bill does is it says there is a real necessity to put greater restrictions around the financial participation in campaigns and it completely ignores the personal aspects of campaigns.

We have sought to reduce campaign costs and spending. We have sought to control soft money. I, personally, made a comment about that last year, about the incidence of soft money in the elections of 1984 and 1986.

I firmly believe that we ought to agree now—even if it was passed this year—it would not impact this election; we are talking about the 1990 election probably and in all probability it really would not have a real impact on elections until 1992—and what we ought to do is to see if we can get a bipartisan group, both in and out of the Congress, to get together and see if there is any way that the limits that the other side seeks to impose could be imposed consistent with the difficulties that would place upon those who cannot afford these kinds of campaigns than they do upon the individual participation of people in campaign activity.

Senator Glenn and I have just been through a series of hearings concerning the problems of transition for the new President this fall. One of the great problems we have is what do we do in terms of putting a value upon the voluntary participation of individuals who just want to help that newly elected President, to be part of a transition team, to provide people who have expertise and knowledge to prepare for the particular issues, to attempt to work out the transition for the Presidency.

The strange thing is we can come closer to having an agreement as to how we would value that volunteer activity after the election than we can before. We have no way to value volunteer activity before the campaign.

As a consequence, when we place limitations on the expenditures of dollars in a campaign for someone whose campaign is built upon an advertising structure, a different type of get-out-the-vote campaign than one that is based solely on voluntarism and individual participation—incidentally, Mr. President, I prefer the latter, rather than the former—but there are people whose circumstances are such that they have to rely, their communities are such that they have to rely upon dollar expenditures. Where that exists, to not value the volunteer activity and to put a limit upon the activity that can be financed through cash contributions is tilting the playing field. It is not a level playing field and in my opinion we have to do something about it.

I would prefer to have a commission take a look at the overall concepts of financing in both limits on contributions and expenditures and the method of participation in Federal elections by individuals and see if a study would bring to us some new innovative ideas of how to structure Federal campaigns.

In Britain and in Canada, one of the ways they structure them is they prohibit any kind of campaign activity before a specific date prior to the election. We do not practice that. I make no bones about the fact that I am not up until 1990 and I am constrained to start raising funds now for that campaign.

In my last election, as I told somebody the other day, I think I spent 50 weekends away from my family, raising money for that election. And then I spent a substantial number of weekends away from my family participating in the election process, traveling back and forth to my State.

I see my good friend from Nebraska is here. He can get home and back in the same day. I could not do that, to Alaska. In order to get home to campaign, I have to get up 12 hours from my home here to my home up there or from my office here to my office up there. And that is just to begin with.

Once I get to my State, I can travel 2,000 miles to the west, 1,200 to the east, about 1,000 to the north, or 950 miles south. I can travel further after I get home than he has to travel to get home, Mr. President. And yet this bill would equate my problems with his in terms of financing, and would attempt to impose the same kind of expenditure limitations on me as it would on him, despite the fact that he could do much more if he wanted and be home tomorrow.

If I started driving home today, I would be home 6 days from now.

I think the problem with this bill is it is attempting to put national standards on campaign activities, campaign expenditures, and restrictions in terms of what the national ethic ought to be in campaigns rather than accept the fact that disclosure things, to be the ke word in terms of national campaigns.

We can very easily limit the amount that we can receive from a particular source. That has already been done. We have limitations on political action committees, limitations on individuals, I am one of the few and I think the distinguished occupant of the chair was also here at the time that we passed a series of laws, one of which was ruled unconstitutional by the Supreme Court. The case was brought by a former Member from New York, Senator and now Judge Buckley. I was disturbed at that time that the concept of the expenditure limitations was, in effect, knocked out by the Court decisions.

But now, as I look at what has happened since that time, the rapid development of technology in the fields of electronics, the new methods of advertising, I wonder, sometimes, if we could have lived with the law that the Supreme Court declared unconstitutional in part. Had the Court ruled otherwise, what would we have done with those people who could afford these new technologies, but we would have been living in a financial straitjacket at the same time?

Had the Court not ruled as it did in the Buckley case, this Senate would be filled with either total paupers or multimillionaires, and there would be none of us in between because there would have been no way for people to have any kind of financing activity in the normal sense of the development of the political process since that time.

I believe that the offer we have made to prohibit bundling, to limit independent expenditures, to tighten controls on party and special interest campaign activities, to control soft money spending, to reduce the impact of what we call millionaire spending, to give an opportunity for a candidate who faces the expenditure of personal funds by a candidate who is able to spend only his personal funds—I do not see any way that there is a defect in the current law even after the Buckley case in that regard—and to deal with the limitations on PAC spending, that we have made an offer
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that is worthwhile and ought to be reviewed.

The issue that separates us, and it will continue to separate us, is the issue of limitations, total limitations on campaign spending. That, as I said, attempts to put into an individual, subjective, State by State campaign an additional standard that is unworkable. It assumes that a State that has the same population as mine, Vermont, roughly, would have the same campaign expenditure problems that I would face in Alaska yet my State is one-fifth the size of the United States. We travel primarily by air. We deal with individual television and radio markets and not a statewide market as a Senator from Vermont would. It is just totally unfair for us to face a national standard with regard to campaign activity in Alaska that is designed for some mythical standard operation throughout the United States.

Similarly, we do not have a primary concept like the South does. I find it very interesting that this proposal sort of overlooks the differences in the United States geographically, brought about by the influence of the primary process, where one party or another is predominant. That means, in effect, that there is one campaign, not two. In our State there are two: the primary and then the general. In a State that has the dominant party, the primary settles the question. This bill does not reflect that at all, nor does the concept about campaign expenditure limitations deal with it as it should.

Mr. President, I am saddened by the continued difference in the Senate over this bill because I think we could agree, now, on a campaign reform proposal that could actually apply this fall. I am certain we could devise one that would be in effect by 1988 and work and improve this system. But if we are to continue to battle over the question of whether expenditure limitations are the sine qua non, the essence of a bill without which the majority will not support the concept, then I think it is going to be a long, long debate.

The PRESIDING OFFICER. The question is on the amendment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll and the following Senators answered to their names: (Quorum No. 4).

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Mr. BYRD. Mr. President, I move that the Sergeant at Arms be instructed—

M. PACKWOOD. Mr. President, I was moving to go that the order for the quorum call be rescinded.

Mr. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. Gore) and the Senator from Illinois (Mr. Simon) are necessarily absent.

I further announce that the Senator from Delaware (Mr. Biden) is absent due to illness.

I also announce that the Senator from South Carolina (Mr. Hollings) is absent because of a death in the family.

Mr. SIMPSON. I announce that the Senator from Kansas (Mr. Dole), the Senator from Nevada (Mr. Heflin), the Senator from Nebraska (Mr. Kimes), the Senator from Kentucky (Mr. McConnell), the Senator from South Dakota (Mr. Pressler), and the Senator from Virginia (Mr. Tribble) are necessarily absent.

I also announce that the Senator from Texas (Mr. Gramm) is absent on official business.

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

The result was announced—yeas 71, nays 18, as follows:

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The motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

Mr. SIMPSON addressed the Chair. The PRESIDING OFFICER (Mr. GRAHAM). The Senator from Wyoming.

Mr. SIMPSON. Mr. President, as we shall do with S. 2— as being in a filibuster. Senator Packwood is now speaking, and he will speak for 45 minutes or perhaps an hour, or 35 minutes. His is not a scheduled tag team match at this point with regard to filibustering. We are prepared to do that. Just as a courtesy—and I know that the majority leader is very attentive to the membership—I ask what the majority leader foresees with regard to our activities on this bill.

Mr. BYRD. Mr. President, I thank the distinguished acting Republican leader for his question.

The objective here is to reach a vote on the pending question and on the bill itself. It is obvious that our friends on the other side do not intend to let the Senate vote, or at least that has been obvious up to this point.

I am not pressing to enter a cloture motion at this time, but I do think we ought to get on with the debate on this measure and, once there is no inclination to debate, the Chair will put the question. We carried with this bill for a period of many months last year, off and on, and at this point this year
we have been on it 5 days, without any interruption for other business.

So I would have to say to my good friend that it is my intention to have the Senate stay in tonight until it reaches a vote, if it can do so; and if it cannot, to then say, that they will simply stay in, and Senators should debate the measure.

I think we ought to invoke the two-speech rule. Senators have had plenty of time to speak on this measure. There have been times today and yesterday, especially yesterday, and last week, when the Senate was on this bill, that quorum calls occurred, and Senators did not seem to be in a great hurry to come to the floor and speak on the bill.

If Senators want to speak on the measure, they have that right, and I think they should do so. But if they do not wish to debate it and they do not seek recognition, then the Chair will put the question.

On the other hand, I do not think that the Senate should be in here tonight—midnight, 1 or 2 o'clock in the morning—when speeches that are not germane to the subject matter. Of course, there is no rule on germaneness at this point. The Pastore rule has run its course for this day, and the Senate is not operating under cloture. That being the case, since there is no rule on germaneness at this point with regard to the subject matter of speeches, I think we ought to invoke the two-speech rule. If Senators want to use one of their speeches in talking about Afghanistan or country music or whatever, they may do so; but that leaves only one speech. When they have spoken twice, then that is all on the pending question. In this way, I hope we can move the Senate along to a decision, to a final decision on the pending matter before the Senate.

So I say to my friend that we will be in session tonight. If Senators have something to say about the pending question before the Senate, they have a right to say it. They have a right to stand on their feet as long as they want to stand, if they want to speak 2 hours, 4 hours, or whatever.

At this point I am proposing that we have the two-speech rule, that we invoke it, and of course Senators know that if they sit down and do not seek recognition, the Chair will put the question. Everybody knows what his rights are, and everybody, of course, can work within the rules.

Last Friday, I indicated the possibility that there would be all-night sessions, and yesterday I did so again. If Senators want to talk, they can talk; but when they have finished talking and debate had ended, then the Senate should adjourn.

I hope I have answered the distinguished Senator's question.

Mr. SIMPSON. Mr. President, I do understand and grasp the significance of all that.

Let me just say that this is not quite a raw partisan issue. Two Members of the other party are not on one side. Three on this side of the aisle are on the other side. So it is not quite one of those usual, direct, rip-them-up partisan issues.

But it does look as if we will continue into the evening hour and if so we are ready to do that on this side. We are ready with debate and perhaps quorum calls as well.

I certainly respectfully say that I personally cannot see the point in any way—I respectively say this as I would in private to the majority leader—in going through the night. We will not accomplish anything except distress of the membership of both sides of the aisle and nothing more, because we have a situation where we cannot vote on the bill in its present form for the reasons that you have heard in some very pure debate in the last few days. We cannot extricate ourselves, some of it plain partisan, some of it seemed protective of the Republican minority.

We cannot change the bill by amendment. Our amendments would be voted down by the same party line vote that has characterized seven cloture votes that we have had on this measure last year.

So we know what happens when we relinquish our position. Everybody else should know. There is no trick involved. We are presenting it that way, in an honest way. This is an issue for many of us here, especially southern Republicans and other Republicans. You have heard the arguments that this in effect will create a situation where we will not ever attain majority status in this body for many years. Now that is the issue. So our only option is to force some negotiation on the bill itself. We have not even tried to force that. That is going forward. It is still going forward. We can only do that by exercising our rights as a minority to keep this bill from being finally adopted up here.

We are going to go to the two-speech rule, which in my time here in 9 years has been honored more in the breach than in the observance, and which is routinely ignored. If that is suddenly to be enforced then we must do things on our side which are just as arcane and wasteful and tedious as that, among them, changing the question, and have to make most of precedent to postpone to a time certain which certainly cannot be both ad infinitum but ad nauseum.

So in our honesty with each other, which I enjoy with the majority leader, we are ready. We are ready to go all night, we are ready to go all day. But I cannot for the life of me understand how that can be productive because everyone here knows exactly what the orders are and everyone here knows exactly what the vote will be on cloture, and that is the way it is.

I just think we ought to keep that to the forefront. We have not been destructive or disruptive in these past weeks. This is simply not this.

I commend the leader. They were tough issues, Grove City, Contra aid. We have smoked through those things and did our work. This is one that has ensnared us and high centered us seven times and No. 8 is just around the corner. There is not anyone who has any kind of information on the bill who knows that this is not going to be the next result.

So, as I say, we are prepared and we will sit here in SWAT teams and people on vitamin pills and colostomy bags and Lord knows what else we will have to improve our ability to stay here. But I would never, and this is the harsh thing, I would never want to change upon the proceedings of the leader any more than he ever wanted to do that when Senator Dole was the majority leader, but if we must in this time of extremity for those who feel so strongly on this issue, then I would have to do that, and notify the leader that that was coming and that would be through the making of those types of motions; rather unfortunate. I would not like to be doing that.

But this is the lay of the land. I think it is important that we just not talk about corruption and bloated treasuries and, you know, all that stuff. Let us talk about we know how you get elected and you know how we get elected and if you will give us some, we will give up some. Until that happens, we will just go on this feckless, sturdy approach into the next week and the next week, into the two-speech rule, and we have a situation where we cannot vote on this side of the aisle, and I share that with the majority leader.

Mr. BYRD. Mr. President, I thank the distinguished, acting leader for his frank appraisal of the prospect for reaching any agreement on this bill, and I also appreciate his candid statement as to what the minority party will do to keep the Senate from coming to a final vote on this matter. I expect the minority party to use the rules and the precedents. Of course, as the Senator has stated, the question can be changed. Of course a motion can be made to postpone action on the pending question until tomorrow or until next week, and then a Senator will not have spoken twice on that question. I am aware of all that.

What the distinguished Senator is saying is that the minority party is going to change upon the Senate rules—which they have a right to do—but they are determined not to come
to a vote on the question as long as it contains a limitation on overall campaign spending, and as long as it contains a limitation on the aggregate contributions of PAC's, which may be received by any candidate. I do not find fault with their right to do this.

But I do feel that it is the responsibility of mine to attempt to do the best I can to focus the attention on this question and on why the Senate cannot act on it. We could go on in this general way that we did last year having a cloture vote in a day or so, and coming in at 9 and finishing at 5 and we could do that and we would not get anywhere again. We tried that approach. It failed. We saw that the minority party in the Senate was absolutely opposed to the limitation on expenditures. We feel that the American people support us in this and we feel that we have to do our best to try to get to a Senate vote on the bill.

The acting leader is exactly right when he talks of the cooperation that he and others on that side of the aisle have given on Grove City and other measures, and that time will come again; I am sure of it.

So I am not going to carry any animus, any ill will beyond this battle, and I am sure that my colleague and friend on the other side also will not. But his party is taking a determined position on this. They are absolutely opposed to the fundamental principles that we on this side believe are absolutely necessary if we are going to have genuine campaign financing reform. We do our best; they do their best. And we will all accept the outcome.

It may be that we will not win. But the American people will know who kept the matter from going to a vote. Let them make the judgment in the long run. Perhaps this idea will not prevail today or tomorrow. But I believe given on Grove City and other measures, and that time will come again; I am sure of it. And I believe that, sooner or later, the American people are going to make their representatives in this body understand that they want this particular reform.

I ask unanimous consent that the speech made by my distinguished friend across the aisle, the acting leader, not count as a speech under the two-speech rule.

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

The Senator from Wyoming.

Mr. SIMPSON. Mr. President, let me conclude if I can, because I would have hoped that we would not have reached the aspect of, you know, the American people. That is not the issue here. There is not a soul in this body that does not want campaign financing reform. Now that is the issue. And to pursue in a spirit of animus, anywhere somehow those of us on this side of the aisle are not interested in campaign reform—this bill started as a PAC bill, to limit PAC's. And there is nothing in it right now to limit PAC's.

Our proposal, as presented by this side of the aisle—and this is not a partisan issue; that is to say, there are two Democrats on our side and three Republicans. We are ready to limit PAC's. We are ready to go from $5,000 down to $3,000. Some want to go to $1,000. Some want to get rid of PAC's on our side of the aisle. So, please, I hope that we will not find that this side of the aisle somehow is missing the fundamental principles of what we are all trying to do.

I think it is very important to recall here that in the minority we are doing nothing more than the very able minority under the then minority leader who is now the majority leader. There is no one more skilled in the ability to use the rules of the Senate to protect the minority than the present majority leader—no one. There has never been more of a master of that.

Now we are doing it and we are doing it within the rules and it should be, I think, good for American public or perceptions because there is not a soul here that I have talked to of the 100 of us that is not interested in doing something with regard to campaign reform.

But I will tell you this, one of the things that is generating throughout the country is the ad of Arch Cox and Common Cause. That is the full-page fare at every breakfast table of most districts. And if this bill passes, you can have more of that for breakfast and it will never be even on the scorecard. That is what we do not like. That is called cheap shooting. That is called independent financing, aside and apart from the real issues of this.

Now the American people, they are sobering up. They are hearing this. My mail room is not breaking down any more. I told them that Arch Cox's ad was a cheap shot because I told them I was in favor of campaign reform and I told them under S. 2 that kind of expenditure would just be off the table.

Now they will know the true story on campaign reform if they will know all of it, because these ads that are appearing throughout the Nation are not models of accuracy. They are self-serv ing and merely stirring people up. I thought we had enough of that in an incident that happened here in this Chamber a few months ago and I will not even target it.

But if that is the way we are going to run the U.S. Senate on ads in papers, then certainly we have missed something with regard to the remarkable stability of this deliberative body.

So those are the things we are talking about. That is what we are speaking about, talking not only to us and two of your colleagues on that side of the aisle. And I am ready to talk about all things. These fine gentlemen we have appointed are ready to talk about all things—aggregate PAC limits; no PAC's. I have not heard anybody on the other side of the issue talk about no PAC's.

But, if we are talking about the rules, then, of course, we remember that the majority is not going to force this measure upon us just as diligently as we are appropriately using the rules to avoid having it be imposed upon us. That is called legislating and it is called fairness. The American people understand fairness. And to this point on this issue we have been treated very fairly.

But we are at a point where there is not a soul here that needs to refer to anything but the need for reform. And we are all ready to do that. But, as I say, it is a tough point. The pushing of the button is simply we know where you get your scratch and you know where we get our scratch and neither of us like it. And that is the way it is going to be. If that is the way it is going to be, then we are going to hang here for a long time with all of the skills and abilities we possess under the rules and wait a long, long time because we know that under cloture it will be eight out of eight instead of seven out of eight.

Mr. BYRD. Mr. President, I apparently got under the skin of my good friend. I perhaps should not have referred to the American people, but I happen to believe that the American people want to see an end of the "money chase" and I happen to believe that in due time we will all see a change in it. That is what we on this side are striving to bring about.

My good friend says that if this bill passes, then every day for breakfast, they will have a bit more of Archibald Cox and his ad.

Well, you know we can say if this bill does not pass, then every day will be just a continuation of the aristocracy and moneybags and an intensity of the money chase. The money chase is the predominant thing that guides us in our efforts here and interferes with us in our work.

I do not think that the distinguished Senator said anything that would necessitate further response from me. The distinguished Senator asked what we might expect for the evening and I have responded.

He has indicated that his party is ready to resort to the rules and the precedents to avoid coming to a final decision on this matter. The Senator has that right.

I think we ought to know that the people on this side are ready for a vote. I am going to yield the floor. If anyone wants the floor, they can have it.

Mr. PACKWOOD addressed the Chair.
The PRESIDING OFFICER. The Senator from Oregon.

MR. PACKWOOD. Mr. President, I did not know the majority leader was going to use the two-speech rule. Of course, if that is going to be the situation, we will have to accommodate ourselves to live with it. Would the majority leader be good enough to inform me, or would the acting leader be good enough to inform Senator Byrd that the previous speeches I have made today—because I did not know you were going to invoke this—do not count against the two speeches?

MR. BYRD. Yes, I would have no objection to that. As far as I am concerned, we could go for another 6 hours without invoking it. But at some point, I think we should invoke it because, otherwise, Senators are just going to come to the floor and take the time of the Senate in making extraneous speeches, if we are serious about a vote on this matter, then we ought to be serious about addressing our remarks to this question.

When Senator Russell and the Southern bloc used to filibuster against the civil rights bill, they stuck to the subject. They went well organized, well disciplined. I hope we will be able and get to a decision on the bill. I did not know the majority leader was going to invoke the two-speech rule. Of course, as Senator Russell told me one time, for every rule, there is another rule.

Now, if this seems to get under the skin of my good friend from Wyoming, this is the rule and it can be resorted to. It can be invoked. Of course, as Senator Russell told me one time, for every rule, there is another rule.

So, yes, my friend can move to postpone to another day and that will be another question before the Senate. That will not catch this Senator by surprise. Indeed not.

So, my friend can move to postpone to another day and that will be another question before the Senate. That will not catch this Senator by surprise. Indeed not.

Mr. SPRINGER. Indeed not.

Mr. BYRD. It is there in the book. I am not creating anything new. And if the minority wants to resort to whatever tactic, dilatory or otherwise, to keep this Senate from reaching a decision, they have the means to do that.

The American people will know who is doing it.

The majority here is trying to press forward to a conclusion on a bill that is important. Senators have a right to disagree with the bill; to vote against it.

I have no objection to the Senator speaking for the moment without the invocation of the two-speech rule. I am willing to go, as far as that is concerned, until midnight without that.

I have the utmost patience. I have always been able to demonstrate it and I am happy to demonstrate it again.

But I am saying that there will come a time, if not at this moment, when Senators who come to the floor and talk about the introduction of bills—they have a right to do that because if the Pastore rule has run its course and they want to count that as one of the two speeches, it is perfectly all right.

But we have to narrow this thing and continue to narrow it, if we can, so that the focus is on the matter that is before the Senate. Hopefully, we will reach a decision one way or the other on that.

Mr. SPRINGER. Indeed not.

Mr. BYRD. But I am not disturbed when I hear the minority is ready to dig in its heels and ready to have a shootout at the old corral and that, if the two-speech rule has run its course and they want to resort to something else. That is all right. They can resort to whatever they want to resort to. The rules are here, and precedents.

But the idea is to get a vote. I would be happy to enter into a time agreement and vote on final passage after 3 days of debate and allow such and such amendments to be called up. Perhaps that is a way out. I do not relish staying here all night. I am not happy about that at all. It will be as hard on me as on anybody else.

But let us get on with the debate. I am ready to yield the floor, ready to move to adjourn, ready to vote. But when the distinguished Senator from Wyoming. I hope he has no objection to me as on anybody else.

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But we have to narrow this thing and continue to narrow it, if we can, so that the focus is on the matter that is before the Senate. Hopefully, we will reach a decision one way or the other on that.

The PRESIDING OFFICER. The Senator from Oregon—are you yielding the floor?

MR. PACKWOOD. I would yield the floor until the acting leader is done. The PRESIDING OFFICER. He has yielded the floor. As the acting leader has completed his presentation, the majority leader has indicated he will not be making a motion.

Mr. SIMPSON. Mr. President, I thank the Senator from Oregon and I will just take a moment. We can do this exercise with civility, and I pledge to do that and we will, I think, assure that it will be done. We will not only shake hands but we will shake hands when we finish. That is the way the system works.

It is a curious system; you do not have time to savor victory or anguish in defeat. It moves fast and I like legislating. That is something I enjoy and this is legislating and this is the way it is done. It is kind of ghastly to watch but it is all legislation.

Indeed, I look forward to trying to do it with a good spirit of civility and good humor and good taste.

So, with that at least everyone should be informed as to what the Senator will be, but it is all legislation.

Indeed, I look forward to trying to do it with a good spirit of civility and good humor and good taste.

So, with that at least everyone should be informed as to what the Senator will be, but it is all legislation.

Mr. President, I yield the floor, to the Senator from Oregon.

The PRESIDING OFFICER. The Senator from Oregon.

MR. PACKWOOD. Mr. President, I thank the Chair and let me assure the majority leader that I have no intention of deviating from the subject tonight into some other subject that I threatened earlier I might discuss at length. I might do that on another day, another time, but at the moment I will confine my comments to campaign finance.

As everyone, I guess, understand, the futility of what we are doing, this is what we are up against eventually, and the majority leader was right and the majority leader is perpetually generous in his courtesies to me when he said he will not be taken by surprise. No one need worry. No one has ever taken the Senator from West Virginia by surprise since I have been here. He is a master of the rules. It is just that we each understand the rules and how to attempt to use them to our benefit.

Now, as to a filibuster, per se, he says all we want to do is get to a vote. My first experience, actually, with the filibuster was not so much the rules changed that we made in 1966 that I am told made. But the majority leader will recall, the distinguished senior Senator from Wisconsin, Mr. PROXMIRE, filibustering on SST right up until the time that Congress had to adjourn.
suppose that was January 2 or January 3, or whenever it is that we had to go out. It was very close to midnight. As I recall, the House had passed the SST amendment funding of the supersonic transport. The argument was, if we did not do this, the British and the French had their Concorde, America was going to fall behind in terms of technology in space, and we just had to put many billions of dollars into a government-financed supersonic transport. I think there was a majority to pass it in the Senate. As I recall it had passed the House. I cannot recall what the position of the President was, whether he would have signed it or not.

But the Senator from Wisconsin thought it was a terrible idea, a waste of money. There were arguments about bad for the environment, a whole host of arguments and the Senator from Wisconsin very well filibustered the issue of the SST, the supersonic transport bill. It was so close to it that it did not make any difference, on the last day of the second year of the session and we had to go out at midnight because the Constitution said that was the end of the Congress and the new Congress came in the next day. And that was a filibuster.

In retrospect it turns out that the Senator, the senior Senator from Wisconsin, was right and, in haste, we might have passed a bill putting forth hundreds of millions or perhaps it was billions, I cannot recall, of money to develop an SST so that the British and the French did not beat us, to be first with the Concorde.

How well I remember what the argument was. The plane will fly 1,300 or 1,400 miles an hour. For years, America has been paramount and primary in aerospace. And we must not let the Europeans or anyone else get ahead on the cutting edge of what was to be this new development.

Now it is 18 years later, the Concorde is running, the SST has been built. They fly at a loss every time they go up in the air. They are being built at a loss every time, so we have been running a loss. The part of the argument was that the plane will fly 1,300 or 1,400 miles an hour and that is a turkey. There are a few of them that have been built. They fly at a loss every time they go up in the air. They are not being built anymore. It is now ironic that if we are having any serious competition from the British and the French it is not on the Concorde, it is on the Airbus, which is a much slower plane with a bigger body and it runs reasonable competition with our DC-10 and Lockheed 1011’s. But the Senator from Wisconsin was right and he used the filibuster to stop something that he was convinced was wrong and by and large the entire environmental community supported him. So that was a filibuster wisely used.

Are there filibusters unwisely used? I suppose so. I guess it is in the eye of the beholder because anyone who conducts a filibuster conducts it only because the person is reasonably convinced that, if put to a vote at the moment, the person conducting the filibuster would lose.

If you thought you were going to win, you would not conduct the filibuster. You would put it to a vote. But you are convinced that you have enough time to speak to the public and enough time to inform editorial writers and enough time to appear on “Meet the Press” and “Face the Nation” and mornings with David Brinkley and enough time to educate the public that you will be able to change public opinion.

Indeed, on the SST that delay caused that effect. We never financed it. It turns out to have been a wise decision.

I think deeply that the majority is wrong on the public financing of campaigns. Make no mistake, there is public financing on this bill. There are postal subsidies. A postal subsidy is public financing. Call it what you want. It may not be straight out of apportionment of “Here’s money to the candidate.” It is back-door public financing.

We eventually end up subsidizing postal rates, and if you say to the candidate, “You can have reduced postal rates,” that is public financing. Then we compel the radio and television stations to give away time to the candidates at a very low amount. That is not exactly public financing. This is just to say we will take it out of the hides of the radios and broadcasters.

Then there is the provision, which is clearly going to come to the floor of straight-out money to the candidates because anyone is foolish if they look at the bill. It is currently written, and thinks that there is not going to be a situation where one candidate goes over the spending limit and the other candidate gets money, and we all know that is coming.

So in fact if you think even most of the majority party would prefer not to have public financing if they could have the expenditure limits without a public financing. It is just that they are caught on the horns of a dilemma because of the 1976 Supreme Court decision in Buckley versus Valeo in which the Supreme Court said you cannot limit spending, and the only way you can limit it is to hold out the carrot of public financing, and if the candidate takes the financing, then the candidate is limited in his spending.

It is unfortunate that we do not learn by past experience. First, if I might, let me quote from the Senate Watergate Select Committee because, early on, the majority leader and others made reference to the scandal that grew out of the Watergate and the campaign reforms that grew out of Watergate and that this bill we now operate under in financing of the President grew out of Watergate.

Let us read what the Senate Watergate Committee recommended:

The Senate Watergate Committee recommends against the adoption of any form of public financing in which tax moneys are collected and allocated to political committees by the Federal Government. The Senate Watergate Committee opposes various proposals which have been offered in the Congress to provide mandatory public financing of campaign expenses by the Federal Government.

The Select Committee opposes various proposals which have been offered in the Congress to provide mandatory public financing of campaign expenses by the Federal Government. While recognizing the basis of support for the concept of public financing and the potential difficulty in adequately funding campaigns in the midst of strict limitations on the form and amount of contributions, the committee takes issue with the contention that public financing affords either an effective or appropriate solution. Thomas Jefferson believed, “to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves and abhors, is sinful and tyrannical.”

I am continuing. That was a quote of the Committee of Jefferson. Everything I have said so far is actually quoting the committee, and I continue quoting the committee.

The committee's opposition is based on a fundamental need to protect the voluntary right of individual citizens to express themselves politically and guaranteed by the first amendment. Furthermore, we find inherent dangers in authorizing the Federal bureaucracy to fund and excessively regulate political campaigns.

The abuses experienced during the 1972 campaign and unearthed by the select committee were perpetrated in the absence of any effective regulation of the source, form, or amount of campaign contributions. In fact, despite the progress made by the Federal Elections Campaign Act of 1971, in requiring full public disclosure of contributions, the 1972 campaign still was funded through a system of essentially unregulated private financing.

Here is the critical point:

What seems now appropriate is not the abandonment of private financing, but rather the reform of that system in an effort to vastly expand the voluntary participation of individual citizens while avoiding the abuses of earlier campaigns.

This is a quote from the committee that investigated Watergate and all of the abuses that stemmed from the 1972 campaign.

Second, let us go to a report 8 years later, and this report was the findings of the John F. Kennedy School of Government at Harvard. They were locked by the Senate Committee on Rules and Administration to study the post-Watergate campaign finance reforms and to recommend changes. Now, I suppose in retrospect, maybe the Rules Committee, or at least a majority of the Rules Committee, wished they had followed the admonition that all trial lawyers follow, and that is, you do not ask a question to which you do not know the answer because you might get the wrong answer, and then you wish you never asked it.
In any event, the Senate Committee on Rules and Administration asked the John F. Kennedy School of Government at Harvard to study the method of Presidential campaign financing.

This is public financing of the campaigns. What did they find out?

Among the problems of the post-Watergate age, we know that a series of events related to the attempt to restrict the money spent in Presidential campaigns. Candidates are not allowed to spend enough money, and the expenditure limits have spawned a whole series of serious problems of definition, allocation, and enforcement.

On the other hand, the effort to control total spending has not succeeded. Those involved in Presidential politics are able to raise and spend unlimited amounts of money through conduits other than the candidates' campaign committees.

Let me make an aside here. This is not quoting part of the report, but I want to make sure that those listening understand what that paragraph means.

What the Harvard study was saying is this: You say to a Presidential campaign, you can only spend $20 million or $30 million. That has not resulted in the fact that the money being spent and only that much money being spent.

What it has resulted in is organizations totally outside the candidate's committee spending money for a candidate or spending money against a candidate so that the total amount of spending in Presidential campaigns has not gone down. As a matter of fact, it has risen as fast since we passed public financing of the Presidency as it had risen before. In many cases, it is what we call soft money, money that does not even have to be reported as campaign spending; although in word, deed, and fact, it is campaign spending.

Money of this kind is often spent by large membership organizations to get out their members to vote after that organization has endorsed a candidate, and to get them out to vote for that candidate, and yet it is done without any connection with the Presidential campaign and it is not even reported. It is done with organizations running registration drives to register voters, interestingly, run only in areas where they know the overwhelming bulk of the voters likely to be registered are going to support the candidate or party that the organization prefers.

These are usually run through what we call 501(c)(3)'s 501(c)(4)'s or 501(c)(6)'s. These are tax-exempt organizations receiving money and paying no taxes. They are charitable organizations, in essence, undertaking partisan political activities and not reporting the money and still claiming to be charitable organizations.

Let me go on back now, continuing to quote the Harvard study. To make matters worse, most of the other means through which money is now being poured into Presidential politics are inherently less accountable to the electorate and should not be encouraged by the campaign laws.

Thus, our most important recommendation is to eliminate the limitations on expenditures made by the candidates. Spending limits proved undesirable for a variety of reasons:

- Failed to equalize resources of different candidates;
- Failed to curtail the growth of money in Presidential politics;
- Failed to shorten the overall length of campaigns;
- Failed to reduce the emphasis on early primaries;
- Intrude unduly into campaign strategy;

Candidates are not allowed to spend enough money and the expenditure limits have not gone down.

That is what the John F. Kennedy School of Government at Harvard says is the present method of electing our Presidents has resulted in. And what the majority leader, the Senator from Oklahoma, and the others who are pushing this bill say is, we want to expand this system to the entire Congress.

Think to Yourself again if you are interested in America, in power, if you want to influence government, and if you want to have a control of government.

You are the president of an organization outside of government, be it a Common Cause or a labor union or whatever other large membership organization may exist. What is one way, Mr. President, to heighten your power?

One way to heighten your power is to limit what candidates for office can spend without limiting what you can spend. That is exactly what this bill does. At the moment it is questionable whether or not the majority even wants to put this bill into absolute severe limits on what we call soft money, so that you can trace the money.

You cannot prohibit it being spent, but at least you would like to know that it is being spent and how. We require candidates to do that. Why not require other organizations to do it that are in fact involved in partisan political activities even though they are not a political organization.

But my hunch is you would not, even if we put in these limitations on soft money, stop these organizations from spending it, nor do I think you should. I think they have a constitutional right to spend it. At least we would know what they are spending.

But again you think to yourself if you limit or reduce the amount of money that candidates for Congress can spend, just as with the Presidential race you limit what the candidates can spend, you have not succeeded in reducing the total spending for running for office. What you have succeeded in doing is pushing most of the control over the campaign and the total spending for running for office under the Federal election laws, who is held accountable under the Federal election laws, and you push it into the hands of organizations that at the moment do not have to report it under the Federal election laws. And even if they did have to report, I think they would. But the balance of power would tip to those organizations that are not responsible to the public. They will have to run for office. They are responsible only to their members and often to members who have a very narrow and specific view of what Government ought to do, an organization that has to answer only to itself and to its members. It does not have to answer to the State. We are not going to succeed in reducing the amount of money that is spent. We may succeed in pushing it outside the system of candidates reporting to organizations that do not. We may succeed in pushing it outside of the candidate's control who has to answer to all of the voters of their State and into the hands of organizations that have to answer only to their members who share a like-mindedness.

Well, let us not make any mistake. We are not going to succeed in reducing the amount of money that is spent. We may succeed in pushing it outside the system of candidates reporting to organizations that do not. We may succeed in pushing it outside of the candidate's control who has to answer to all of the voters of their State and into the hands of organizations that have to answer only to their members who share a like-mindedness.

Now, let me respond, if I might, to the argument of the majority leader when he and I were talking about the relative cost of running for office and he said under this bill in West Virginia limits would be about $950,000 and first, was that not enough and do I not think that ideas count? And is that not enough to get your ideas across?

You bet ideas count. Over a long period of time of 2 months, 3 months or 9 months—over a long period of time ideas count and you fight for them. Gradually this country changed its idea about slavery. Gradually this country changed its idea about the role of women in society. And gradually, although not completely or we would not be debating from time to time the equal rights amendment, this country is changing its idea about the role of women in society. And we are coming, thank goodness, to the place where we are going to regard women as equals in the marketplace or elsewhere, although we are not there fully yet.

You bet ideas count. But now let us take a practical situation. You are the majority leader of the U.S. Senate, or you are the Senator from Oregon or the Senator from Nebraska. All of us have been in the Senate for some period of time. My hunch would be...
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that name familiarity with our voters—and by name familiarity I simply mean if you say to the voter, "Have you heard of Senator Byrd? Have you heard of Senator Packwood?" they would say, "Yes" 90 percent of the time. In Senator Byrd's case I bet it is 99 percent. So as an incumbent you start out with one tremendous advantage. You have been in office for a long period of time and at least the voters know who you are; they have been able to hear your ideas for a long period of time, and I might add hear your ideas paid for frequently at public expense via the use of the frank when we send out our newsletters to all of our voters with our ideas in them. Obviously, of course, we send them out very selectively. We try to find groups that will agree with our position and send to that group our position. Maybe we mail to those over 65 our position on why Social Security should not be tampered with. Maybe we mail to the membership list of the National Rifle Association in our State our views as to why there should not be one smidgen of Federal control of gun rights. For that matter, environmentalists in our State our position as to why the Columbia Gorge or Hells Canyon in the case of Oregon should be preserved and saved, or maybe we mail to them why we think there should not be any oil drilling in the Arctic, an issue that is coming up now—mailed I might emphasize to these groups at the public expense, the taxpayer expense because we are an incumbent.

Our challenger does not have that advantage. Do you know what we have done to equalize the advantage? We have said that for the 60 days prior to the election, we, incumbents, cannot send out our franked mail, cannot tamper with. Maybe we mail to the membership list of the National Rifle Association in our State our views as to why there should not be one smidgen of Federal control of gun rights. For that matter, environmentalists in our State our position as to why the Columbia Gorge or Hells Canyon in the case of Oregon should be preserved and saved, or maybe we mail to them why we think there should not be any oil drilling in the Arctic, an issue that is coming up now—mailed I might emphasize to these groups at the public expense, the taxpayer expense because we are an incumbent.

What do you do next as a matter of practicality? As an incumbent you can go to any radio station, television station, and tell them you are going to be in town. They will put you on live on the afternoon news at 5:30 or 6 o'clock. Radio stations will put you on any time. They will accept a tape and put it on.

In addition to sending our franked mail, we can also send out video tapes paid for by the public purse. All of our radio and television stations will put us on for 5 1/2 years, 11 1/2 years, 17 1/2 years. In my case it is now going on 20 years. But if you are the challenger, you have a dickens of a time getting on the television news at 5:30 at night. Oh, maybe you can a month before the election, 6 weeks before the election, when the campaign finally heats up. But if a year and a half ahead of time, 2 1/2 years ahead of time, say, I am going to challenge Senator Packwood or Senator Exon or Senator Byrd, you think you can go to the local radio and television station and get the same kind of coverage that the incumbent has, then you have not yet tried to be a challenger running against an incumbent.

Do you know the difference? The difference is called news. When you are covering the news in the broadcast industry, you are not subject to any of the so-called content doctrines like the Fairness Doctrine, the ownership equity rules. And that incumbent, of course, always creates news. The challenger does not always create news. Another advantage.

Let us go to one more. You would like to go to the coast and examine Coast Guard bases or to see how reforestation is going.

So you call up the Coast Guard, the Forest Service, and you say, "Gentlemen, I would like to look at the bases and I have a news conference, and they fly you up 100 or 150 miles each way. You take a look at some reforestation, and they drop you down in the second biggest town at noon in time for a news conference, and they pick you up again, take you someplace else, drop you off at 4 or 4:30 in the afternoon in the second biggest news media center in your State in time to get you live on television in that medium-type market at public expense. You have been hauled around.

I am not complaining that this is illegitimate. Some of the best ways you can see what your Government is doing for us is to go out, hands on on the ground, watch the trees being planted, I have nothing but regard for the Forest Service. They do a whale of a job. I am convinced we get more bang for the buck out of the money spent on the Coast Guard than any other branch of the military. I am delighted to see their bases, and I am proud of them.

But do you think the challenger can do the same thing? Do you think the challenger can call up the Forest Service and say, "Hey, I would like to fly around and see your tree planting"? Do you think the challenger can call up Senator Exon and say, "Hey, how about letting me fly around and see what you are doing for us?" No. What you have is a situation where the incumbent has 95 percent name familiarity—in Senator Byrd's case I will bet 99—free access to the franked, unlimited access to the news media, access to the governmental facilities to travel you about the State and then you say, now we are going to have a campaign limitation law that allows the challenger to spend no more money than the incumbent.

When the incumbent starts out with every incredible advantage you can think of, and you are a poor State legislator and in most States a State legislator starting out to run for state office has only a 10 to 100 percent name familiarity, and from that they have got to build to 80, 90, or 100 percent in order to challenge the incumbent.

On occasion one of those unknown State legislators will win, although more often than not it is because the incumbent somehow shoots himself through the foot through no fault of the challenger during the campaign. On occasion it has happened. In my case it is now going on 20 years-in order to get this speech with 20 to 10 percent name familiarity. And from that they have got to build to 80, 90, or 100 percent in order to challenge the incumbent.

Those things can happen. But if you mean the normal circumstance, the poor unknown challenger is doing everything he or she can, driving themselves until they drop dead overnight in order to get that speech with 20 people in the morning in a town 200 miles away that the news media does not cover.

I am not blaming the news media. But that is what the challenger is up against. It is an unusual situation that happens to be the Governor of the State who is well known against the Senator of the State who is well known. It happens on occasion. It is not the usual situation.

A Member of Congress is not as well known as a Member of the Senate. So if it is a Congressman or Congresswoman challenging the Senator, while they start with some degree of name familiarity, it is nothing like the Senator.

Dr. Gallup every year asks the question, "Can you name your Member of Congress in the district?" On the average it has run the same for years. With or without broadcasting, it is the same in 1938 as 1988—about 45 percent can name their Member of Congress, not what party they are, not anything they have ever voted for, just name them. It is a little more in
urban, and maybe a little less in rural areas. But that is a Member of Congress. It is not a State legislator, it is not a mayor of a city like 50,000, or county commissioner of a county of 60,000 or 70,000, but a Member of Congress representing a district of about 500,000 people. They still start out at a disadvantage.

Now let us consider the further advantages if you are an incumbent in the majority party. I first indicated all of the advantages that all incumbents have, whether you are in the majority or the minority, with the frank, the travel, the news media. But in addition to everything else, you find out that on average—I am emphasizing again average because there are exceptions—on average people vote their party. Do they make exceptions? Of course they do. Postage like I do.

For whatever reason—I think I know the reasons but I am not going to get into the argument as to why—Republicans are more likely to vote for Republicans than they are Democrats and Democrats are more likely to vote for Democrats than they are Republicans. (Mr. ADAMS said something to the contrary ahead. But if you do.) Do not worry that you are unknown. Do not worry that you have access to the frank, not worry that you have access to the Post, the New York, and everything that goes with it. If you are a member of the majority party, the Democratic Party, what better will ensure your reelection than to say to a challenger you can spend no more money than I can. Do not worry that you are unknown. Do not worry that you cannot get in the news. Do not worry that the Government will not furnish you the State. Do not worry that you have access to the frank.

In addition to having tied now both of your arms and legs behind your back, we are going to say that you cannot spend any more money than I can. It is clearly an advantage for the incumbent Democratic Member of the House or the Senate.

Now let us add one more thing on top of that. The majority leader was here when I mentioned it some hours ago. For whatever reason—I think I know the reasons but I am not going to get into the argument as to why—the Republicans have been infinitely more successful than the Democrats in raising money by direct mail in small quantities. And by small quantities, I mean if you are lucky on a good direct mail piece, the average contribution of those who respond is about $20. A direct mail fundraising is quite expensive. It may have changed a bit since I was more expert at it 10 years ago when I was chairman of the Republican Senatorial Campaign Committee and we did lots of direct mail fundraising. But this is what we presumed then and I do not think it has changed much now.

If you can break even on what we call prospecting—prospecting is when you mail from a cold list. You rent the Time magazine subscribers, or you rent membership lists. They are available to rent for anyplace from $55,000 to $75,000.

If you can break even on prospecting, that is regarded in direct mail as good. If you spent $1 million and you raise $1 million, you consider that you have done well. The reason being that once a person has given you money they are likely to give money again.

So let us say you mailed out 1 million pieces of mail. You get a 2-percent return, 20,000 people respond, $20 apiece, you have raised $400,000, the mailing to 1 million people has cost you about 40 cents to mail it out, you have spent therefore $400,000 mailing it out, you have broken even, now you have a list of 20,000 people that have given to you once and direct mailers know now that you can mail those people four, five, six times a year, and they will give one or two more times. That becomes relatively inexpensive to do once you have the list.

For reasons I say we do not need to discuss here, the Republicans have been immensely successful at raising money in these small amounts by direct mail. The Democrats have tried it and it has not worked for them. It has been an uphill struggle to get millions of dollars, and it is millions of people now. It has been an uphill struggle for them to get millions of people to give them $20 apiece.

So ironically, despite the publicity held perceptions of the parties—that is of course the publicly held perception that the Democrat is for the little guy, fat-cat donor. The inverse has happened that is regarded in direct mail as good. If you have spent therefore $400,000 raising it, you will try to raise it in the latter technique that the Republicans have been successful in.

What better way to attempt to limit Republican success, and in essence, to cut off the principal method that we, as Republicans, have discovered to raise money—hundreds of thousands and millions of contributors giving us $20 apiece on the average? Cut that and instead of direct mail, try to encourage the method of fundraising that the Democrats have found most successful—the fat-cat, large, political action committee donor. You will see any wonder that the Republicans are inclined to think that this bill perhaps may have been designed to perpetuate the Democratic majority in Congress? I emphasize again—I am sorry to repeat it—but it is the old salesman's adage: Tell them what you do once you have the list.

So, the incumbents have an advantage, and there are more incumbent Democrats than incumbent Republicans. The majority party has an advantage. The majority party has more incumbents than the minority party. The majority party has an advantage.

Thus the argument has been made that the average cost of campaigning in 1976 for the Senate was, I think, $600,000, and last year it was $3 million; and if it keeps going like this, it is going to be $5 million in the next campaign; and then how much is enough—$90 million, $900 million, $9 billion? These arguments have been made over and over. "No," they say, "We have to stop that by putting a limit on spending."

I suggest that there is another way to put a limit on spending, and that is to do two things. I emphasize the limit on spending by the candidates. Do not forget the point I made earlier that any money not given to candidates will go to organizations outside the candidacy and it will be spent the wrong way, and S. 2 does not address that.

At least, if you want to cut down what the candidates have to spend, first let us zero out the PAC's. They
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He said, “450,000 people? That is ridiculous. We could not raise that much in West Virginia. We only have 1.9 million people. You could not possibly raise $9 million, with a $100 limit and an average contribution of $20.”

I said: “Exactly. That is my point.”

Do you want to make sure these campaigns do not go to $9 million? I do not know about his State. I would be lucky to get 50,000 or 60,000 people to give me an average of $20 each. If you want to cut down the amount they can give and eliminate PAC’s. Then the only way you are likely to do it in your State is to have an extraordinary organization that is willing to go door to door, knocking on doors, saying: ‘Hi. Will you give $5, $10, or $15 to Bob Packwood?’”

“Next door: ‘Will you give $5, $10, or $15 to Bob Packwood?’”

“I say that if we want to get rid of the evils of political action committees, zero—they cannot give it. A $100 contribution is not only second ideas—the fat-cat donor. Today, individual donors can give $1,000 in the primary and $1,000 in the general election. Often, you will find that it is a husband and wife. They will give $2,000 in the primary and in the general election give $1,000 each—$4,000. Again, the Democrats are much more successful than the Republicans in raising money in that quantity from donors of that size. So I suggest that if you really want to reduce the cost of campaigns, why do we not do the following? Why do we not lower the limit from $1,000 to $100? That would have the following effects.

One, with the very few exceptions of some Senators who may have been in this body a long time and are well-known, the likelihood of raising in any significant quantity $100—do not forget, I am talking about a maximum; their contribution is not a maximum; but saying of raising $100 from an individual who does not live in your State is relatively slight. For a $100 contribution, they are not trying to buy you. They may give it because they believe in a position of yours. It is given in a sense of belief.

So, the first thing it would do for most of us—not for everybody, but almost everybody—is that most of the small money we would have to raise in our own State, not out of State. If you limit it to $100, I think it would automatically have the effect of reducing the total amount of money you would collect.

The majority leader and I were discussing his State of West Virginia sometime ago, and we were using this argument of $3 million for campaigns and assuming $9 million for campaigns.

I said, “$9 million in West Virginia, if you were to raise that in average contributions of $20, you would have to raise it from 450,000 people.”

So the majority wonders why the minority is debating this bill and if necessary is prepared to filibuster it, and we are. There is no question about it. It is because we think it is unfair to the Republican Party. We think it is unnecessary to tap the public purse in order to prohibit all political action committees. The minority says they want to achieve because if they really want to do that, they can do that without tapping the public. They can do that without any extending limitations. They cannot do this without disadvantaging themselves.

So I perfectly understand why, if I were in the majority, I would favor the bill unless I had some moral misgivings about tapping the taxpayer. Do not worry about a $150 billion deficit. This will add another $30, or $40, or $50, $60, $70 million. No one knows what this is going to really cost. We will add another amount to our deficit so that the taxpayers will finance our campaigns. There is no need for us to work hard to raise the money for our campaign. Let them work hard and we will take it from them. It is a lot easier for us. Of course, is that not the purpose of all this—to make things easier for us? That is not the purpose.

I say again we can achieve anything they want to achieve. But what they want to achieve is a permanent legislated mandated major status in the Congress at the taxpayer’s expense to the detriment of the Republican Party.

So like Senator Proxmire, 16 or 17 years ago, I think we in the minority are prepared to stand here like Ulysses S. Grant, fighting it out on this line all summer if necessary to make sure that this pernicious system which is unnecessary, unneeded, whose only function is to perpetuate at public expense the Democratic majority in the Congress, we are prepared to stay here all night tonight, all this week, all this month, all next summer to see if it is stopped.

Now is it futile? Of course the majority knows it is futile. If by some imagination, and I do not foresee it, they manage to peel off—and there are two or three Republicans who might go with them—they manage to peel off enough to get 60 votes for closure—that is what it takes to shut off a filibuster—if they have 60 votes to shut off the filibuster, I am assuming they have 50 votes to pass the bill. Then it goes to the House. It is hard to tell what the House is going to do because if anything the House Members have even a greater advantage than the Senators in terms of incumbency for the simple reason that at least when you are running for the Senate it is a statewide office, and if you are a challenger you might get some little modicum greater of publicity from the news media than you get
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if you run for the House. They even have a great advantage.

Let us assume it goes to the House, same battle over there that you had here, but there they have no rules of cloture. Finally after some extensive debate it is jammed through the House and goes to the President. He vetoes it. He said he is going to veto it. He is not going to allow these lowered postal rates and that is in the bill that candidates get lower postal rates, public money. He is not going to allow this to become law. He will veto it and there is clearly the votes in the House and the Senate to sustain that veto.

So, the point of all this is not to pass a bill in this Congress. It may be to lay some groundwork. It may be to get public attention. We on the minority side are perfectly happy to argue the public merits on our side before the public. We think our side is the better position.

Let us not talk about this bill's passing, becoming law this Congress. Who knows what another Congress, another President will bring?

I do not think my views on this issue will change, but maybe the Democrats will pick up four or five more seats in the Senate next election. Again, I do not think so. Maybe they will pick up 20 or 30 seats in the House. Maybe they will win the Presidency. I do not think so. But they might, in which case they can jam the bill through in the next Congress unless by that time the Republicans have been sufficiently successful in bringing to the public's attention the evils of this bill, the unfairness of this bill, the fact that the bill is unnecessary to achieve what the public wants.

Now, Mr. President, I am going to turn my attention to the argument that this has worked well in funding Presidential races and, therefore, we should use that as an example in funding congressional races. That argument has gone somewhat without rebuttal until Senator Mitchell McNell, of Kentucky, brilliantly, in my judgment, shot it down as to whether or not that should be the example we should follow.

Mr. President, I ask unanimous consent to print in the Record a list of the points that I will make at length in my speech, but I would like to print them in the Record at the moment.

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

SPENDING LIMITS AND TAXPAYER FINANCING IN PRACTICE: THE FAILURE OF THE PRESIDENTIAL SYSTEM

OVERALL COST TO TAXPAYERS
$40 million so far in last two months alone.
Over a third of a billion dollars in last three elections.

PROLIERATION OF EXTREMIST CANDIDATES; WASTE TAX DOLLARS
Half a million dollars to Lyndon LaRouche in 1984, $200,000 to psychologist Lenora Fulani to run for President.

MORE BUREAUCRACY, NOT DEMOCRACY
1 out of 4 campaign dollars goes to lawyers and accountants.

In 1984 Presidential race, $21.4 million spent on compliance alone—as much as the most expensive race in Senate history.

Campaigns must, process each contribution through 100 steps.

"Political decisions have become accounting decisions".

UNPRECENDENTED GROWTH IN CAMPAIGN SPENDING UNDER "LIMITS"
Overall spending now increasing at same rate as before spending limits and taxpayer financing.

The difference is that far more spending now done outside legal limits and disclosure requirements—less accountability.

EVEN CANDIDATE A CHEATER
Every major candidate since 1976 has been called for a violation of the law; bad press and large fines result.

One candidate spent $2 million in a state with a $400,000 limit.

Delegate and pre-candidacy committees are "loopholes big enough to drive a truck through—conduits for millions of dollars outside of spending and contribution limits.

Corporations and labor help circumvent limits by paying office rent and phone deposits, and giving overly generous loans.

GROWING DISRESPECT FOR LAW AND ELECTION PROCESS
Campaign managers report that the first planning priority is to identify in advance ways to circumvent limits and rules.

A respected observer and campaign staffer declared "this whole FEC thing is a sham...it's your job to find every loophole".

SPECIAL INTERESTS WIELD CONTROL BY SPENDING OUTSIDE THE LAWS
In 1984 general election, special interests spent $25 million to oppose Reagan—62% of Reagan's $40 million spending limit.

Nearly half the money spent in the 1984 general election—$72 million—was outside the candidates' direct control.

At least one-fourth of all money spent in Presidential races is unreported, unlimited, and accountable.

Soft money spending is roughly tripling each election cycle.

Races report uncontrollable, corrupt politics of pre-reform era.

VOTER TURNOUT HAS STAGNATED
55% in 1972; down to 53% in 1984.

GRASSROOTS POLITICS AND CAMPAIGNS HAVE DIED

David Broder: "spending limits and taxpayer financing have shut down local campaigning...grassroots democracy has died."

Mr. PACKWOOD, Now, let us begin to talk about cost alone because you remember the argument that this would limit cost in the Presidential campaign.

First, we have had in terms of overall cost to the taxpayers over $40 million spent so far in the Presidential races, a grand total in the last three elections of public money over one-third of a billion dollars for the Presidential elections, public money, and I will call your attention to what I said earlier about the report from the John P. Kennedy School at Harvard about we have not even cut down the amount of money that is being spent in the campaigns. We now finance over one-third of a billion dollars in the last three elections from the public and we have pushed all other kinds of money out into other sectors. So we have not reduced the cost. We have simply pushed it out under organizations that have less responsibility to account to the public than do political parties or candidates.

We have not succeeded in reducing the cost of Presidential campaigns. What we have succeeded in doing is reducing the amount of money that the candidate organizations spend on Presidential races and dramatically increased the amount of money that non-President candidate organizations spend on the election in support of or in opposition to one of the candidates.

We have encouraged fringe candidates and the bill for the Congress will do the same. Fringe candidates who might not have any other appeal to get into the races in the hopes of minimally qualifying and it does not take much to qualify to get public funds. Candidates who just want to get into it but when they see the wonderful candy of money from the public, why not?

Lyndon LaRouche, this is a candidate that perhaps you have heard of. He has had tremendous legal difficulties recently. He got a half million dollars in 1984. Lenora Fuyani, a well known, New York psychologist, she got $200,000 a few weeks ago to run for the Presidency.

I have no objection to these people getting in. But what has happened is a good many people are getting in because they can become supported by the public. It is their privilege. The law allows it. The question is: Do you, the public, want to pay for it?

And let us take a look at who is getting the money. One out of four campaign dollars in campaigns for the Presidency, one out of four, Mr. President, goes to lawyers and accountants. In the 1980 Presidential race, $21.4 million was spent on compliance, as much as the most expensive race in the history of the U.S. Senate.

George Bush's campaign has now indicated that the Bush campaign compliance through 100 steps to make sure that they have not violated the law. So we have the public money going to the campaigns so it can go to the lawyers and accountants so that they can make sure that no one has spent more than they should have spent.

Except that is not really what they end up looking for. What they end up looking for is...
looking for is ways to get around the spending limits. And, my fellow Senators, they have succeeded in getting around these limits. I would like to rephrase that. When I say "getting around," it assumes they have gotten away with it and if they get away with it, you do not know that they have got around the limit.

But every major candidate, every major candidate since 1976 running for President has been cited for serious violations of the law. They have gotten away with it. There have been large fines as a result. One candidate was found to have spent $2 million in a State with a $400,000 limit. How do you do it? You are campaigning in New Hampshire and you rent cars in Massachusetts. You advertise on a Boston television station and charge that amount to your Boston limit because you have limits in your Presidential campaign as to how much you can spend in each State. The fact that Boston television covers New Hampshire, is that not coincidental?

In one case, one candidate was found to have spent over $60,000 in Massachusetts for President Mondale running up delegates for Vice President Mondale. You advertise on a Boston television station and charge that amount to your Boston limit because you have limits in your Presidential campaign as to how much you can spend in each State. The fact that Boston television covers New Hampshire, is that not coincidental?

I yield the floor.

Mr. BOSCHWITZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. BOSCHWITZ. Mr. President, I am going to join with Senator Packwood and Senator McCollum and others who are talking about this bill. I want to talk about a number of aspects of the bill and about campaign financing in general, just as my friend Senator Packwood has, giving the examples of the Presidential campaigns and really the sorry state of affairs that has come to exist there, and also giving other examples with respect to campaign financing in general, just as my friend Senator Packwood has. And so it may be concluded that there is some self-interest and it is true.

In the 1984 general election, special interests spent $25 million to oppose President Reagan, which was 62 percent of the $40 million that the President could legally spend.

My friends would like to join we have not seen half of it, not a third of it, not a tenth of it. As this law goes on and as more and more organizations discover how they can spend money on their members, for their members, by their members, contacting the public and never having it be counted as part of the Presidential spending limit, it is going to grow and blossom if we pass a law requiring them to account for it. They will be able to do it.

So this is the example that the majority party gives us to follow: gross and crass violations of the law by campaign managers, campaign lawyers, accountants advising Republican and Democratic candidates running for the Presidency how to get around the law, a quarter of the money in the Presidential campaign going for compliance, going for lawyers and accountants and bookkeeping.

I hope that is not what this Senate wants. I hope that this Senate only wants to pass necessary laws to ensure clean campaigns. That, we can do. But what the majority wants is a partisan law to assure a particular majority into the indefinite future.

So if the majority leader wonders why the Republican Party intends, if necessary, to filibuster—and I use the word in the best sense; and I am happy to say that I learned a lot from Senator PROXMIRE 17 years ago—if necessary, we will be filibustering this bill until this Congress runs out on January 3, 1989.

Mr. President, I yield the floor.

My friend, the Senator from Wisconsin, remarked in a newspaper article a few years ago that a draft of this bill would occur over from the Civil War and it meant, too, that we had to take three-quarters of all of the congressional votes in the North in order to have control of the United States. And that—what a thought it is to establish limits we would probably not be seen as legislating themselves into a permanent minority status. I believe he said that in the event we were to establish limits we would probably become a minority status for the next 40 years. So does it make any sense to eliminate any possibility of our gaining seats in the southern part of the United States, the so-called Southern States.

For many years, the Senate and the House of Representatives was represented virtually exclusively by the Democratic Party from the South. Every 2 years you would turn on a faucet and of the 110 Members of the House of Representatives, only 7 or 8, would come 108, 109, some years 110 Democrats, with absolute regularity.

When you consider that the majority in the House of Representatives is 218, half of that majority would be from the South. Not all, however, those are solid Democrats; there are 50 Republicans from the South. That, of course, is a carry-over from the Civil War and it meant, too, that we had to take three-quarters of all of the congressional votes in the North in order to have control of the House of Representatives. Beginning in 1930 it simply became an impossibility with one 2-year exception, or perhaps two 2-year exceptions; once in 1946 and once in 1952, were the Republicans the majority party. During the entire 58 years, only in 4 years did Republicans control the House of Representatives. And largely because in the South with great regularity, all 110 or at least 108 of the 110 Members of the House of Representatives would be Democrats, automatically produced every 2 years. Of course that the Members from the South, through the seniority positions, gained great power in the House of Representatives and, indeed, the titles were given to him to this day; much more so than in this body.

So it was here in the Senate that each 2 years—and of course our terms are staggered—the Senate would have two dozen Members from the Southern States, fully a quarter of this body, who would automatically be produced as Members of the Democratic Caucus. For most of that time, until 1980, only 2 years, I believe, from 1930 to 1980, were we the majority party on this side of the aisle.

To now pass a piece of legislation that would effectively preclude us from becoming the majority party at any point in time would be irresponsible and not in the best interests of our Nation. To pass a piece of legislation that would effectively preclude us from having strong candidacies in an entire region of the country, where over the years, with only the Senate, have any real infrastructure, where every
So I suppose that one would have to say that there was some self-interest in this. We as a party want to survive. We as a party want to be the majority party just as much as the other side. And we as a party, in the interests of the American people and in our self-interest, simply cannot be expected to legislate ourselves out of a majority status or out of the possibility of becoming the majority once again and create, in effect, a one-party system in the United States much as has been done in the House of Representatives.

The Democrats, of course, have control over the State mechanisms of government and have allowed the congressional district lines to be drawn in such a way that they are able to maintain their majority over a long period of time. But here there is no redrawing of the New State lines that are to come on. The lines are established. That kind of manipulation cannot be done. So it is here that the battle must be fought. It is here that the possibility for majorities exists. And it is here that if we are going to defend the idea of a two-party system in the United States, that the battle must be fought. It is here, if our self-interest is going to be protected, that it must be put forward.

Another reason that we feel so strongly about the idea of not establishing limitations, of not reducing the ability to provide funds, is more people participate in the political process, Mr. President, through making contributions to the system, contributions to the political process, than they do in any other way. In my campaign, Mr. President, I had 65,000 contributors. We had approximately 110,000 contributors, people contributed more than once, very obviously.

One lady, now in her eighties, from Rochester, MN, contributed, if I recall, 20 or 24 times with great regularity, each month, from her Social Security check. She would send a small contribution which over the period of 2 or 3 years amounted to several hundred dollars. That was her way, one of the ways in which she contributed to the political process, and a most meaningful way indeed.

I felt that in the process of raising funds for my campaign that I wanted to get a broad base of contributors. I wanted such a large number, so dispersed throughout our State from every corner, in every county, in every town, in every city, that if the farmers got together in the morning for coffee or ladies got together in the afternoon for bridge or pinochle, or if the guys got together at the American Legion club or other clubs in that town to play a little poker in the evening, I would always have an advocate in that group. Very often talk turns to the political process, to the political issue, to the state of the nation, to the state of the political system. And it is important that one have advocates out there because that is the way you win votes.

In my judgment, winning votes is not just done by virtue of running a 30-second TV ad. As a matter of fact, many of our candidates in the last election were defeated because they thought they could address their constituency in 30-second TV ads rather than addressing them in person and getting them involved in the political process.

One of the forces of my political efforts, Mr. President, about which I am the proudest, is the large number of people whom I have gotten involved in the political process. The idea of grassroots politics, in my judgment, is the whole strength or one of the basic strengths of our political system. Indeed, it is one that should be continued.

So that part of the whole purpose of finance reform is for the purpose of grassroots politics. And, very frankly, to get the large number of contributors, that I got in my campaign, it requires an extensive mailing effort. The principal beneficiary, perhaps, of my campaign, was the post office. We mailed out a lot of stuff in order to get 65,000 contributors, 54,000 of them from the State of Minnesota. The process of mailing became a large expense; I believe the largest expense of my campaign. But it is part of the process, Mr. President, to increase involvement. Mailings not only involve individuals, but it sends out a message on an ongoing basis in America that is understandable, and that also is an important element of the political process.

Reduce the amount or limit the amount that can be spent in any particular political race, and you limit the amount of grassroots participation that is possible.

Worse than that, when you limit the amount of money, when you push it down, it pops up over here, because that, too, does nothing whatsoever about so-called soft money. I must say, in honest admission, Mr. President, that soft money is better utilized by the other side of the party, by the Democratic Party, than by ourselves.

Soft money, of course, is money expended by others in behalf of the candidate. It has been done on our side by conservative institutions, such as NCPAC. It brought no glory, very frankly, to the political system. It was part of the institution of negative campaigning which has not served our system well and has not done credit to our Nation's political institutions.

But just as independent expenditures are made in that manner, so they are made by others. As Senator Packwood pointed out in his remarks, many, many millions of dollars were expended by unions in behalf of Senator Mondale and not a penny of it had to be reported. Not a penny of it is required to be reported under this legislation. The same will be said in future years about political action committees.

Now that political action committees have learned the ropes of how to raise money, they will find a way to continue to do that. They have built up organizations. They have shown that they can perpetuate themselves. They will raise money and they will have independent expenditures. If a particular PAC is small and has no independent expenditures, new PAC committees will be formed and the small ones will give to the large ones, and they will band together for independent expenditures. These sums will in no way be reported under the provisions of this bill. Indeed, they are not required to be reported at this time.

I do not think that the political process can be so easily controlled. I do not believe we really can effectively control the amount of money that flows into the political process. When you push it down, the law of independent effect comes into effect and it goes up, and the law of independent effect is indeed the problem that is sought to be dealt with by S. 2.

As you know, Mr. President, political action committees were themselves reforms. They were reforms that came out of the 1972-74 period. In the 1972 Presidential race, huge amounts of money were given to the Republican side of the aisle, and amounts that really should have been limited and that we have since limited.

Today, the maximum an individual can give to a Senate candidate is $1,000 for the primary and $1,000 for the general election. That amount has not been changed for a number of years, as a matter of fact. No inflation has been added to that number.

In 1972, hundreds of thousands, in some instances $1 million or $2 million, was given to the campaign of Richard Nixon and in that way he had quite an advantage. It was an effective fundraising effort without question. But it offended the public image, and it offended the political process. If, too, you would have voted for reform.

One of the reforms that came out of that was political action committees. Political action committees were very little used prior to that time by anyone other than the unions who were on display, through the CIO, and other vehicles their usefulness in the political process. Indeed, they have been useful.
The beneficiaries of political action committees today are thought to be the Republican Party. I would like to review a little bit how the political action committees do give money to the political process. As a matter of fact, it is so disproportionately in favor of the other side of the aisle, the Democrats, that it is very tempting to want to limit the political action committees, and I have seen some packages put together that would limit political action committees.

Political action committees come in various groupings according to a book entitled “Almanac of Federal PACs,” that comes out every 2 years.

In 1985, the cycle that just ended, political action committees gave $122,178,661 to the political process. That is a lot of money, Mr. President, and better that it should be raised through the private sector of the economy than it should be added as an additional burden for the taxpayers. The idea of having taxpayers pay for the electoral process, in addition to everything else they pay for, really is offensive.

One would think that with $132 million in PAC dollars, in round figures, at least half of that, $66 million, would have gone to Republicans. In fact, Republicans received somewhat over $57 million and Democrats received $75 million.

In percentage terms, the Democrats received 56.5 percent of PAC contributions and Republicans received 43.5 percent of PAC contributions.

I might say only in recent years have we on the Republican side crept up over the 40-percent mark. I think this is the third election cycle where we have been up over the 40-percent mark in terms of the moneys that are given to the political process.

In the House of Representatives we are a long way from being at the 40-percent mark. In the House of Representatives, as other Senators may have already indicated, scores of Members of the House—I forget the exact number—as I recall almost 150 Members, about one-third of the total House of Representatives, receive more than 50 percent of the moneys that they use to campaign from political action committees.

Certainly, I would be in favor of some type of limitation because it is important, in my judgment, that people go out in their State and solicit money, present their views and make themselves known to their constituency.

However, it is important also to add that those who attack political action committees should keep in mind that the more people give to the 4,000 or so political action committees than give to all the Senate candidates put together so that indeed many people are involved in the political process by virtue of the political action committees.

If you look at the Senate in the last election, in 1986, we on this side of the aisle received more from political action committees, $5 million, almost right on the head, and the Democrats received $20 million, right on the head. So we certainly received more.

However, if you look at Democratic challengers they received $8 million and Republican challengers received only $2 million. So political action committees on our side need a little education and they have to take a few chances. Let us say that those political action committees that contribute to the other side of the aisle are more risk oriented. Our political action committees, those who tend to look at our side, look at the whole political process as horse trading. They do not have a philosophy they want to present. They do not have a philosophy they want to defend. They do not have a philosophy they want to follow. Their philosophy is winning, to get on the horse that you think will win so that you will have access when he or she does indeed win. That is really the goal of their giving.

I must say, quite to their credit, that political action committees, particularly union political action committees, represent the philosophy and follow the philosophy of their members far more so than do corporate political action committees. Although in the Senate in 1986 I must say we led the Democrats quite markedly. However, overall, because of other PACs', labor union PACs', trade groups, nonconnected PACs', so-called ideological PACs', these PACs' which have an ideology other than winning, which have an ideology other than just playing it like a horse race, have preferred the other side of the aisle to ourselves.

Mr. President, I ask unanimous consent that this page of Federal PAC contributions of 1988 and 1986 be printed in the Record. There being no objection, the table was ordered to be printed in the Record, as follows:

**FEDERAL PAC CONTRIBUTIONS: 1985-86**

<table>
<thead>
<tr>
<th>Number</th>
<th>Corporate</th>
<th>Labor unions</th>
<th>Trade groups</th>
<th>Nonconnected</th>
<th>Other PACs</th>
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<td>House</td>
<td>132,178,661</td>
<td>45,326,975</td>
<td>72,659,196</td>
<td>54,584,486</td>
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<td>57,540,619</td>
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<td>23,913,013</td>
<td>18,889,052</td>
<td>13,102,570</td>
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<tr>
<td>Others</td>
<td>8,695,982</td>
<td>34,477,007</td>
<td>31,965,022</td>
<td>27,164,080</td>
<td>17,796,710</td>
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<tr>
<td>Incumbents</td>
<td>88,651,907</td>
<td>34,477,007</td>
<td>31,965,022</td>
<td>27,164,080</td>
<td>17,796,710</td>
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<td>Open seats</td>
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<td>54,601,291</td>
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<td>21,041,236</td>
<td>12,205,577</td>
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<td>21,041,236</td>
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<td>Challengers</td>
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<td>12,205,577</td>
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<td>House others</td>
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<td>9,209,489</td>
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(Mr. HARKIN assumed the Chair.)

Mr. BOSCHWITZ. So, Mr. President, this bill does not do anything to promote grassroots politics. This bill does nothing to end really the scourge of soft money in the political process. This bill limits the amount and is a bill that can best be called an incumbent protection bill.

Think of it for a minute, Mr. President, that an incumbent has a press secretary, has great access to the press, has a staff of people to keep him or her advised of the legislation that is going through, a staff of people who can keep him or her advised of the issues of the day. None of this staff, of course, is counted toward the amount of money that can be spent by a challenger. In addition to that, the incumbent also has the franking privilege that is obtained by the total organization in the whole business of the electoral process. Yet the challenger is limited to the amount of money that can be spent against an incumbent who has all these advantages.

Then one says that S. 2, the campaign reform bill, is an incumbent protection bill, indeed, it is. When one looks further and says that this bill, in addition to being an incumbent protection bill, is also a bill that would effectively preclude the Republican Party from having any elected official in the Southern States, one has to conclude that it is not in the national interest, not in the interest of a bipartisan system, of a two-party system, one of the very strengths of our country, to pass the bill. Nor is it in the interest of grassroots politics.

Mr. President, let me address another question, if I may. Is the Republican Party the party of big bucks? Is the Republican Party the party of the rich?

In October 1986, an article appeared in the Washington Post. I do not have its exact date. The article was written by Thomas B. Edsall. The first paragraph of that article starts off by saying:

The Democratic Party, which has traditionally claimed to represent the working man and woman, depends substantially more than the Republican Party on the contributions of special-interest groups, corporations, and on the large donations of rich individuals.

Think of that, Mr. President. That certainly is not the common perception. It is the Republicans who are supposed to be the party of the rich individuals. It is the Republicans who are supposed to be the party of the special interests. But when you look at the organizations, you come to the conclusion that the Democratic Party is the party which relies on the contributions of special-interest groups, corporations, and on the large donations of rich individuals.

Further on in the article, it points out that while givers to both parties are far richer than the national average, "more than 90 percent of Democratic donors earn more than $100,000 a year." An amazing statement, Mr. President. Over half of the donors to the Democratic Party earn more than $100,000 a year.

I thought all those folks were supposed to be over on our side of the aisle, not on the Democratic side of the aisle. And as I read the popular press, I am led to believe that, gosh, we are the party of the rich, we are the party of the big corporations. We are the party that believes in free enterprise and somehow free enterprise is perceived as a collection of large corporations. That is not how I perceive free enterprise.

So then one says that S. 2, the campaign reform bill, is an incumbent protection bill, indeed, it is. When one looks further and says that this bill, in addition to being an incumbent protection bill, is also a bill that would effectively preclude the Republican Party from having any elected official in the Southern States, one has to conclude that it is not in the national interest, not in the interest of a bipartisan system, of a two-party system, one of the very strengths of our country, to pass the bill. Nor is it in the interest of grassroots politics.

Mr. President, I ask unanimous consent that the entirety of this article be printed in the Record.

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

Firms, Lobbyists and the Rich Provide Much of Democrats' Funds

(By Thomas B. Edsall)

The Democratic Party, which has traditionally claimed to represent the working man and woman, depends substantially more than the Republican Party on the contributions of special-interest groups, corporations, and on the large donations of rich individuals.

Much of the money the Democrats raise from these sources is "soft money"—direct donations from corporations, lobbying firms and union treasuries, or from persons who have already given the maximum allowed under federal law.

Money from these sources would be illegal if used to promote the candidacy of anyone running for federal office. But the two parties have used a loophole in a 1979 law, designed to encourage the growth of state and local political parties, to raise millions in soft money from corporations, unions and big individual donors.

Raising soft money from corporations and unions, which are not permitted to make direct contributions to political campaigns for federal offices, has been attacked by such reform groups as Common Cause and the Center for Responsive Politics, and by some present and former staff members of the Federal Election Commission. But the FEC, a politically appointed body, rejected suggestions that it issue new rules to govern the raising and spending of soft money.

Soft money contributions now account for 28 percent of the annual receipts of the Democratic National Committee (DNC), the Republican National Committee (RNC), by comparison, raises less than 5 percent of its considerably larger budget in soft money.

For the Democratic Senatorial Campaign Committee (DSCC) and the Democratic Congressional Campaign Committee (DCCC) money from political action committees (PACs)—most of which have been set up by trade associations, corporations and unions to influence legislation—now accounts for 27 and 22 percent of reported contributions respectively.

PAC contributions to the two Democratic campaign committees have grown from $271,000 in 1979–80 to $3.3 million in 1983–84, a twelvefold increase.

Today the Senate is scheduled to vote on legislation that would limit PAC contributions to House and Senate campaigns. One proposal to be considered in the Senate would prohibit PAC contributions to the Democratic and Republican parties and would mandate public disclosure of all soft money contributions.

The three major Democratic committees collect at least thirty-five percent of their
funds from PACS and soft money contributors for their Republican counterparts, those sources provide less than 5 percent of total party revenue.

All three Democratic Party committees have been able to raise increasing amounts of soft money since its legalization. Each receives a far higher percentage of support from PACs and large donors than their GOP counterparts, which raise much more in small contributions from individuals. And in the last 18 months, according to Frank O'Brien, director of direct mail for the DNC, the number of direct mail contributors to the national committee has ceased to grow.

Democratic dependence on special-interest money and PACs has increased. In the 1984 presidential campaign, for example, the significant opposition of real estate developers, a major source of Democratic cash, to the provision of tax reform proposals was a significant factor in the opposition of officials of Walter F. Mondale's presidential campaign against endorsing tax reform legislation, according to the chairman of the DNC.

That decision effectively allowed the Reagan administration to gain credit for what was a Democratic legislative proposal. The Revenue Act of 1981, passed over President Reagan's veto, was an integral part of the campaign. As an integral part of the Mondale effort, Nathan Landow of Bethesda, William Batoff of Philadelphia, Thomas Rosenberg of Chicago, Jess Hay of Dallas, Robert H. Reagan administration to gain credit for money contributors in order to build a telephone army, be it contributors or noncontributors who want representation on Capitol Hill, who have conducted extensive surveys of campaign contributors.

While the names of Democratic big donors are, in most cases, made in addition to individual contributions, the names of those DCCC donors provide a glimpse of who is giving the party this soft money. Major contributors include Merck, Sterling Corp., which was chaired by Mr. Waverell Harriman, who died last month, $150,000; International Brotherhood of Painters and Allied Trades, $50,000; Phillips Petroleum, $150,000; BonanzaGold, $150,000; Atlantic Richfield, $20,000; the Tobacco Institute, $40,000; and the lobbying firm of Cump, Carmouch, Barish, and Hunter, whose clients include many major oil companies, $55,000. These contributions are, in most cases, made in addition to individual and PAC contributions reported publicly under federal election law.

Figures provided by the DNC showing general sources of soft money (committee files) declined to be released specifically because the soft show that over the last five years, corporate money has come to be far more important than political action committees.

In 1982, the DNC received a total of $2.92 million of soft money, of which $1. . ., or 61 percent, came from corporations; and $218,519, or 8 percent, came from individuals.

So far this year, union contributions to soft money accounts have dropped to just 34 percent of the total, or $542,281, out of $1.68 million; while corporate contributions have grown to $77 million of the total, and individual contributions remain virtually the same at 5 percent.

In 1984, when the Mondale campaign and the DNC raised $5.3 million in soft money, of which $1. . ., or 50 percent, came from corporations; and $487,281, or 8 percent, came from individuals.

Mr. BOSCHWITZ. Continuing on in this article, Mr. President, it is interesting to see from where the contributions come: 19.7 percent of all the largest contributions comes from the Washington, D.C., area alone.
The Democratic Senatorial Campaign Committee more than doubled its income from large donors, who account for 8% of its revenue. Many wealthy givers rushed to make donations just before the end of the year, so their gifts wouldn't count against annual limits for 1988. Federal election law forbids individuals from giving more than $25,000 a year to federal candidates, party committees, and PACs.

Reigning a Senate majority helped Democrats financially. "There are people from the business community who I'm sure are giving more now than they did in 1986," says Robert Chlopak, executive director of the party's senatorial committee. On the Republican side, falling into minority status demoralized donors and "took the wind out of our sails," says Jann Osten, executive director of the National Republican Senatorial Committee. They will get better in 1988.

The congressional campaign committee, capitalized on the brief surge of "Olliemania" following the appearance of testimony of Col. Oliver North. He sent a fund-raising letter announcing the committee would make a $50,000 donation to Col. North's legal defense fund. It proves there is money in the committee, and any letter sent in the previous two years, the congressmen says.

Mr. Vander Jagt fears his donors have grown complacent. "People are thinking, the conservative Republicans, that Reagan has done it all, he's solved the problems, he's lowered inflation and interest rates and put people back to work," he says. He cheerfully predicts that donors will reopen their checkbooks as campaigns heat up: "Things will get better in 1988."

Meanwhile, to compensate for the decline, Rep. Vander Jagt last September set up a National Advisory Board whose members each pledged to raise $50,000 a year in large gifts. And a spokesman said the GOP senatorial committee recently began a program to raise $500,000 a year from PACs.

Mr. BOSCHWITZ Mr. President, the junior Senator from Oregon, Mr. Packwood, has spoken at some length about the Presidential races. I confess that I did not listen to his entire speech, and in the event I am repetitious, I apologize.

Starting 10 or 12 years ago, the Presidential races were opened up to public financing. And the rules under the Presidential races are so complex that, as my friend from Oregon has pointed out, $1 out of $4 that is spent is spent on lawyers and accountants. You normally think of tax bills as being relief bills for the lawyers, but now we must add to that campaign reform bill act because lawyers have profited the most.

But not only the lawyers have profited. We have with great regret financed some candidates who really are not worthy of the name. In 1984, Mr. LaRouche, for example, received $3 million from the American taxpayers. One half million dollars in...
tax dollars in order to run his Presidential campaign; a campaign that really brought no credit to the American agenda.

This year we have Lenora Fulani, who is not exactly a household word in American politics. She is a psychologist from New York. Three weeks ago, she received $200,000 from the Federal Election Commission to match funds that she had raised. I believe, at a couple of concerts, where at least as has been related by my colleague from Kentucky, Senator McConnell, many of the people did not even know that they were at a political fundraiser. They were there for the concert. But the price of admission was matched by the Federal Treasury. How many of these people will become involved in the race? It is not terribly difficult to qualify for matching funds under the existing law or under § 2. In fact, it is even easier under § 2 than under existing law.

That really is not the way that we want to go in this process. This is not a reasonable way to finance campaigns. The American taxpayers should not be taxed to do something that is now being privately subscribed to. Presidential races have not really had any success at public financing.

David Broder, who is perhaps the most respected political correspondent in America, has written in the Washington Post:

There is a cost to public financing. Public financing in Presidential campaigns has meant the virtual shutdown of local headquarters financed by small contributions.

In other words, when you put a limit on campaign spending, you also put a limit on grassroots involvement. The people who will consult and the people who will plan these campaigns will try to take the largest portion of campaign dollars and put it into even more expensive TV commercials. Then they will try to spend of the limited amount that can be spent on campaigns and make more and more beautiful and more and more complex TV commercials that will cost more and more. The ability to spend money or to direct money at grassroots campaigns, at storefronts throughout the United States, the amounts of money that are required to involve people simply will not be there.

It is not cheap to involve people in the political process. It does not come free. Some people who are regular members of the Republican Party or Democratic Party, perhaps they come together and again. But people cannot rely on them. The country is not a strong party. The fact returns me once again to the South where there is not a strong Republican Party. You cannot rely on the money that can be spent in those regions, particularly, you will absolutely preclude a Republican from gaining statewide political office. That is something that will undermine the political system.

The distinguished President of the Senate looks up as I make that statement. I must say to my friend, the Presiding Officer, that earlier on I pointed out that areas of the country where approximately a quarter of the Members come from, we have no infrastructure. The Republican Party has no infrastructure. If we are limited to a sum certain, and that limitation would be stacked up against the Democrats limited to that same sum certain, we will effectively preclude and eliminate our ability to represent an entire segment of the United States.

Grassroots democracy will be severely undermined by this bill, because grassroots involvement in the political process will be severely limited. As a matter of fact, Mr. Broder said in the article I earlier referred to about the Presidential process: "Grassroots democracy has died."

Indeed, limiting the amounts that can be spent in the political process will effectively exclude grassroots type of participation. More and more money will be spent. But it will be found to be a more efficient use of the funds in the mass media. It will not be found to be an efficient use of the funds to build a grassroots operation.

A choice will have to be made. Both will not be possible under the limitations of this bill. A choice will have to be made. For a person who is challenging an incumbent, if that person has no name recognition, the choice, of necessity, will be that he or she runs his or her campaign on TV. Grassroots democracy will be undermined. Grassroots democracy will suffer a severe blow, as it has, in my judgment, in the Presidential process.

If that is to be avoided, then some of the money from the Fund of Minnesota, Oregon mentioned, some of the subtreasury that has taken place with every major political candidate since the law was put into effect, gross violations of the law, will become the order of the day. Loss of respect for the process becomes the order of the day. It is the only way.

If you go to Iowa, then you stay overnight in Moline, IL, on the other side of the line, and charge it to the Illinois campaign. It is a far larger State in population and a far larger amount of money can be spent. It also comes later. You may never get to Illinois.

Or, if you are over in the western part of Iowa, you stay overnight and rent your car in Omaha. Then during the day you do your business in the western part of Iowa.

Further, you spend your money on Omaha, and you charge the funds to Nebraska.

I believe the Senator from Oregon spoke about New Hampshire. Most of New Hampshire gets its television from Boston, so the monies are spent to raise it up against the limit you can spend in Massachusetts, when indeed you are addressing the voters of New Hampshire. In fact, there is no election at that time in Massachusetts. Yet, there is this enormous amount of money, that is spent on TV—all charged to the Massachusetts race, when in fact it properly should be charged to New Hampshire.

Perhaps your State of Minnesota gains a little bit as people campaigning in Iowa come up and stay across the line and work the precincts of Iowa. Is that the kind of law enforcement and respect for the law that we want to engender? Certainly not. But that is what has happened.

One of the candidates on the other side of the aisle, the one that spent the entire amount that was allowed to him, is Senator McConnell, many PAC's, or political action committees, formed out of the period of 1972-74, as I indicated earlier, and they were a reform. Now
we find ourselves reforming the reform that reformers cast upon us some years ago.

I say again, in defense of political action committees, that more people give their personal money with a vote, and that person will also become more interested in the political process.

I spoke about this subject some months before the reform when it was instituted but it is hard to contest something like that. But are we supposed to gauge involvement in the process in degrees now, or is the very fact of involvement enough?

My experience in life has been that interest normally follows a person's money; that if the person makes a contribution to the campaign, no matter how small, that person will follow his or her money with a vote, and that person will also become more interested in the political process.

Indeed, PAC's have interested millions of people in the political process who were not involved in it before. That, in my judgment, is quite an accomplishment. That was the purpose of the reform when it was instituted and when it was voted for in this body some years before I arrived here.

But that is good politics, Mr. President, involvement of more people. It strengthens our democratic institution. It strengthens our Republic. It strengthens the very fiber of our Nation.

Mr. President, one of the things that I spoke about on the floor when I last spoke about this subject some months ago was the law of unintended effects. That you simply are unable to hold down the influence of funding in the political process. By trying to hold it down on the one side, it pops up on the other side. That has been the history of trying to control political funding.

We see that happening now in the Presidential races, as I have indicated before. Money is expended in one State and charged to another State.

Senator Packwood pointed out that $50,000 worth of automobile expense was charged to other States and the cars never saw the roads of those States. They were charged on credit cards in other States. All kinds of evasive means are found to bring money into the political system. As I have indicated, this is a probable, unintended effect of reform legislation. If you have PAC's who have raised $52 million, Mr. President, will not go away. It will somehow be funneled into the political process and it will not be reported as it is today. It will not be done in a manner that the public can observe. It will be done in an unreported way. It will be done as a soft money expenditure which this bill that we oppose in no way controls.

Earlier I gave the example, Mr. President, of PAC's giving to other PAC's, of new political action committees being formed with contributions of existing political action committees. Let us say an existing political action committee raises $400,000 or $500,000. Much of the influence will go just as much not to give it all away and says, well, we will give some money to another PAC, a newly formulated PAC. Further, that PAC collects together monies from other PAC's and now has the power to take an independent expenditure, none of which has to be reported and none of which will come to the public eye.

Those are the kinds of unintended effects about which I speak.

I would be in favor, Mr. President, of a campaign reform law that expanded the reporting of political contributions, that brought out into the sunlight political contributions from whatever source, which brought out into the sunlight not only the hard political dollars given directly to a candidate or to a campaign, but also the soft money that enters into the political stream. The soft money has just as much influence and a great deal of access and does the same damage that is claimed, perhaps even more than is claimed for the reported money.

I think that a bill that brings sunshine into the process, that opens up the process, that will open up every dollar that comes into the process, will be a more constructive measure of reform, rather than trying to limit the exact spending, which would effectively preclude my party from many States of the Union and would put an intolerable burden on a challenger.

That is not the object and the purpose of reform.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The Senator from Hawaii.

Mr. INOUYE. What is the question before us?

The PRESIDING OFFICER. The pending question is on amendment No. 1405, as modified.

The Senator from Oregon.
II. HOW MUCH IS TOO MUCH MONEY?

It is a common misperception that elections in the United States are more expensive than in most other countries. Dr. Howard Penniman has conducted some studies and has reached exactly the opposite conclusion.

"Calculating campaign costs on the basis of expenditures within the limits makes it possible to compare costs for units that are identical in all democracies. Comparing the absolute costs of campaigns in different countries points up the obvious fact that it is more expensive to send messages to many people than to a few."

"The cost per eligible voter in the United States is considerably less than in Venezuela, the Federal Republic of Germany, Israel, and Ireland for comparable elections. The cost in Canada is higher than in America. If the value of free television and radio are included. Because of the absence of data, it is not easy to know how United Kingdom costs compare to ours."

"In preparing this essay it was striking to find that in most of the twenty countries with 1.5 million voters and over, campaign spending in 1983-1984 was far less than in the most competitive districts."—Dr. Michael J. Malbin, American Enterprise Institute, Money and Politics in the United States, p. 240.

"A major advantage of incumbency is control of official resources for reaching and serving constituents. This estimated value of official resources available to Members of the House is approximately $1 million over a two year period.... Professor Gary Jacobson, a leading expert on congressional elections, estimated in 1978 that the average House challenger would have to spend in the order of $320,000 to become familiar to constituents as the average incumbent. (The Politics of Congressional Elections, 1983, pp. 54-55.)"—Mr. PACKWOOD.

"Expenditure limits work to the disadvantage of nonincumbents and discourage electoral competition. Keeping in mind that it is challengers, not incumbents, who benefit more from campaign spending, such provisions have a definite anti-challenger and anti-electoral competition bias."

"Challengers are unequally in many ways (e.g., name identification, partisanship of the constituency). Public financing/expenditure limit regulations, by requiring equality of finance, would merely emphasize these other inequalities and prevent less well known candidates from gaining access to the key resource that might enable them to catch up."

"Posting Citizen Participation. Political science research has shown that voter turnout is encouraged by competitive elections. Therefore, if voter turnout in congressional elections is to be encouraged, it is essential that there be limits placed upon candidate spending—particularly nonincumbent spending. Such limits disadvantage nonincumbents and thereby hold down competition. Voter turnout in the United States is already below that of other Western democracies and nothing should be done to make it worse or to worsen that situation."—Dr. John P. Bibby, University of Wisconsin-Milwaukee, Statement before Subcommittee on Elections, House of Representatives, June 18, 1987, excerpts from pp 2, 3, 5, and 7.
Mr. President, I plan to go on a bit further, but I want to digress from the quote.

Mr. ARMSTRONG. Mr. President, if the Senator will yield, I do not wish to interrupt his statement, but it sounded to me as though a point that I had made in my discussion of this matter that a question would be appropriate.

Mr. PACKWOOD. I am happy to yield for a question.

Mr. ARMSTRONG. My question is, as I understand it, we have before us a motion to recommit the bill and then a lengthy tree of amendments.

Mr. PACKWOOD. That is correct.

Mr. ARMSTRONG. The scuttlebutt around the cloakroom is that this is going to be an evening of thought and reflection and discussion, possibly punctuated by a series of essentially meaningless procedural votes. The probability is that at some point we will have a vote to instruct the Sergeant at Arms to recall absent Senators and, according to rumor, some of the sponsors of amendments may move to table their own amendments in order to obtain rollcall votes on them and, thereby, sort of stir the pot. But I am wondering if the Senator could enlighten us. Is it the Senator’s belief that I have accurately summarized the situation, that from now until tomorrow or at least until tomorrow that what would occur would be speeches and votes of essentially a nonsubstantive character?

Mr. PACKWOOD. I think so, unless you were to count—and I see the majority leader coming on the floor. The majority leader, obviously, can get recognition and get priority if he wants it. I suppose if he were to move to table the amendments, and I assume vote against them, that might be thought of as a substantive vote.

There is nothing we could do to prevent a vote like that. But, short of that, I think the likelihood of a substantive vote tonight is de minimis.

Mr. ARMSTRONG. The reason I ask the Senator that, may I explain, is simply to sort of plan my own schedule for the balance of the evening and through the dark hours of the night and into tomorrow morning, and also to be helpful to other Senators who may be going through the same thought processes. My own conviction is that a vote to instruct the Sergeant at Arms is actually not a meaningful vote. It is an official vote and, for those who are concerned about maintaining a high-percentage attendance, it would be counted against them if they failed to respond to that matter.

My own feeling is that at this stage a vote to table the pending amendment would be the most meaningful. But if the Senator has a view of the status of things, then, in your opinion, would it be correct to say that what we are looking forward to is a night of speeches and votes on procedural matters?

Mr. PACKWOOD. I think that is my opinion. But I do see the majority leader would be happy, for the moment, to yield if he could respond to the question the Senator from Colorado is posing.

Mr. BYRD. The Senator did not ask me the question.

Mr. PACKWOOD. That may be your answer.

I would be happy to go to a cloture vote tonight; now, half an hour from now, an hour from now.

Mr. ARMSTRONG. May I ask the Senator, would it require unanimous consent to do that?

Mr. PACKWOOD. It would require unanimous consent.

Mr. ARMSTRONG. I, for one, would have no objection to that. And, in fact, if the Senator from Oregon would propound such a unanimous consent request, I would lodge no objection to it.

Mr. PACKWOOD. I think I would talk to the majority leader before I would propound that. But I might say I think most of the people on this side would be happy to have a cloture vote.

Mr. ARMSTRONG. Mr. President, I do not want to try the patience of the Senator from Oregon.

Mr. BYRD. Will the Senator yield?

Mr. PACKWOOD. Yes.

Mr. BYRD. For a question?

Mr. PACKWOOD. Yes.

Mr. BYRD. He can only yield for a question.

Is there a cloture motion pending?

Mr. PACKWOOD. To the best of my knowledge, there is not a cloture motion pending. Is there?

Mr. BYRD. The Senator has answered that question.

Mr. ARMSTRONG. I note the Senator from Oregon has what appears to be a very extensive statement and I do not want to delay him in his presentation of his thoughts on the bill, but just to confide to him my own plans. They run along this line: At 9 o’clock, from 9 until 11, the third—

Mr. BYRD. Mr. President, I ask for the regular order. The Senator can yield only for a question.

The PRESIDING OFFICER. The majority leader is correct. Regular order is called for.

Mr. ARMSTRONG. Mr. President, I am in the process of stating still another question. I have propounded two or three questions to the Senator from Oregon. I believe I am proceeding within the regular order.

The PRESIDING OFFICER. The Senator may state his question.

Mr. ARMSTRONG. Mr. President, my question is this: The plan I have in mind for my schedule this evening is from 9 to 11 there is a television broadcast of the third installment of a
ministeries which I found very interesting called "Noble House." I kind of would like to be home to watch that, although I could watch it here. My kids and I watched the whole thing, any pollsters want me to speak sometime during the night and, if so, at what hour? I would be glad to come back. I have a couple of hours worth of material that probably would be deserving of the attention of the body. I would be glad to do that tonight or tomorrow morning. But being one Senator who would not regard a vote on a motion to instruct the Sergeant at Arms as something I would particularly like to lose a night's sleep over, I will either stay or go depending on the advice of the Senator from Oregon. Or would he prefer to consult me later on that?

Mr. PACKWOOD. No, I think, on balance, in terms of the very good material that I know the Senator from Colorado will have, I think we will probably use it more usefully at a later time than this evening.

Mr. ARMSTRONG. I think the Senator. On that cheery note, I expect I will disappear shortly and see you tomorrow.

Mr. PACKWOOD. I think we will need it at some time, I might add.

Mr. ARMSTRONG. If the Senator will yield further, let me just say, I would not miss the opportunity to comment further on this bill.

Mr. PACKWOOD. Now, Mr. President, I was reading from the memorandum "Academicians on Expenditure Limitations." I finished two pages of it; the last paragraph I will read again. This is a quote from Dr. Gary Jacobson, professor of political science at the University of California in San Diego, in which he is commenting on the effect of campaign limitations and equal expenditure limitations for the incumbent and the challenger. This is what he says:

What are the implications of these findings for campaign finance policy? One obvious conclusion is that in general, any policy that increases the amount of money available to candidates will help challengers. And it is also plain that contribution or spending limits, or any other measures that restrict the amount of money spent in campaigns, will, if they have any effect at all, help those already in office.

Now, deviating from the article, it is understandable why that is true. Earlier today, I talked about some of the advantage that incumbents have, but I would like to cover that ground again. One is sheer name familiarity. California, any U.S. Senator, any Governor, you develop a great deal of familiarity. You are on the news, in the newspaper, you are at home speaking. And, finally, after you have been in the Senate 5 years and you are ready to run for reelection after your first term, if you were to pose the question, the pollster who asked this question: Do you know who Bob Packwood is, do you know who Mark Hatfield is, the two Senators in the State of Oregon? When posed that way, perhaps 99 percent of the people would say "Yes, I have heard of Mark Hatfield or I have heard of Bob Packwood."

Or, you can pose it: "Do you know who Daniel Inouye is?" And they would say, "Yes, we know who Daniel Inouye is."

I earlier postulated that my hunch would be that if you were to ask that question in West Virginia about the majority leader, Senator Byrd, I would imagine the answer would be close to 99 percent or almost close to 100 percent of the people in West Virginia that would have heard of Senator Byrd.

So if you are an incumbent, you have very, very high name familiarity and the longer you are in office the higher up it goes. Whereas, on the other hand, if you are a challenger, and unless perhaps you happen to be a Governor or a Governor can perhaps buy you that exposure of name and familiarity. But, short of that, the attorney general in the State could not, the secretary of state, the State treasurer, by the time you drop down to the members of the State legislature or the mayor or county commissioner, that candidate starting to run would be lucky to start out statewide 10 percent in name familiarity.

So, absent anything else, what is the situation if you have an incumbent— and I am assuming that the incumbent has not shot himself in the foot, has not done some terrible transgression that has simply turned the public against that incumbent. That happens every now and then in politics. We have all seen recent examples of that here. But most incumbents do not do that tonight or tomorrow morning.

There is an old adage:

Get along, go along. Don't offend anybody. Keep your head down. Don't offend anybody. But, if you are a Senator, if you have been there a couple of terms and if you are not here being critical of the media in the morning show, the day show, not difficult to get a meeting with the editorial board. He might get a meeting with one of the people on the editorial board but not likely the whole editorial board. It is just the way the system works.

Do not forget, I do not mean to be critical. You have been a Senator for one term, two terms, three terms; you have probably arrived at a position of some consequence and you are somebody that can make some difference in the second advantage of an incumbent: public financing of our campaigns when we are not campaigning.

One, the frank. We are allocated, by our own vote, a rather large sum of money to mail at public expense, taxpayer expense, newsletters to our constituents; almost all of the Members of the Senate do it. It would be an unusual newsletter that you would send to your constituents, telling them you did not like them or did not like their position.

What you are more likely to do is to get mailing lists, mailing lists of the elderly, mailing lists of gun owners, mailing lists of environmentalists, mailing lists of fishermen, mailing lists of women, mailing lists of people in the timber industry.

Then you mail to them over the 5½ years you are here before you are running for reelection newsletters on some of the most sensitive issues to them, usually phrasing your position in accordance with theirs so that they will be happy with you. It is very seldom that you would send a letter to gun owners saying you have decided to support gun registration. Very seldom would you mail a letter to environmentalists saying: I have decided to come out for unlimited oil exploration in the Arctic Wildlife Refuge. It is just the other way around. If you mail to them, you do not like them, you do not agree with them, you do not mail to that group on that issue, So we have the advantage of the frank.

Third is the access that we get. I am not here being critical of the media in the morning show, the day show, but I can tell you, you have decided to come out for unlimited oil exploration in the Arctic Wildlife Refuge. It is just the other way around. If you mail to them, you do not like them, you do not agree with them, you do not mail to that group on that issue, So we have the advantage of the frank.

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the Senate, you are newsworthy, and the news media covers news.

Or you want to investigate Federal activities in your State. You are in Hawaii. You might want to look at some of the Coast Guard bases. If you are in Iowa, you might look at some of the agricultural experiment stations. If you are in New York, you might want to examine some of the different U.S. national forests in one form or another. You will usually discover that the Government agency involved will be happy to have you look at and transport to and from the thing you want to look at. Understandably the agency is happy to have you look at it. They want you to see their work. Indeed, it is wise for us to see their work.

It is one thing to stay here and listen to witnesses. It is another to go out, go home and actually go out on the ground, see the ground and feel the ground. Is that going to stop you? may happen to be at the airport. Purely coincidental, of course, that you are taking your picture and you

renting a helicopter in a campaign circumstances the television cameras at the airport, as the television cameras from the local stations at that city happen to be at the airport. Fully coincidental, of course, that they would be there when you are getting off of the helicopter but there they are taking your picture and you are commenting upon the excellent work that the agriculture experiment station is doing or the Coast Guard is doing.

Everyone, frankly, is happy. The news media is happy. Government agencies are happy. Certainly the incumbent is happy.

But now let us assume that you are the challenger. He or she is not likely to get a helicopter provided. He or she, maybe, if they want to go see the agricultural experiment station, Coast Guard station that is 300 miles away, they can go and take their own helicopter. Interestingly, renting a helicopter in a campaign requires a fair amount of campaign money, money that the incumbent doesn't have to spend. The Government will provide the helicopter.

The challenger will have to rent it at his or her own expense to do exactly the same thing that the incumbent does for nothing. Then the challenger will be lucky if given exactly the same circumstances the television cameras from the local broadcast media happen to be there when the candidate paid for helicopters arrive at the airport. It is just coincidental. They happen to be there when the incumbent is there, but not the challenger.

(Mr. SANFORD assumed the Chair.)

Mr. PACKWOOD. So, in every possible situation, the incumbent has tremendous advantages. That is why most incumbents win.

Let us take a look at the last elections and see how most of them are very interesting, the 1980 Senate election. Every single incumbent spent within the spending limits set by S. 2 won; 10 out of 10 incumbents who spent within the limits of S. 2 won. Conversely, 80 percent of the challengers who spent within the limit, 10 out of 12 lost. Eighteen out of 20 challengers who spent within the limits lost.

Seventy-two percent of the challengers who spent above the limit, five out of seven challengers won. Therefore, a challenger who spent above the limit had a 63-percent chance of winning, five out of eight challengers altogether. A challenger who spent within the limit had a 10-percent chance of winning, 2 out of 20.

So, is it any wonder that incumbents like a system that precludes a challenger from spending any more on the campaign than the incumbent? It makes absolutely no sense to the person who is the incumbent.

What did Dr. Michael Malbin, of the American Enterprise Institute, say in his book "Money and Politics in the United States"?

Spending limits work the other way. In the aggregate, with some exceptions that grow out of the peculiarities of individual races, spending limits would favor incumbents and the felt most heavily in the most competitive districts.

What does Dr. John Bibby, of the University of Wisconsin—Milwaukee, say in a statement before the House Subcommittee on Elections on June 16, 1987?

"A major advantage of incumbency is control of official resources for reaching and serving constituents. The estimated value of official resources available to Members of the House is approximately $1 million over a two year period. . . . Professor Gary Jacobson, a leading expert on congressional elections, estimated in 1978 that the average House challenger would spend $320,000, whereas the average incumbent would spend $1.4 million. It is, therefore, not realistic to compare spending on television and radio advertisements in a race where the challenger is spending $320,000 and the incumbent is spending $1.4 million."

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In preparing this essay it was striking to find that in most of the twenty countries with 1.5 million voters and twenty-five years of continuous democratic practice, there is neither adequate financing data nor recognized experts with the knowledge and experience to make informed and generally accepted judgments of costs. Nearly half of the countries require no reports from parties or candidates. Half of the remainder have laws requiring limited information, or enforce their laws so casually that the reports are incomplete, implausible, or both.

But in these circumstances, any inclusive assertions that electoral campaigns are conducted at a much lower cost in all other democracies are made without sufficient data or by using criteria that are clearly inadequate. If the six countries whose expenditures were examined here are indicative, it is probable that the per eligible voter costs of the United States are more than the United States and in most other democracies.

And now quoting from Herbert E. Alexander and Brian E. Haggerty, Financing the United States Elections, page 81:

"Compared with some other categories of spending, however, spending for political campaigns is low. The amount spent in 1983-1984 is substantially less than the $2.4 billion that the nation's three leading commercial advertisers-Procter and Gamble, General Motors, and Sears—spent in 1984 to proclaim the quality of their products. It is a mere fraction of 1 percent of the $1.4 trillion spent in 1984 by federal, state, and local governments. And, as one journalist noted, it is "just a fraction of what we spend on cosmetics, pet food and illegal drugs."

The next point, Mr. President, is unenforceable, by Herbert E. Alexander in Financing the 1984 Election, page 81:

"As long ago as 1926, political scientist James Pollock wrote that imposing limits on the size of campaign contributions was futile "because the regulation, being unrea...
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sensible, will be circumvented, just as similar requirements have almost always been circumvented.”

The political system such as that of the United States, animated by a variety of competing interests each guaranteed freedom of expression, a tightly drawn system of campaign financing, and the requirement that those engaged in it will inevitably encounter great difficulties.

Quoting from the executive summary, page 1, Financing Presidential Campaigns, from the Institute of Politics, John F. Kennedy School of Government, Harvard University.

Among these problems, we feel the most troublesome are related to the attempt to restrict the spending of money spent by those seeking to influence the outcomes of presidential campaigns. The limitations upon expenditures have become increasingly restrictive and have spawned a whole series of serious problems of definition, allocation and enforcement. On the other hand, the effort to control total spending in presidential campaigns has failed.

Quoting from Financing Presidential Campaigns: Recommendations of Campaign Finance Study Group, edited by Christopher Arterton, chairman.

The FECA has not succeeded in limiting the growth of money spent in presidential contests. While the Act has, in fact, limited spending by those actually contesting the election, it has not been able to halt growth in the total amount of money finding its way into presidential elections.

The Act restricts both campaign organizations and political parties. But it is not possible to unduly dictate their political strategies. What should remain political decisions have, in effect, become accounting decisions.... The Act has not succeeded in arresting the upward spiral in campaign spending. The increases have come about, therefore, through conduits which are not under the control of the candidates, although in some instances this spending may be “coordinated” with the campaign organization. Spending by labor unions and corporate PACs for “internal communications” is also outside the candidate’s direct control. Moreover, the estimates of the extraordinary quantities of money that these candidates get, since by and large they do not have to be reported to the FEC.

On this unenforceability aspect, what the various academicians are talking about is the fact that if we say we can only spend a certain amount of dollars in a Presidential campaign, $20 million or $30 million, and somebody wants to spend money on a Presidential campaign, prior to the limits they would give it to the campaign committee. Spending by labor unions and corporate PACs, for instance, is within the control of the candidate himself, or his agents. Therefore, the committee gives it to the candidate in the presidential campaign committee. The person instead of giving it to the presidential campaign committee gives it to an independent committee and the independent committee goes out and spends it.

Now, if it is an independent political committee, at least that committee has to report the spending that it is doing, and most independent committees, in fairness to them, do, if they are independent political committees. The extraordinary abuse that is growing and growing is de facto political spending by what we call section 501(c)(3) or (c)(4) or (c)(5) organizations. These are charitable, educational, eleemosynary institutions. They are tax exempt. If you make a contribution to them, you get a tax deduction. They do not have to pay any taxes on any money they earn or money they get. These organizations, and labor unions, are the same. Spend money in de facto politics, by de facto I mean actually in politics, in calling up the members.

Let us say the union has endorsed Walter Mondale. This is the 1984 election. They then called up their members and see which of their members are supporting Walter Mondale. Let us say 70 percent of the union are supporting Mondale, and 30 percent are supporting President Reagan.

The union is then perfectly free to use its money to recontract the 70 percent who are supporting Walter Mondale and get them out to vote on election day and never call the 30 percent. And then they actually do that and it is not counted as political spending. It does not even have to be reported.

That is why we have these academic estimates of the extraordinary quantity of money that was spent by organized labor in the past few elections that is never reported.

I must say, on some occasions, to be bipartisan, the Teamsters Union spent an extraordinary amount of money. They had endorsed President Reagan in 1984. But try to get the exact amount of the money that these 501(c)3’s, (c)4’s, and (c)5’s spend and it is difficult because in most cases they do not report it.

I talked about unions. Those are traditional organizations, and corporations are traditional organizations. Corporations would not have to report it if they contacted their employees by mail and asked them to go out and got them out. What we are seeing is a growth of new eleemosynary, charitable organizations, new organizations that are formed to get a tax-exempt 501(c)(3), 501(c)(4), or 501(c)(5) status, who are formed for no other purpose. Mr. President, than for getting out the vote for a particular party or candidate.

And these are growing, frankly, because of what that we have done in the process here in the Presidential race. If you cannot give your money to your favorite Presidential candidate in the general election, give it to your favorite 501(c)(3), (c)(4), or (c)(5) organization that will get out the vote for your favorite candidate.

So the limits have not worked. The limits have simply pushed the money outside the process into organizations that are not responsible to voters, into organizations that do not have to report to the Federal Election Commission, are totally unresponsible to any rational political account-

ability. At least when a candidate runs, the candidate has to file with the Federal Election Commission and know from whom he or she receives his or her money. If they received 80 percent out of State running for the U.S. Senate, they would file for taking 80 percent out of State money. If they received 50 percent, tap them for receiving 50 percent from the political action committees. It is reported. You know it. And then in addition to that, when you are running for the Senate, whether you are running in Idaho or Oregon or New York, you have got to appear before a wide spectrum of voters who are liberal and conservative, who support gun registralization and do not support gun registralization, who want more wilderness and who do not, and they are going to pin you down with questions and you are accountable to all of them. And they may elect you or they may not. And part of the reason they may or may not vote for you is because of from whom you got your money, and they know from whom you got it. But these so-called soft money organizations are not accountable to anybody. They do not have to report to the public. You do not know where they got their money.

And by and large they are made up of those who have a single-purpose agenda. These organizations are not accountable to pro-wilderness and anti-wilderness people or progun and antigun people. These are very narrow special interest, parochial groups, the sole interest of which is electing or defeating a candidate who may or may not further their issues. And you as the voter do not know what they spend or how they spent it. And we are encouraging these kinds of organizations more and more and more.

Now, Mr. President, I have indicated earlier why I understand the majority party supports this bill. As I indicated by the academic studies I read earlier, it clearly favors the incumbent. I suppose from a pure standpoint of personal self interest, I probably ought to support the bill, too. I have been in the Senate 20 years. I do not have to run again until 1982. My name familiarity is high. I think I could succeed in re-election against a challenger who was equally well financed who had to start from a very, very difficult underdog position.

But I would ask the Senator to remember this in considering this bill, and I would ask the public to remember it so that they would understand why the Republicans oppose this bill so terribly. First, incumbents have an advantage over challengers and most of the incumbents in the Senate are Democrats, 54 Democrats, 46 Republicans. So all things being equal, if averages work out, and Incumbents have an advantage, the Democrats will keep
control of the Senate, especially if you can make sure that a challenger, a Republican challenger, cannot spend somewhat more money than the incumbent to make up for the disadvantages that the unknown challenger has.

Second, party registration. On average, and I am speaking about averages—there are exceptions—people will vote the party in which they register. It is more likely that Democrats vote for Democrats than Republicans. It is more likely that Republicans vote for Republicans than Democrats. That is not new. We have known that for years. Every poll I ever see, every exit poll, every poll ahead of the election indicates that most of the people, most of the time, vote for the candidate of the party in which they are registered. It is also no secret that since about 1940 the Democrats have been the majority party in this country. The Republicans were roughed up in the Depression. Democrats have been from roughly the Depression to now.

So if on average the minority party—that is the Republican challengers—are spending more money than the majority party incumbent Democrat, that is another advantage for the incumbent Democratic Senator. So it is no wonder that you do not want to have a bill or law that would allow your challenger to spend more than you would spend.

Now let us come to some of the complaints, some of the allegations of the majority as to the evils of the present system and how their bill would cure them and how only their bill would cure them.

The first argument is the political action committees. They are evil is the argument, they are evil, they are special interest, they give big money if they want to buy your ear, if they can they want to buy your vote and we see perpetual stories of the growing influence of the PAC’s and a higher percentage of candidates depending on them, and more and more the money comes pouring in and that is bad for the process. If that is the complaint, that is easy to remedy. Just change the law that now allows political action committees to give $5,000 to a candidate in the primary and another $5,000 in the general, $10,000. Change that law to zero. The political action committee cannot give any money.

Now, the political action committee may give to one of these 501(c)(3) organizations. It may do something else with it. But if the alleged evil is the political action committee giving to the candidate, just change the law so the political action committee cannot give to the candidate. We can solve that without the bill sponsored by the majority which requires public financing of elections. We can do that without tapping the purse of the taxpayer in this country.

The second issue in addition to the one I have just mentioned—well, let me get that part out of the way. You have the policy on incumbents that I should have mentioned while I was talking about incumbents. An argument will be made that the PAC’s will give more money to the incumbents than they will give to challengers. This is true only to a degree, although it applies to Republican incumbents as well as Democratic incumbents. This is true only to a degree that the political action committee is convinced that the incumbent will win. As most incumbents win, most political action committee funding goes to incumbents. The argument is that happens, of course, so they can keep the ear of the incumbent. They can get rid of that by going to zero.

The second argument is that often raised in addition to the evils of the political action committees is that we are spending too much money on campaigns generally. Now, forget for the moment the source of where they say it came from. They spend too much. The campaign in 1976—and I am paraphrasing. This is what the proponents say and I might be wrong—was $600,000, by 1986 it had grown to $3 million, and if it kept growing at that rate, in another 10 years it will be $90 million, $900 million, $9 billion? Is there no limit to what people will want to spend?

If that is the complaint, then that is easily cured without asking the public to finance our campaigns. First let us say we have changed the law so that the political action committees cannot give, so we have removed altogether that source of money. Second, we take the limits on individuals. At the moment, it is $1,000. An individual can give you $1,000 in the primary, $1,000 in the general election, $2,000 for the campaign.

Change that limit to $100 instead of $1,000, $50 instead of $1,000. It is not wedded to 50 or 100. But we cut it way down.

That will have one or two effects. That may dramatically lower the amount of money that you raise for a campaign there by achieving the goal that the reformers say they want of lowering the cost of campaigns. It may have that effect. The other effect it might have, and frankly I think that is the one I would have—would be in reducing the cost of campaigns, instead of raising your campaign fund to 5,000 people you would now have to raise it from 50,000 or 100,000 people in small amounts.

I think that is good for democracy. If we could get 20 or 30 or 40 people in this country to give $20, or $30, or $40 apiece to campaigns, once they gave that $20, $30, or $40, they would have an interest in the campaign. They are not going to give $20, $30, or $40 because they want to buy your ear or vote. They give it because they believe in you. If you are a genuine Democrat, the reformers will give you that much, they will work for you.

If participation in democracy is what campaign laws ought to be all about, then that is what we ought to be doing.

Do you know the reason I think the Democrats have some misgivings about that? Ironically—this is contrary to formal public image of the parties—the Republicans have been more successful than the Democrats in raising money from small contributors. Both parties have tried it. Candidates from both parties have tried it. The normal method of doing it is by direct mail, and almost everybody in this Senate Hotel from 6 o'clock to 8 o'clock, another. I would wager half of this country received these direct mail solicitations of one kind or another.

For whatever reasons—I have some theories but I do not need to discuss them here because the Republican Party has succeeded at it, and the Democratic Party has not. That accounts for the stories that you have seen in the papers over the last year or so—I think it even surprises on occasion the reformers that the research—that indicate that it is the Democratic Party, not the Republicans that are financed principally by PAC’s and major donors, the fat cats as the successful than the Democrats.

The Democrats are much more dependent on those big contributions. Interestingly, those big contributions are relatively cheap to raise. You have a $1,000 cocktail party at the Washington Hilton Hotel from 6 o'clock to 8 o'clock at night. You send out letters all over the city, all over the country, “Please come to my cocktail party,” $1,000 a head; it costs you maybe $30 a head to put on the cocktail party.

So a person gives $1,000 to come to the cocktail party, costs you $30 to entertain them, you make $970, relatively inexpensive fundraising, very low cost to the amount raised. This is the way Democrats principally raise their money—large contributions from relatively fewer donors.

The Republicans on the other hand raise a much greater proportion of their money from these $20 and $30 contributions that you raise by direct mail.

The problem is that is expensive fundraising. A normal rule of thumb is if you can get a 2-percent return on what we call prospects, and these figures are taken, and it has been 3 or 4 percent; it would be a much more successful Republican Senatorial Committee but I do not think from what I have read that they have changed much—if you can get a 2-percent return on pros-
pects at $20 a return, that is good prospecting. By prospecting we mean rent a cold list. You rent from Fortune magazine, National Rifle Association; you rent any commercial list available that normally costs you $50,000 or $60,000 to rent it. You have all kinds of associated costs in the direct mail, the postage, printing, return envelope and all of that.

Let us say you send out a million letters, costs you about 40 cents apiece, $400,000, you get 2-percent return, 20,000 come back in, you raise $20 apiece, it raises $400,600. It breaks even. The reason it is worth doing is because those 20,000 people who have given you money experience indicates will give to you again from subsequent names and it is relatively inexpensive to mail that

20,000

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It is not interesting that a bill sponsored by the leadership of the majority party that what they would be attempting to achieve—they do not intend it, but I think they do—is to push campaigns toward raising money by the method that has proven successful for the Republican Party; that is, raising it from large donors, large contributions, that are relatively inexpensive to raise, the $1,000 cocktail party with the $30 expense, favors that rather than raising thousands and thousands of dollars from thousands and thousands of donors at $10, $20, $30 a crack by direct mail.

This bill is understandable. It favors incumbents. There are more Democratic incumbents than Republican incumbents. It favors the majority party. Democrats are in the majority party. And it favors raising money from large donors rather than small donors, which benefits the Democratic Party rather than the Republican Party.

I think if I were in the majority party, Mr. President, not from the standpoint of the good of the country, but from the standpoint of the good of myself, I would support this bill. From the standpoint of the good of the country, from the standpoint of the good of the taxpayer, this bill is not needed. I think the Republicans are prepared to fight it out here all week, all month, all spring, all year.

The PRESIDING OFFICER. The clerk will tally the roll.

Mr. WEICKER. The clerk, I know well. Believe me, he can tally very fast. If we are going to follow the rule around here, let us follow it for all.

Regular order.

Mr. President, regular order. Regular order. Mr. President, regular order. Regular order.

The PRESIDING OFFICER. The clerk will tally the roll.

The result was announced—yeas 57, nays 17, as follows:

YEAS—57

Adams Fowler Metzenbaum
Baucus Glenn Mikulski
Bentsen Graham Mitchell
Boren Grassley Moynihan
Bradley Harkin Pell
Breaux Hatfield Pryce
Burdick Hefflin Pryor
Byrd Hemze Reid
Byrd Humphrey Rockefeller
Conrad Inouye Roth
Dannforth Johnston Sanford
Daschle Kerrey Sasse
Diaz-Con计入 lastenberg Shelby
Dixon Leathy Simpson
Dodd Levin Stevens
Domenici Mantonaga Thurmond
Exon McClure Warner
Ford Meigher Wirth

NAYS—17

Armstrong Kasten Specter
Cohen McCain Symms
Durenberger Murkowski Wallop
Garn Nickles Weicker
Hefley Packwood Wilson
Karnes Quayle

NOT VOTING—26

Biden Evans Nunn
Bingaman Gore Prewler
Boren Graham Reid
Boschwitz Hatch Rudman
Chafee Hechti Simon
Chaffetz Hollings Stafford
Coogan Kennedy Stevens
D'Amato Lugar Tribe
Dole McConnell

So the motion was agreed to. The PRESIDING OFFICER. A quorum is present.

The question is on the second-degree amendment.
Mr. SIMPSON. Mr. President, I wish to be recognized.

The PRESIDING OFFICER. The acting Republican leader.

Mr. SIMPSON. Mr. President, obviously we are at an impasse which could go on. It is not our intent to disrupt Members on both sides. I am going to have a meeting with the members of the S. 2 coalition right after these remarks and also with the leadership of the Senate. We will be able to tell perhaps what we will do tonight with some better clarity.

But we have some spirited people that feel if they are going to be here everyone should be here. That is a theme here with some; others thinking that we will meet our hour quota and rest and save ourselves for these next days.

So I will be able to report back on that in a few minutes. Senator McCain will then proceed with the debate on our position.

But at this point I would ask for the yeas and nays on amendment No. 1405.

Mr. BYRD. Mr. President, is that the pending amendment?

Mr. SIMPSON. The PRESIDING OFFICER. That is the pending amendment. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SIMPSON. Mr. President, let me also propose this—and I have not talked with the majority leader, but obviously I can discuss it—I ask unanimous consent that it be in order to order the yeas and nays on each occasion.

Mr. BYRD. I would object to that.

Mr. SIMPSON. Then we will make that at a timely point on each occasion.

Mr. BYRD. That can be done

Mr. SIMPSON. Yes.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Wyoming yield the floor?

Mr. SIMPSON. Mr. President, I yield the floor, if I have the floor, to Senator McCain.

Mr. BYRD. Mr. President, the Senator cannot farm out the floor. If he wishes to yield the floor and if Senator McCain wishes to seek recognition, he may do so.

Mr. SIMPSON. That is perfectly appropriate. I yield the floor.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I rise to address the issue again of S. 2, which we have been addressing for what appears to be ad infinitum; certainly, without a doubt, in the minds of many Members ad nauseam.

Mr. President, what I happen to be singularly blessed in that I have been one of those selected Senators, one of those in the enviable position who has been selected by the organization named Common Cause—some of us call them "Uncommon Cause" due to some of the various causes and issues they have been associated with—but I have been singlehanded, Mr. President, for full-page ads to be taken out in every newspaper in my State castigating me for failing to allow this piece of legislation to go through—filibustering, defying the will of the people. Even to add credence to these unusual charges, Mr. President, it is signed by that common household name, Archibald Cox, a man who I know is very familiar to most Arizonans and most Americans.

What business Archibald Cox has in telling the people of the State of Arizona how they should judge my conduct is not something I understand at this time, but at the same time we are always pleased when Common Cause will spend a great deal of money in my State supporting the print media and thereby helping with the employment and the livelihood of so many members of the press. And so I must extend my appreciation to Common Cause for their taking out these full-page ads, pumping this considerable sum of money into the State of Arizona, and I urge them to continue perhaps on a weekly basis if not monthly.

It provides for interesting reading. It also arouses one's curiosity and sometimes stimulates my humor when I see the way that these ads are shaped, particularly since in every single one of these ads there has yet to be a single mention of public financing.

Mr. President, that seems to have escaped either the notice of Archibald Cox or perhaps it does not concern him, since it is my understanding that Mr. Cox is an independently wealthy man and what happens to his tax dollar may perhaps not concern him as much as my middle-income American today who are shouldering such an immense tax burden.

But Mr. Cox's missive to Arizonans is one which spends most of its content in attacking me for my failure, in fact almost singlehandedly—I do oftentimes appreciate the credit that Mr. Cox gives me for having an enormous amount of influence and clout in this body, because in reading this advertisement, one would think John McCain singlehandedly was holding up the passage of this legislation and indeed defying the will of the American people. I certainly am flattered by not only the attention but the great credence that he gives me; I have in this body.

But I think it is very important that we really get some understanding of this issue rather than spending time taking out full-page ads in certain Senators' States. In fact, although I hope that these full-page ads do continue because it is very good for the economy of my State, I am not sure that Mr. Cox and his friends that they have stimulated my interest in this issue, they have stimulated my opposition, and they have caused me to take a rather firm stand on this issue since some serious and honest research into this ill-founded piece of legislation, the more convinced I am of how disastrous this would be, not only to the Republican Party, but to the political process as we know it.

Now, our distinguished acting minority leader, my friend from Wyoming, Mr. Simpson, stated it very well. What this legislation is all about in its present form is who is going to be in the majority for the next 40 years. Face it, my friends, we are not talking about the nuances of campaign reform. We are talking about whether the Democratic Party will maintain the majority in this body for the next 40 years. That is why we are seeing the commitment of most of the Members on this side of the aisle to extended debate.

I think that it is very important also that we look at what is happening in the area of Presidential campaigns.

Now, I know that many Presidential candidates that have entered the race have a great deal of credibility, particularly in their own minds and that of their wives and perhaps of their immediate family. But I think that most objective observers of the political scene would suggest that a number of candidates for President of the United States have very little, if any, chance of succeeding to the Presidency. In fact, as unpredictable as Presidential campaigns are, it would be impossible to believe that some unmentioned great Americans could have the slightest opportunity of actually achieving this country's most exalted office, the Presidency. That is true with both parties.

Mr. President, besides considerable egos which are certainly not confined to Presidential candidates, what motivates people to run, to seek the nomination for the Presidency of their country?

I would suggest that one factor, and this has been well documented in the media, is the knowledge that if they are able to get a certain amount of money, that that money will be matched by taxpayers' dollars.

I hope someplace in the course of this debate we will be able to discover exactly how much of the taxpayers' dollars has been expended on Presidential losing campaigns since we revised the campaign laws in 1971. I would suggest to you that it runs into the hundreds of millions of taxpayers' dollars. I would suggest that I have never heard of a single person in my State who says that they would like to see
their tax dollars spent for Presidential campaigns for candidates that they may not even know nor to support views with which they disagree.

When I ask my constituents, those who have read those stirring full-page ads in the media, if they support expenditures of their tax dollars in this era of enormous deficits, if they support spending their tax dollars on funding someone's political campaign, I have yet to meet a single person who has told me: "Please, Senator, please, take some more of my taxes, would you, and spend it on some politician's campaign who is seeking a public office." I have not met a single one.

Perhaps I have not traveled in the right circles. Perhaps I have not met and confided with the members of Common Cause in the quiche-eating establishments in which they congregate.

Perhaps I have not had the opportunity to travel at those high intellectual levels of people like members of Common Cause, and I think that the needless expenditure of taxpayers' dollars on political campaigns is not only fitting but extremely appropriate.

Let me also point out that I have questioned my esteemed friends—and indeed I do have very good friends whom I respect enormously who are supportive of this legislation—why do we have to have taxpayers' dollars expended in order for us to get a true campaign reform? And of course the response is: Well, it all goes back to a bald Cox and his friends, there is a perhaps we might be putting the cart before the horse and what we ought to do is try to change the constitutional aspects of campaign finance reform and then move forward and pass legislation which would bring about the kind of reform that we need.

Let me also point out something. In the full-page ads taken out by Archibald Cox and his friends, there is a great deal to say in that about political action committees. According to Common Cause, and I believe that I am stating their views accurately since I have been bombarded with them from so many directions, political action committees are a corrupting influence on the process and that political action committees are, somehow, a way for "special interests" and groups of some evil and diabolical intent to have an inordinate impact on the political process.

Well, I would suggest to the proponents of S. 2: let us do away with political action committees. I am prepared to propose an amendment, if it would be accepted by the opponents of S. 2, that we would do away with all political action committees of every kind.

Why is it that my friends who support S. 2 and are so concerned about the influence of political action committees will not agree to such an amendment? Let us take it right out of the legislation. We do not even have to have an amendment on the floor to this bill. Why is it?

Well, frankly, you can only draw one conclusion and that conclusion might be that certain organizations such as labor political action committees would not sit still for this. And, also, we have not addressed the whole issue of soft money.

We are all very aware of the 1984 Presidential campaign when organized labor spent some $10 million on the candidacy of the Democratic candidate for President of the United States. That is one of that, of course, was in any way counted against the campaign spending limitations nor even reported.

But I think that if we are concerned, as I think we all are, about the influence of political action committees, and if it is, indeed, an inordinate influence on the political process, can we not just do away with them?

I wonder what is so objectionable about that? Do they look forward to hearing the justification for keeping the PAC's, since that seems to be the focus of a great deal of discontent that my colleagues and the American people have expressed who are in support of this legislation.

Let me just talk for a minute about spending limits. Spending limits, according to S. 2, in my view are too low.

I beg to disagree because of the S. 2 postal subsidy administrative cost for FEC to administer S. 2, cost of public financing for candidates whose opponents exceed the spending limit; the cost of subsidizing candidates hit by independent expenditures, and, finally, the compliance costs allowed by S. 2.

The postal subsidy. The current postal subsidy for political parties that S. 2 would eliminate is about $10.6 million annually. The postal cost for candidates under S. 2 is approximately $130 million per election cycle. That is a factor of 10 increase. Administrative costs: FEC costs to administer S. 2 would increase dramatically due to the expanded workload of implementing and interpreting the new law. While precise costs are impossible to pin down, the FEC has estimated based on current figures that the additional cost of administering S. 2 would approach $1.65 million. That is just for the FEC to administer this new law.

The average Senate campaign spends between 25% and 33% on fundraising. The spending limits of S. 2 do not make sense because the costs of campaigning vary from state to state based on factors other than the voting age population. Of greater importance, they don't take into account the cost and location of media markets.

I happen to come from a State that has two major media markets. The State of Texas has approximately 22 major media markets. How can we adequately compare the State of Texas with the State of Arizona, simply as it regards voting age populations? Because media markets are often dictated by geography as opposed to the number of voters.

Spending limits are unenforceable and I intend to get into that a little later on.

One of the greatest disgraces, I think, is that so many candidates have been called shy by the FEC because of their failure to adhere to present laws as they are.

The costing of S. 2. Let us talk about the costs of this legislation. We are talking about a period of dramatic attempts to reduce our deficit budget rather significantly and yet we are now considering a bill that I think has significant costs associated with it. Out of this discussion, the distinguished majority leader, Senator Byrd, said during the floor debate, "even the slight potential cost of this legislation is more than fully offset within it. The amendment ends preferential mailing rates for political parties.

I beg to disagree because of the S. 2 postal subsidy administrative cost for FEC to administer S. 2, cost of public financing for candidates whose opponents exceed the spending limit; the cost of subsidizing candidates hit by independent expenditures, and, finally, the compliance costs allowed by S. 2.
million? I think the answer is clearly no.

Inquiries from the candidates and the public would increase. In fiscal 1986, the FEC responded to over 110,000 inquiries. Fifteen thousand of these inquiries required substantive research to provide a response. The average response time for these 15,000 inquiries was 10 working days. This is from the FEC response to questions from the House Administration Committee for the fiscal year 1988 budget.

We enact a new law, a rather complex law. What is it going to do with those inquiries? I would suggest it is going to double and triple the increased numbers of advisers required to clarify the new law.

In fiscal 1986, FEC staff workers worked on four revised projects at an average cost of $1,642 with each taking an average of 87 staff hours.

If we pass this legislation, we may have one of the largest bureaucracies in Washington, D.C., responsible for handling public inquiries cost $743,000. Both divisions would obviously have to be expanded to cover implementation of the new law. In addition, there would be increased audit costs to ensure that the taxpayers' money was being spent properly by the candidates. Increased personnel costs with an inflation of about 5 percent would also have to be added.

Public financing. This has been a subject of discussion on this floor on this bill, and I think it is important for us to understand exactly what cost this would be to the public.

The cost to the taxpayers of funding candidates whose opponents exceeded the spending limits would be approximately $20,502,000. The Congressional Budget Office has estimated that 20 percent of the candidates would not comply, meaning $10,251,000 in tax entitlement checks for major party candidates whose opponents exceed the limits and $10,251,000 to third-party candidates whose opponents exceed the limits assuming one third-party candidate per election.

Independent expenditures. Independent expenditures against the candidate who is abiding by the spending limits would trigger dollar for dollar payment for any independent expenditures of more than $10,000 against the limit. Based upon the total independent expenditures in 1986 for the Senate races this would cost the taxpayers $4,476,000 per election.

Compliance costs. S. 2 provides a compliance cost fund of 10 percent of the State's spending limits for candidates who require legal and accounting help to comply with the law. Based on 66 candidates needing this legal and accounting help, the cost would be $10,251,000. Suppose only half of those 66 Senate candidates would need this legal help. That would only be $5,150,000. My friends, the costs mount up. What it means is because of the abilities to receive taxpayer financing in some cases and indeed spending limitations we have had what we have seen in Presidential campaigns, a proliferation of candidates. I think that would be a natural consequence of this kind of legislation and that, of course, causes the expenses, the projected expenses, to rise exponentially.

Now let us talk about the evil political action committees, the thing that Archibald Cox uses to fire up the American people so they can be aware of the terrible and insidious aspects of political participation. Let us get rid of them. Let us enact a new law, a rather complex law.

First of all, as I said before, if political action committees are part of the problem. Let us get rid of them. Let us incorporate that in S. 2 as soon as possible in order that they would get under the limits assuming one third-party candidate per election.

I did a little study as far as the average contribution of several of the political action committees that contributed to my campaign. The average contribution of political action committee was somewhere around $25. When an employee of Motorola, the largest private employer in my State, gives $25 to the political action committee which is, in turn, donated to my campaign or that of another candidate seeking public office in the State, is that really distorting the process? Is that really something that we need to be terribly concerned about?

Well, I would suggest that if there is a problem in America today, it is not because of political action committee participation; it is because of lack of political participation on the part of all of our citizens.

I would suggest that a law urging people to vote, urging people to be involved in campaigns, urging people to stand for public office, urging people to be involved in political action committees is another way that they can make their influence felt in the political process.

After having said all that, however, if the general perception is that somehow political action committees are a great and overriding evil in American politics, then today I would be one of the first to inquire further, and I have since the beginning of this exhausting and rather unpleasant debate.

But let us talk about what S. 2 does to political action committees since it is clear that S. 2 does not do away with political action committees.

It fails to put into the amount a PAC can contribute to a campaign for the Senate. It simply limits the amount a candidate may receive in aggregate from all political action committees. This does not deal with the problem. Let us talk about the evil political action committees. This does not deal with the actual or apparent undue influence over a particular special interest. What we are going to do is not do away with the evil but just kind of reduce it. OK, I understand that.

S. 2 in no way reduces the perceived problem that a Member of Congress may be unduly influenced for a $5,000 fee. S. 2 would allow an individual PAC to give the same amount as under current law and thereby have the same amount of influence.

It seems to me that in the event S. 2 were enacted into law in its present form, political action committees would be more direct way to deal with the actual or apparent undue influence by the PAC. Democrats have rejected that approach because they realize their candidates are more dependent on large contributions from special interests than are Republican candidates.

There was a very interesting article in the Wall Street Journal which I think clearly defined the differential as it exists today from large contributions to Democratic candidates as opposed to Republicans.

In the 1986 elections, Democratic Senate and House candidates received 55 percent of all contributions made by PAC's to 45 percent for Republican candidates. In addition, PAC contributions accounted for an average of 37 percent of the money raised by Democratic Senate and House candidates to 20 percent for Republican candidates.

I must tell my colleagues in all candor I have questioned my Republican colleagues as to why they feel it is so necessary to defend the political action committee system when it is
clear that the majority of PAC money is now going to Democratic candidates as opposed to Republicans. But no one has ever accused the Republican Party of always taking the wisest and safest course.

Furthermore, S. 2 has to some degree an opposite effect from that desired. A political action committee, as I mentioned earlier, is a collection of individuals with common goals and concerns banded together to better participate in our electoral process.

More people now give through PAC's than through direct contributions. In the 1984 election cycle, almost 5 million people are estimated to have gotten involved through PAC's. We should encourage this involvement, which is fully reported and a matter of public record. Let me repeat that. This political involvement through political action committees is fully reported and a matter of public record. S. 2 would limit this public participation by only allowing some PAC's to contribute to candidates. This would work to the advantage of large powerful political action committees based in Washington. Grassroots PAC's without a Washington presence are the likely losers.

Let me say something else about PAC's if I could. I have the same problem that many of my colleagues do. Too much of their funds go to the incumbent, whether that incumbent be Republican or Democrat, and it does not give, in my view, the challenger an equal playing field quite often. I think it is abundantly clear from examining the records that that is the case.

But does that mean, because to some degree political action committee funds are misused, therefore, do we go away with the entire concept? No. I would suggest that one of the answers is not to close off PAC's and encourage political action committees at the grassroots level in our respective States and communities rather than be solely dependent upon the political action committees which are often too remote from the people.

The provisions of S. 2--and familiarizing himself with their issues and concerns. He could simply hold a single PAC event at which PAC's could contribute to his campaign on a first-come, first-served basis, up to the legal limit. Now let us talk for a few minutes about the enforceability of S. 2.

Proponents of S. 2 assume the ability of the FEC to move speedily to certify breaches of the spending limits and independent expenditures and to provide the payment of taxpayers' dollars to the injured candidate. But the facts are that the FEC's performance record and "due process" considerations make the chances of such payments in a timely fashion nearly impossible.

The best current estimate from the FEC is that requests for taxpayer funds would take at least 40 days from date of receipt to process. This suggests there is no way to counter violations of S. 2 in the crucial last weeks of a campaign.

We all know that expenditures during the last weeks in a campaign are generally the crucial part of any political campaign.

I would suggest that S. 2 in its present form would be so cumbersome to the bureaucracy that it would be almost impossible for the FEC to redress violations in a timely fashion. I am sure it would be very comforting to the losing candidate to know that justice is done after election day, but, unfortunately I doubt if it would serve to reverse the results of the will of the people.

Other workloads at the FEC under current law I think are worthy of note. Advisory opinions take a minimum of 60 days. Audit reviews on a threshold basis take about 2 weeks to complete but an additional week for certification. The Commission must approve an audit before the staff can commence it.

Informational responses usually take no more than 1 day largely because they are not binding. Remember that an advisory opinion is just a game when we are talking about an advisory opinion which is binding and an informational response which, of course, could be retracted or contradicted with extreme ease.

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The provisions of S. 2 are no more enforceable than the state-by-state spending limits of the current Presidential Public Funding Act. These require a precision and timeliness not usually found in campaigns. The present enforcement process at the FEC is already years incomplete, meaning it can have no effect on the outcome of an election and is no deterrent. The list of violations in recent years makes this obvious.

In 1976, now President Ronald Reagan was a violator in New Hampshire. My dear friend and colleague and revered Arizonan, Morris Udall, was also a violator in the State of New Hampshire. In 1980, Carter in New Hampshire, Iowa, and Maine; Kennedy in New Hampshire and Iowa; LaRouche in New Hampshire; Reagan in New Hampshire. I would have thought that President Reagan might learn in New Hampshire. In 1984, Mondale in New Hampshire, Iowa, and Maine; Glenn in New Hampshire and Iowa; Cranston in Iowa. And I might add that all of these individuals are decent, honest individuals who I am sure had no intention of violating the FEC campaign laws. I am convinced of that knowing these individuals as I do. However, that does not change the fact that action was not taken in anything near a timely fashion.

Let us talk about the constitutional-ity of S. 2.

The constitutional standards by which S. 2 must be measured were set out by the Supreme Court in Buckley, v. Valeo, 424 U.S. 1 (1976).

In order to survive a first amendment challenge, S. 2 must either advance constitutionally compelling Government interests to justify the restriction in speech caused by spending limits or provide a voluntary restriction agreed to as a condition for public financing. The Court found that spending limits do not advance any compelling Government interest, and were unconstitutional. The Court stated: "The mere growth in the cost of Federal election campaigns in and of itself provides no basis for governmental restrictions on the quantity of campaign spending and the resulting limitation on the scope of Federal campaigns."

Accordingly, S. 2's authors have attempted to craft a bill that provides voluntary spending restrictions as a precondition for receiving public money. But S. 2, in my opinion, cannot pass constitutional challenge just by calling its spending limits "voluntary" since it, in reality, an attempt by the Government to impose indirectly a restriction on speech that it may not accomplish directly.

S. 2 is not truly voluntary since a candidate must declare by a prescribed time whether he will abide by the spending limits. Once declared, a participating candidate may not change his mind and spend above the limit without incurring sanctions, even
though the candidate has not received any public benefit. Thus, the Government is punishing an individual for exercising his constitutional right to free speech, without providing the mandated benefit.

A candidate who agrees to the spending limits has, at best, only a chance to receive public financing. If his opponent also agrees to the spending limits, there is no public financing. Thus, the first candidate has given up his right to free speech without being able to receive the constitutionally mandated reward. The only thing a candidate gains by giving up his right to free speech is the assurance that his opponent will not receive taxpayer money.

8 mandates the Government to repress speech by funding the opponent of a candidate who exercises his right to free speech.

If a candidate chooses not to participate by fully exercising his constitutional right to speak and not observe the limits, he is punished by the Government because his opponent will receive taxpayer money to expand his contrary views. Thus, the Government enters the political debate by subsidizing one candidate simply because the other candidate has opted to exercise without restriction his right to free speech. This exacts an unconstitutional penalty by making the size of the public subsidy to the candidate's opponent dependent upon the candidate's own first amendment conduct.

Now let us talk about the money myth.

The Republicans all have more money, the Republicans all are receiving more PAC money, Republicans are always better financed. I think it would be well to note that the reason Republicans are better financed is because we get significantly higher individual donations from Americans all across this country.

As I mentioned earlier, and I am searching for the number again, in the 1986 elections Democrats, Senate and House candidates received 55 percent of all contributions made by political action committees to 45 percent for Republican candidates. In addition, PAC contributions accounted for an addition of 37 percent of money raised by Democrats, Senate and House candidates, to 28 percent for Republican candidates.

The fact is, my friends, that that percentage is increasing in 1988 probably due to the fact that the Democratic Party is in control of both Houses of Congress. So where does the Republican Party get its money?

I see my esteemed friend and colleague, the Senator from Minnesota, here, Senator Boshwitz, who keeps a very close eye on where Republican contributions come from.

I would ask that I could yield a moment to my colleague from Minnesota who would be glad to illuminate us as to the amounts of money that Republican candidates are receiving and from whence they came so that we can talk about this myth about who gets the most money where.

Mr. BOSCHWITZ. I would say to my friend from Arizona that in 1986 the Democrats received 55.6 percent of PAC money, and the Republicans 43.5 percent.

Mr. BYRD. Madam President, I make a point of order that the Senator can only yield for a question.

The PRESIDING OFFICER. The Senator from Arizona can only yield for a question.

Mr. BOSCHWITZ. I would say to the President, Madam President, that he asked me a question and I am now answering it.

Mr. BYRD. Madam President, the Senator who has the floor cannot ask a question of the other Senator. He can yield for a question.

The PRESIDING OFFICER. The point of order is made and it is correct.

Mr. McCAIN. I appreciate, and I am sure we will have an opportunity later in this debate hearing from my distinguished friend from Minnesota who is indeed the chairman of the Republican Senatorial Campaign Committee. He keeps up with these numbers and figures very well.

But the fact is that the overwhelming majority of the money that the Republican candidates receive are from small contributions. I am sure that there has been some narrowing of that gap, but let us not have any allusions as to where both parties come from.

Does my distinguished acting leader request that I yield to him?

Mr. SIMPSON. Madam President, I do not believe—

Mr. McCAIN. May I conclude my remarks so we can have a quorum?

The PRESIDING OFFICER. The clerk will call the roll.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll and the following Senators answered to their names:

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Mr. BYRD. Madam President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion. If this question the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Florida [Mr. CULLEN], the Senator from Georgia [Mr. FOWLER], the Senator from Tennessee [Mr. GORE], the Senator from Massachusetts [Mr. KENNEDY], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Illinois [Mr. SIMON], the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

I further announce that the Senator from Delaware [Mr. BIDEN] is absent on illness.

I also announce that the Senator from South Carolina [Mr. HOLLINGS] is absent because of death in family.

Mr. SIMPSON. I announce that the Senator from Mississippi [Mr. COCHRAN], the Senator from New York [Mr. D’AMATO], the Senator from Kansas [Mr. DOLE], the Senator from Washington [Mr. EVANS], the Senator from Nevada [Mr. HECHT], the Senator from Indiana [Mr. LOGAR], the Senator from Kentucky [Mr. McCONNELL], the Senator from South Dakota [Mr. PESSLER], the Senator from New Hampshire [Mr. RUDMAN], the Senator from Vermont [Mr. STAFFORD], the Senator from Virginia [Mr. TRIBBLE] are necessarily absent.

I also announce that the Senator from Texas [Mr. GRAMM] is absent on official business.

I further announce that the Senator from Missouri [Mr. BONN] is absent due to illness.
The result was announced—yeas 57, nays 21, as follows:

YEAS—57

Adams  Gart  Mikulski
Barus  Glenn  Mitchell
Beasley  Glenn  Moynihan
Bentsen  Grasham  Moynihan
Hingmanan  Grassley  Nunn
Binga  Hollings  Pell
Boschwitz  Hatfield  Proxmire
Bradley  Beflin  Pryor
Breux  Breaux  Reid
Bumpers  Humphrey  Riegle
Burkard  Imouye  Rockefeller
Byrd  Johnson  Risch
Conrad  Kassebaum  Sanford
Cranston  Kerry  Sarbanes
Danforth  Leahy  Stemmler
Dacie  Levin  Shelby
Dixon  Maimana  Simpson
Dodd  McClure  Stevens
Exon  Meister  Thurmond
Ford  Metzenbaum  Wirth

NAYS—21

Armstrong  Helms  Quayle
Chafee  Karnes  Specter
Cohen  Kasten  Symms
DeConcini  McCain  Wallop
Domenicici  Murkowski  Warner
Durenberger  Nunn  Weicker
Hatch  Packwood  Wilson

NOT VOTING—22

Biden  Gore  Pressler
Bond  Gramm  Rudman
Casper  Harken  Simon
Cochran  Hollings  Stafford
D'Amato  Kennedy  Stennis
Dole  Lausen  Tribble
Evans  Lugar  Wyden
Fowler  McConnell  Wyche

So the motion was agreed to.

The PRESIDENT pro tempore addressed the Chair.

The PRESIDENT. The President pro tempore.

Mr. WILSON. The Senator from California.

Mr. WILSON. Madame President, I would ask for a few moments of attention from my colleagues on this subject that has quite rightly occupied so much of our time. It is not a subject that is of recent interest to anyone on this floor. It is certainly not of recent interest to me. In fact, my interest in this subject of campaign reform predates my service in the U.S. Senate. It goes back many years to my days when first in office as mayor of San Diego. But I get ahead of myself.

For the moment, let me just review for the purpose of illustration why it is that we are taking the time and expressing in such energetic terms our different views of the need for campaign reform. It is no secret that any number of people have turned in just this moment or whether they have been following this debate from its inception, that campaigning has become a very expensive proposition. And that is true not simply in the U.S. Senate, it is becoming more true at every level.

If you look at State legislative campaigns, they are targeted for relatively little money. Now they are getting quite sophisticated and quite expensive; some might argue unnecessarily so, that the sophistication exceeds the need to communicate with the voters in an understandable manner.

But, of course, when it comes to the U.S. Senate and those who represent our States here on this floor, because we represent States so different in size and with such different opportunities for communication to our constituencies, it becomes very difficult, indeed, for a generalized prescription that can apply equitably in every situation.

Still, there are certain fundamental principles that do excite the interest of all of us here who are concerned with the functioning of Government as it should function, which is to say with both the fact and appearance of fairness, absent undue influence.

The elements of campaign reform. Madam President, are, roughly speaking, an effort to limit contributions so as to avoid taking too much money from a single contributor. Why? Obviously, because we wish to avoid both the fact and the appearance of undue influence.

Other efforts have centered on requiring disclosure, as indeed we do in Federal law and as most, now, State and local ordinances worthy of the names, also require disclosure.

Finally, there is the subject that is occupying so much of our time and attention in connection with the proposals that we have described as S. 2, which has to do with the imposition of spending limits and also, although less clearly so, the increasing awareness of undue influence. In my own campaign for mayor I announced that accordingly I would take no more than $300 from anyone engaged in real estate development. It was to develop that was somewhat simpler setting. The undue influence goes back to the time when I was mayor of San Diego. It was a very expensive proposition. And that is the reason why we have seven cloture votes? Well, it is because it is important. But the fact of the matter is, I think it was a good thing to do and later, after I had become mayor, I sought to enlist the support of my city council on a proposal which I sponsored that provided for something of the same sort. It was a precursor, if not a model, to Federal law as we know it today in the following respects.

It first limited campaign contributions. It said that only individuals could contribute; no corporation, no partnership, no labor union, no one but an individual could make a contribution to a candidate for mayor or for the city council. And these individual contributors were limited in the amount that they could contribute. Indeed, many argued that the limitation was too severe and that we should have been more realistic; that in our efforts to broaden the base and compel candidates to go far and wide in search of support, we made their burden unduly difficult by making that limit so unreasonably low. That was certainly the case. I am not too sure that it was right. It may be today. It has not been changed very much if any. And certainly the costs of campaigning have continued to rise.

But, what we did was to say: There will have to be that effort on the part...
of candidates, whether they like it or not, and it will be a good and healthy thing as we go along with our campaign spending. The reasoning, very simply, was that some very wealthy candidates with large personal fortunes would be in a position to compete unfairly with those of modest means; those with talent and energy and conviction but without great personal resources.

The other things that we did, we said in connection with there being a prohibition against corporate or union giving with only individual contributors being allowed to contribute, there could be no problem of the kind that we have heard described on this floor as that relating to soft money. A labor union could not, make available through its funds a bucket shop, an operation of telephones. It certainly was not illegal for members of that union or for employees of a corporation to undertake, to undertake voluntary effort whether it be going from door to door, doing precinct work, distributing literature, registering people, getting them out to vote; that was obviously not to be discouraged and on the contrary was encouraged. But expenditures of the kind that are not required under Federal law to be reported, and which therefore are only occasionally evaluated by some energetic and curious reporter, were forbidden under that ordinance.

There was no permission for PAC’s, for political contributions by political action committees, to be made under that ordinance. Indeed, it was deletion at the time, which made available to a mini-nation with 27 million people, like those, unhappily, in our city attorney, the then chairman of Common Cause for that county, later to be the State chairman, at a time when elaborate State reform was undertaken, representatives of the district attorney’s office, private attorneys. It was a thoughtful group, and they finally concluded that those spending limits simply would not work.

Madam President, we come to the present moment and S. 2. It is not the original version of campaign reform that was brought before us last year in which there was outright direct, explicit public financing as a cardinal point and feature. That has yielded to indirect public financing and, once again, we are told that there must be limits upon undue influence and, therefore, that there must be limits upon PAC’s and there must also be spending limits. We are told that there must be spending limits because it distracts those of us on this floor from the business of fundraising for our campaign.

Anyone who has run for public office knows that it does take energy, that it does require a tremendous expenditure of personal time and effort, but, I must say, that we also know that we understood that coming in. We are all volunteers. No one drafted us for public office. In fact, we all struggled mightily and competed with very good people in order to have the privilege of holding these seats.

Let me come back to the arguments that have been made by the eloquent proponents arguing on behalf of S. 2. I read with some interest an argument that I heard only partially the other day when I was called to other duties. I went back to the Congressional Record and read the remarks of my good friend, the distinguished Senator from Oklahoma [Mr. Boren] one of the proponents and one of the chief sponsors of S.

At great length and with his customary eloquence, he recited the facts that had to do with the “skyrocketing costs of campaigning,” as he put them. He said, “The cost of campaigning is skyrocketing at an alarming rate,” and he, thereafter, recited statistics that certainly vindicates that judgment.

He went on to say, “Mr. President, that is not a healthy thing for our political system. It distracts us. It conveys an image to the public that we are being unduly influenced by those who are in position to give large campaign contributions and the time that should be spent in these challenging days in which we live, in which we grapple with ways to restore the productive competitiveness of this country so we do not become a second-rate economic power.” He went on at some length, and he said finally that we should not do that.

But I come back to his point about being unduly influenced by campaign contributions that are too large.

Madam President, we have already addressed that particular problem. We do limit campaign contributions. There are only two classes of persons who can give—individual contributors and political action committees. We limit individuals to $1,000 in the primary election and $1,000 in the general election, and that is true whether we are talking about Rhode Island or Louisiana or whether we are talking about California.

It is true in a State with a small population. It is true in a State with an enormous population, like my own, a mini-nation with 27 million people, going on 28 million. It is true, whether we are talking about a State with media markets that charge a relatively modest rate, or it is true of those that have the most expensive media costs in the world, like those, unhappily, in my own State in which Los Angeles County boasts the dubious distinction of being the most expensive in the world.

In fact, I can relate, to make the point, an anecdote. Going back to my own 1982 campaign, we had one 30-second television spot during the primary which we thought was particularly effective. In order to share that with the audience in the greater Los Angeles area, we thought it would be a marvelous thing if we could afford to spend enough to put that 30-second spot on prime time just once in the Los Angeles market on a major station.

So we priced the cost of one 30-second television spot on 60 Minutes just for the Los Angeles market area. The cost turned out to be $50,000 for that 30-second spot. That was in May of 1982.
Ever since then, every time that I see the show 60 Minutes, and I see it open with their logo, the stopwatch clicking off the seconds, I understand what it means. It is $1,000 per second in the Los Angeles market area. At least it was in May of 1982.

Yes, the costs are enormous, but we have done the thing that we were supposed to do. First, Madam President, we have limited campaign contributions and, as I say, only two classes can make contributions: Individuals, and clearly we do not wish to prohibit that, and, secondly, political action committees.

We come back to Senator Bono's point about undue influence. Political action committees are limited in what they can give, but they can give $5,000 per primary election per candidate and $5,000 per candidate in the general election.

I am not going to take the time to rehash what has been said at great length and, in particular, by the proponents of S. 2 having to do with the abuses that arise from political action committee giving. Whether you agree or do not agree with that, it is certainly true that there has been enough written, enough printed and enough said about it so that now political action committee giving has, in the minds of the public—at least many citizens—become tainted.

While I do not think that fair, if that is the case, if Madam President, we are necessarily concerned with not only the fact, but the appearance, of undue influence to keep our process healthy, then I say, let us no longer wring our hands and inveigh against the evils of that system. It seems to me the cure is readily at hand and very simple—let us do away with political action committees; let it be no longer possible for political action committees to contribute to political campaigns for Members of Congress. It is that simple. We can do it quickly.

My saying so will, undoubtedly, irritate many people, and it certainly is true that until we have legally eliminated political action committees, most of the people on this floor will, of necessity, in order to compete, continue to take money from them. But why should we not simply eliminate political action committees and have done away with this thorny problem of the appearance of undue influence from special interests about which we hear so much?

S. 2 does not propose to do that. Madam President, it would retain political action committees. I say let us have done with this problem. Let us have done with political action committees. And, of course, the Republican alternative that has been proposed by my colleague from Oregon, by Senator McConnell from Kentucky, proposes to do just that.

So it seems to me, Madam President, that what we want to do is we want to make it possible for the public to believe that we are not distracted from what we do, certainly not by undue influence.

Yet, I will tell you it would make my life much easier as it would any candidate if we had public financing, either direct or indirect. And frankly, there has been such a hue and cry raised about public financing in a direct fashion that it does not surprise me that our colleagues proposing S. 2 have sought now to propose it indirectly. But the costs will be essentially the same. It would make my life easier, it would make it much more convenient, but, Madam President, is that an urgent public priority? Does that rank with spending the money instead for research into a cure for AIDS or Alzheimer's? Should we cut $117 million, as the House of Representatives persuaded the conference to do just this past December, from the Coast Guard budget, and now so curtailed in routine drug interdiction missions that they really can no longer perform them?

What is more important, Madam President, interdicting the supply of drugs into this Nation and keeping our children and law enforcement agents far freer of the threat of drugs on the streets of America than they are today because of the tremendous curtailment of that interdiction mission or is it more important that we honor our own convenience and make life easier for candidates?

Well, I think there is no comparison. Others have gotten into the costs. They have looked at the Presidential experience.

I will only say this: If we were to go to what S. 2 proposes, the costs would be hellish. They would greatly exceed those of even the Presidential experience, and they would be much harder with each time. We would encourage candidates to become "imaginative" or to put it in more blunt terms, "to find ways to evade the law." It has happened before. A successful candidate, appears to have deliberately broken the law because it was worth it to pay the fine.

Madam President, this is an ill-considered piece of legislation. It should not be passed. I can only hope that this Senate has the courage to do what is right. Our convenience is not an urgent public priority. Let us get about the public's business.

Madam President, I yield the floor.

Mr. SIMPSON addressed the Chair. The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Madam President, I appreciate the remarks of the Senator from Oregon, Mr. Hatfield, and the remarks of others of our Members who have spoken on this issue tonight. We apparently have a large agenda of those speakers tonight and on into the morning. That is regrettable but that is the test I guess that confronts us. But awaiting some Members, I suggest the absence of a quorum.

The PRESIDING OFFICER. The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

Mr. SIMPSON. Madam President, I object.

The PRESIDING OFFICER. The objection is heard. The clerk will call the roll.

The assistant legislative clerk continued the call of the roll, and the following Senators answered to their names:

[Quorum No. 7 Leg.]

Adams
Breaux
Conrad
Cranston

Breaux
Exon
Gravel
Harkin

Conrad
Gravel
Harken

Cranston
Heaff

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of the absent Senators.

Mr. BYRD. Madam President, I move that the Sergeant at Arms be instructed to request attendance of the absent senators, and I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. Armstrong], the Senator from Minnesota [Mr. Boshuck], the Senator from Rhode Island [Mr. Chafee], the Senator from Mississippi [Mr. Cochran], the Senator from Maine [Mr. Cohen], the Senator from New York [Mr. D'Amato], the Senator from Missouri [Mr. Danforth], the Senator from Kansas [Mr. Dole], the Senator from New Mexico [Mr. Domingo], the Senator from Minnesota [Mr. Durenberger], the Senator from Washington [Mr. Evans], the Senator from Utah [Mr. Garn], the Senator from Iowa [Mr. Grassley], the Senator from Nebraska [Mr. Hatfield], the Senator from Nevada [Mr. Hersh], the Senator from Pennsylvania [Mr. Hiler], the Senator from North Carolina [Mr. Helms], the Senator from New Hampshire [Mr. Humphrey], the Senator from Nebraska [Mr. Karsens], the Senator from Kansas [Mrs. Kasakbaum], the Senator from Wisconsin [Mr.
Kasten), the Senator from Indiana (Mr. Lugar), the Senator from Arizona (Mr. McCain), the Senator from Idaho (Mr. McClure), the Senator from Texas (Mr. Bentsen), the Senator from South Dakota (Mr. Pressler), the Senator from Indiana (Mr. Quayle), the Senator from Delaware (Mr. Roth), the Senator from New Hampshire (Mr. Rudman), the Senator from Pennsylvania (Mr. Specter), the Senator from Kansas (Mr. Stafford), the Senator from Alaska (Mr. Stevens), the Senator from Idaho (Mr. Symms), the Senator from South Carolina (Mr. Thurmond), the Senator from Virginia (Mr. Treible), the Senator from Wyoming (Mr. Wallop), the Senator from Connecticut (Mr. Weicker), and the Senator from California (Mr. Wilson) are necessarily absent.

I also announce that the Senator from Alaska (Mr. Murkowski) is absent due to illness.

I further announce that the Senator from Mississippi (Mr. Wicker) is absent due to illness.

I announce that the Senator from South Carolina (Mr. Hollings) is absent because of a death in the family.

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

The result was announced—yeas 47, nays 3, as follows:

YEAS—47

Adams Dodd Mikulski
Baucus Exon Mitchell
Bentsen Mondale Moynihan
Bingaman Fowler Nunn
Boren Glenn Pell
Bradley Graham Proxmire
Breaux Inouye Pryor
Bumpers Johnston Reed
Burdick Kerry Riegle
Byrd Lautenberg Rockefeller
Chiles Leahy Sanford
Conrad Levin Sarbanes
Cranston Matisuna Sasser
Daschle Mecher Sterns
Dodd Metzenbaum Wirth
Exon Mikulski

NAYS—3

DeConcini

NOT VOTING—52

Armstrong Hatch Presider
Biden Heflin Quayle
Bond Helms Reid
Boschwitz Heinz Rudman
Chafee Heinz Simon
CoCHRAN Hollings Simpson
Cohen Humphrey Specter
D'Amato Kasineh Stevens
Dole Kasineh Symms
Domenici Kennedy Thurmond
Durenberger Laguna Tribble
Evans McCain Wallop
Garn McClure Warner
Gore McConnell Weicker
Gramm Mikulski Wilson
Grassley Nickles Wirth

Mr. SIMPSON. Mr. President, how much time is yet remaining?

The PRESIDING OFFICER (Mr. Adams). Time has just expired.

Mr. SIMPSON. I would ask that regular order be invoked. The PRESIDING OFFICER, Regular order.

Mr. LEAHY. Mr. President, am I recog-
The PRESIDING OFFICER. The Senator from Vermont is recorded in the affirmative.

On this vote, the yeas are 45, the nays are 3, and the motion is agreed to.

The clerk will continue to call the names of the absent Senators and the Sergeant at Arms will execute the order of the Senate.

The bill clerk resumed the call of the roll.

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of the absent Senators.

The assistant legislative clerk resumed the call of the roll.

Mr. MOYNIHAN. Mr. President, the Senator from Mississippi seeks recognition.

The PRESIDING OFFICER. The bill clerk resumed the call of the roll.

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of the absent Senators.

The assistant legislative clerk resumed the call of the roll.

Mr. BREAUX. Mr. President, the Senator from Mississippi seeks recognition.

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of the absent Senators.

The assistant legislative clerk resumed the call of the roll.

Mr. MOYNIHAN. Mr. President, the Senator from Mississippi seeks recognition.

The PRESIDING OFFICER. The roll is in progress. Has the Senator from Mississippi been recorded? The Senator from Mississippi is recorded.

Mr. STENNIS. Thank you.

The assistant legislative clerk resumed the call of the roll.

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of the absent Senators.

The assistant legislative clerk resumed the call of the roll.

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The PRESIDING OFFICER. The Sergeant at Arms declared a quorum is not present. The clerk will call the roll.

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Mr. PACKWOOD. Mr. President, I regret that this had to be done, but I have shown the finest of examples by his smile, his good humor, and I want to thank him for helping the Senate to get a quorum.

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The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The yeas and nays were ordered. The PRESIDING OFFICER. The question is on the motion to proceed in executive session. Mr. BYRD. I ask for the yeas and nays. The PRESIDING OFFICER. The yeas and nays have been ordered. The clerk will call the roll. 

Mr. SIMPSON. I suggest the absence of a quorum. Mr. President, The PRESIDING OFFICER. The Senator from Wyoming makes a point of order a quorum is not present. The clerk will call the roll in order to ascertain the presence of a quorum.

The assistant legislative clerk proceeded to call the roll and the following Senators answered to their names: [Quorum No. 8]

Mr. BYRD. I ask for the yeas and nays. The assistant legislative clerk resumed the call of the roll and the following Senators entered the Chamber and answered to their names: [Quorum No. 8]

Mr. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators, and I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arizona [Mr. DeConcini], the Senator from Tennessee [Mr. Gono], and the Senator from Massachusetts [Mr. Kennedy] are necessarily absent. I further announce that the Senator from Delaware [Mr. Biden] is absent because of illness. I also announce that the Senator from South Carolina [Mr. Hollings] is absent because of a death in the family.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote? The result was announced—yeas 51, nays 9, as follows: [Roll Call Vote No. 24 Leg.]

YEAS—51

Mr. CRANSTON. I announce that the Senator from Colorado [Mr. Armstrong], the Senator from Minnesota [Mr. Boschwitz], the Senator from Rhode Island [Mr. Chafee], the Senator from Mississippi [Mr. Cochran], the Senator from Maine [Mr. Cohen], the Senator from New York [Mr. D'Amato], the Senator from Missouri [Mr. Danforth], the Senator from Kansas [Mr. Dole], the Senator from Minnesota [Mr. Durenberger], the Senator from Washington [Mr. Evans], the Senator from Nevada [Mr. Hécht], the Senator from Pennsylvania [Mr. Heinz], the Senator from North Carolina [Mr. Helms], the Senator from Nebraska [Mr. Kanes], the Senator from Kansas [Mrs. Kassebaum], the Senator from Wisconsin [Mr. Easten], the Senator from Indiana [Mr. Logar], the Senator from Arizona [Mr. McCain], the Senator from Idaho [Mr. McClure], the Senator from Kentucky [Mr. McConnell], the Senator from Alaska [Mr. Murkowski], the Senator from Oklahoma [Mr. Nickles], the Senator from South Dakota [Mr. Pressler], the Senator from Indiana [Mr. Quayle], the Senator from Delaware [Mr. Roth], the Senator from New Hampshire [Mr. Rudman], the Senator from Vermont [Mr. Stafford], the Senator from Idaho [Mr. Symms], the Senator from South Carolina [Mr. Thurmond], the Senator from Virginia [Mr. Trible], the Senator from Wyoming [Mr. Wallop], and the Senator from California [Mr. Wilson] are necessarily absent.

I also announce that the Senator from Texas [Mr. Gramm] is absent on official business.

I further announce that the Senator from Missouri [Mr. Bond] is absent due to illness. The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote? The result was announced—yeas 51, nays 9, as follows: [Roll Call Vote No. 24 Leg.]

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Mr. CRANSTON. I announce that the Senator from Arizona [Mr. DeConcini], the Senator from Tennessee [Mr. Gono], and the Senator from Massachusetts [Mr. Kennedy] are necessarily absent. I further announce that the Senator from Delaware [Mr. Biden] is absent because of illness. I also announce that the Senator from South Carolina [Mr. Hollings] is absent because of a death in the family.

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. Armstrong], the Senator from Minnesota [Mr. Boschwitz], the Senator from Rhode Island [Mr. Chafee], the Senator from Mississippi [Mr. Cochran], the Senator from Maine [Mr. Cohen], the Senator from New York [Mr. D'Amato], the Senator from Missouri [Mr. Danforth], the Senator from Kansas [Mr. Dole], the Senator from Minnesota [Mr. Durenberger], the Senator from Washington [Mr. Evans], the Senator from Nevada [Mr. Hécht], the Senator from Pennsylvania [Mr. Heinz], the Senator from North Carolina [Mr. Helms], the Senator from New Hampshire [Mr. Hum-
PHILIPPO), the senator from Nebraska (Mr. KARSTEN), the senator from Kansas (Mrs. KASEBAUR), the senator from Arizona (Mr. MCCAIN), the senator from Idaho (Mr. MCCURR), the senator from Kentucky (Mr. McCONNELL), the senator from Oklahoma (Mr. NICKLES), the senator from South Dakota (Mr. PRESSLER), the senator from Indiana (Mr. QUAYLE), the senator from Delaware (Mr. ROTH), the senator from New Hampshire (Mr. RUDMAN), the senator from Vermont (Mr. STAFFORD), the senator from South Carolina (Mr. THURMOND), the senator from Virginia (Mr. THIELLE), the senator from Wyoming (Mr. WALLOP), and the senator from California (Mr. WILSON) are necessarily absent.

I also announce that the senator from Texas (Mr. GRAMM) is absent on official business.

I further announce that the senator from Missouri (Mr. BOND) is absent due to illness.

Mr. BYRD. Mr. President, I hope Mr. SIMPSON for helping to work out this approach which will give Senators an opportunity, the most of us, an opportunity to get a little rest.

Mr. President, I ask unanimous consent that the call for the yeas and nays on Mr. Korologos be withdrawn. The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will report the nomination.

U.S. ADVISORY COMMISSION ON PUBLIC DIPLOMACY
The bill clerk read the nomination of Tom C. Korologos, of Virginia, to be a member of the U.S. Advisory Commission on Public Diplomacy. The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. SIMPSON. Mr. President, I move to lay that motion on the table. The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of this nomination. The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION
Mr. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the nomination was confirmed. Without objection, it is so ordered.

The Senate continued with the consideration of the bill S. 2.

Mr. SIMPSON. Mr. President, let me say briefly, as a matter of review, the bidding here. If I may, for a moment. I thank the majority leader for reaching a concurrence on a result which prevents us from having two additional rolcall votes this evening—this morning, which would have been assured, "while many of our Members are not present. Realizing that the majority has furnished a quorum, and that was something that was intended, as we dealt with the activities of the evening, regretted but intended; so with this we have avoided that result of two more rolcall votes and avoided, too, what would have been a continuing debate on the nomination of Tom Korologos from this side—an old procedure, which would have been presented. So we have avoided that.

We now will go into our continued ritual here until the morning hour of 10 under the unanimous consent agreement. And so let me say, Mr. President, I most certainly do not enjoy employing these tactics. As the acting leader, that is not the finest hour for me. That is not the way I like to do business.

I think it is unbecoming to the Senate, also. And, as I say, not seemly for this Senator.

But the majority leader, as is his right, is insisting that members of this side of the aisle remain here around the clock to prevent final action on S. 2 and we felt, or at least a great majority of those on this side of the aisle, or on this side of the issue, because there are two senators of the majority who are on our side of the issue and three on our side of the aisle who are on that side of the issue, that it was felt by the majority of our persons that it was only fair that we insist on the members who are the opponents of the issue providing the quorum that is necessary for transacting business. That was done to the disruption of most of us in the evening hour.

Then, of course, rather than forcing the issue, we did try to hammer out the tactics, the majority leader had an alternative available, which he has now exercised, and that is to file cloture.

At one time during the debate another member of the opponents of the legislation even agreed to propose a unanimous-consent request which would have provided that it would have been determined that a cloture petition had been filed and that the 2-day rule would have been waived and a time certain for a vote on cloture would have been obtained. That, of course, was not received because, of course, the petition had not been filed. But in its mythical context it was an interesting proposition because it would have gotten exactly where the majority leader would have intended to get and that was a vote on this issue because the majority leader speaks often and sincerely about voting on this issue. There is high yield to these tactics. It will, apparently, come Friday and it will be a motion on cloture and it will fail just like it has failed seven consecutive times.

So the motion was agreed to.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, I hope that Senators will accede to this request. It is my plan to ask unanimous consent that the yeas and nays on Mr. Korologos be withdrawn, that we vote that nomination. I will then move to go back into legislative session, not ask for a rolcall vote, just voice vote it, or I will ask unanimous consent to go back to legislative session so there will be no rolcall vote on that and we will be back on the campaign financing reform bill.

There will be Senators on the other side of the aisle who will speak until 10 o'clock tomorrow. There will be no quorum calls, no motions, no rolcall votes, but there will be a continued debate carried on by our friends on the other side of the aisle. And Senators can get some sleep, those who are not speaking over there, and we will need one or two on this side to have a respectable showing for the majority. So I hope nobody will object.

Mr. President, I thank Mr. SIMPSON for helping to work out this approach which will give Senators an opportunity, the most of us, an opportunity to get a little rest.

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Sweat on his brow he went forward. Senator Packwood made quite an entrance. Many of you missed that. That was quite impressive indeed. Indeed, I shant forget it. And I am sure he will not. It was done in good humor. We needed that at this hour. To Henry Giugni I certainly can un­dertake to perform the task that he had shared and I shared that then, and I recall, and as we were citing the Constitution of the United States, there is an ever more important rule that has been elevated to status in the United States, and it is called tyranny of the majority. That is the essence of this effort. And I do not think it is very becoming and I think the American people understand it perfectly. That is what it is. That is not a nasty statement. It is a true statement. And the members of my party were here doing their business and doing it as required under the rules of the Senate. Indeed that is why there is such a thing as a motion to seek the arrest of absent Members, but to impugn that I think is a grave mis­take. And for one who cherishes the rules as the majority leader, and I wish he were here and I am sure he will be here, I would cite rule XIX, paragraph 2:

No Senator in debate shall, directly or indirectly, by any form of words impute to any other Senator or to other Senators any conduct or motive unworthy or unbecoming a Senator.

That is a rule. That was validated to­night when we were addressed as not being on the job, willfully not being on the job. That is a violation of that rule.

So I am sure that in these next hours and days we will be hearing about violations of the Senators on this side. We will hear various de­scriptions of what may have been, and so we will come back and cite that and other things. That is too bad because the real issue to the American people is very simple. We beat them back seven times and they have not picked up a single horse since, and they are going to get beat the eighth time and we have to go through this exercise for 3 more days. That is what I call top dog-underdog. It is not becoming.

So I just wanted to express that with hope not an intensity, but a clarity, because who I am sure that we will hear various de­scriptions of what occurred. What occurred is what has oc­curred seven previous times and every time with a hollow thud. This will be the eighth hollow thud on Friday, and we will have exercised and exorcised ourselves for 3 more days and after 10 o'clock tomorrow morning the fun and games will reach dramatic and rain­bow proportions. We will have motions to arrest and to become unarrested, and we will have this and that, and we will have people in extremity, people who are unable to humor their func­tions while standing in debate, and Lord knows what else.

But let the record show that it did not have to be in any way, not one bit of it. So with that, I would yield under the unanimous-consent agreement and under the conditions of that unani­mous-consent agreement to Senator Wexler.

I yield the floor.

Mr. BYRD. Mr. President, would the distinguished Senator—

Mr. WEICKER. I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER (Mr. Rockefeler). The majority leader.

Mr. BYRD. Mr. President, I understand the distinguished Senator from Wyoming indicated that he wished I were here.

Mr. SIMPSON. I did.

Mr. BYRD. I am here.

Mr. SIMPSON. I am pleased.

Mr. BYRD. So if he would repeat what he had to say a little earlier, I would be glad to listen.

Mr. SIMPSON. I would be very pleased to do that, Mr. President.

I was citing what was said by the majority leader earlier this morning as he related the conduct of those who are opposed to this bill, and have submitted that as a very clear item through seven consecutive cloture votes last year and now this one which meaningful campaign finance reform, not willing to talk on the pending legis­lation, and ultimately not willing to stay on the job.” And I repeat that now. That was said in the context of the circumstances which had just oc­curred when only one Senator, the dis­tinguished Senator from Wyoming, was here on the floor. All other Sena­tors of the minority had left the floor. And exercising not only my right, but more importantly my duty, to try to keep this Senate going and operating, I made the motion to instruct the Ser­geant of Arms to arrest Senators. And I quoted the Constitution, which gives the Senate that authority and that power. I never singled out any Senator by name.

Let me read the Senate rule:

No Senator in debate shall, directly or indirectly, by any form of words impugne to any other Senator or to another person.

I never named any Senator.
any conduct or motive unworthy or unbecoming a Senator.

Mr. President, it takes a great stretch of the imagination to apply what I said earlier and what I have just said again to that rule. That is stretching the rule and I am surprised that the distinguished Senator from Wyoming would do that.

Mr. President, if I ever have anything to say about another Senator, I shall name any Senator. The facts speak for themselves. The minority Senators use his name or refer to him as I understand the distinguished acting Republican leader referred to me, the majority leader, I will not say it until I have called that Senator and sent word of the same over the floor.

I have proof of that on this floor right tonight. I once had something to say about the distinguished Senator from Connecticut, Mr. Wexner. I did not say it until he was on the floor. I do not wait until he walks out that door and then impugn or impute to him—

Mr. SIMPSON. Mr. President, will the Senator yield for a moment there?

Mr. BYRD. I will yield just when I finish the sentence.

Mr. SIMPSON. All right.

Mr. BYRD. But if I have anything to say critically about a particular Senator of such nature that I feel that he ought to be here to defend himself and to respond, then I will send for him. And the Senator from Connecticut on that occasion came on the floor. We had a little colloquy. It all ended in a very friendly way. I think it was from Wyoming that I stated that I did not wait until he walked out that door.

"Ultimately I did not state anything but the fact. I did not violate the rule. I did not name any Senator. The facts speak for themselves. The minority Senators were not here. They were not here. They were not here. Ultimately not being willing to stay did I do not wait until he walks out that door and then impugn or impute to him—

Mr. SIMPSON. Mr. President, will the Senator yield for a moment there?

Mr. BYRD. I will yield without yielding the floor—

Mr. SIMPSON. Mr. President, let me finish my remarks, and I hope the Chair will allow that. I certainly allowed the majority leader to do it. As I have already stated from this podium, the Senator from West Virginia was in this Chamber. He was right over there. I saw him. As I got to that point in my remarks, he was leaving the Chamber and I said I am going to say this, and I wish the majority leader were in the Chamber.

He is not. And I am going to go ahead and I made my remarks and when I finished my remarks, I stayed right here because I knew the majority leader would return and I have no intention to leave this Chamber. And he did return and he has given his explanation.

So we do not need to go into an orgy of contrition, but let me say I have personally paid some compliments and respect to the Senators in apology a few years ago. That was good. But I do not intend to spend a lot of time doing that. Once was enough. It is not beginning to spend much time doing that.

I can tell you that the remarks were made, and I cited rule XIX, paragraph 2, and if you really think about it, I believe the majority leader has said, Mr. President, that this is the first time he has invoked the motion to arrest Senators. Maybe this is the second time. Perhaps he will develop that.

Mr. BYRD. Second time.
they must have done something, especially when we never use it in this place.

So with those dovetailed facts to me it fits well to this Senator, it fits very well into the interpretation of my interpretation of rule XIX of paragraph 2. And I certainly would be glad to debate that further. 

Mr. BYRD. I am not interested in debating it. I really am not.

Mr. SIMPSON. Good. I am not either.

Mr. BYRD. But I must say, Mr. President, I am shocked at what I have just heard.

All one has to do is read a little about the history of the Senate and one will find that this order by the Senate to arrest Senators had been made long before Robert Byrd ever became a Member of the Senate. I did not originate the precedent.

I have done it twice during my 22 years working in the leadership, and on both occasions I did it when I thought that was the last resort. The distinguished Senator says Senators were on their job and they were in the Cloakroom or they were in their cubicles. There was a rolleay. They chose not to answer that rolleay. They chose not to help the Senate to get a quorum so that it could do business.

As majority leader, I had a responsibility to do exactly what I did, because if the majority is going to let a minority stop the Senate from operating and force it out, force the Senators to go home, then the majority is not doing its duty. The majority has not run over the minority tonight.

The majority has tried to keep this Senate in session so it could do its work.

Now, many Senators do not agree with the campaign financing reform bill. They can speak against it. They can vote against it. They can use the rules of the Senate and precedents. They can take dilatory actions, if they want to. But for the majority just to leave, nobody shows up except the acting Republican leader, I had no other recourse. The able Senator has said what he personally thinks about manning the floor. But for the minority just to leave, nobody shows up except the acting Republican leader, I had no other recourse. The able Senator has said what he personally thinks about manning the floor. But for the minority just to leave, nobody shows up except the acting Republican leader, I had no other recourse. The able Senator has said what he personally thinks about manning the floor. But for the minority just to leave, nobody shows up except the acting Republican leader, I had no other recourse. The able Senator has said what he personally thinks about manning the floor. But for the minority just to leave, nobody shows up except the acting Republican leader, I had no other recourse. The able Senator has said what he personally thinks about manning the floor. But for the minority just to leave, nobody shows up except the acting Republican leader, I had no other recourse. The able Senator has said what he personally thinks about manning the floor. But for the minority just to leave, nobody shows up except the acting Republican leader, I had no other recourse. The able Senator has said what he personally thinks about manning the floor. But for the minority just to leave, nobody shows up except the acting Republican leader, I had no other recourse. The able Senator has said what he personally thinks about manning the floor. But for the minority just to leave, nobody shows up except the acting Republican leader, I had no other recourse. The able Senator has said what he personally thinks about manning the floor. But for the minority just to leave, nobody shows up except the acting Republican leader.
Mr. President, I am ready to go on, and thanks to the majority leader as we grappled with some pretty tough stuff—Grove City, as I brought up today; Contra aid. And we got through that with a lot of stuff and we get through everything else without a lot of stuff, except this turkey because it cannot go anywhere. It will never be. And if it ever did go out of here to the House of Representatives, they would tear it to shreds with their bare hands, because it is the antithesis of everything they do over there—PAC's. It "ain't" quite their bag over there. But nobody is reading that.

All we know is that by the invoking of cloture we will not be able to debate. We will be through because of the skill, all legally done, of setting up the case rest out there, because this is an extraordinary debate.

There is not another issue I have ever dealt with it seven times. And the reason it is so hectic is that, when I go back home and tell my constituents in West Virginia that I was in the Chamber and I did not even have to share from this side of the aisle during my time as acting leader, I said, "Here, here is surprise No. 1 coming your way about 2 o'clock this afternoon like a fast freight." And I will do that again. I may be terse, but I will do it.

So, let us kind of get away from this issue about me saying something as if it were secretive when I waited for the majority leader to leave the floor. We have tangled a lot worse than this without ever exiting the Chamber.

I have the greatest respect for him and admiration. He is tough, fair, and a hardy man to deal with. And I enjoy it. And I think he likes it too. And I can continue to work with him because I enjoy it and I enjoy him.

That pretty well concludes my remarks.

Mr. BYRD. Mr. President, I have already responded to the same statement Mr. Byrd, and so that concludes my remarks.

I yield the floor.

Mr. WEICKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. Mr. President, I am glad to see my good friends, the distinguished Senator from West Virginia and the distinguished Senator from Wyoming, state their positions so clearly and ultimately with such goodwill. I also have to say that if anybody should have drawn offense from the recent events on the Senate floor it is the Senator from Connecticut, because it is my understanding that some Member of this body, who we shall leave unnamed, suggested to the Sergeant at Arms that if he were to arrest the Senator from Connecticut that he should be equipped with a steel net and three tranquilizer guns. But I accept that in the humor in which it was given and, indeed, if that is the perception, let it stay that way because I do not want to be arrested by my good friend, the Sergeant at Arms, under any set of circumstances, tranquilizers or not. He is a gentleman and I think we are all proud of him in this body.

Mr. President, I have, only a few minutes left before I have to go take my children to school and I want to get to the substance of the bill before us. It is not a good piece of legislation. Regardless of how it is sold to the American public.
Let me repeat what the committee said and then I can expand on it.

The committee's opposition is based, like Jefferson's, upon the fundamental need to protect the voluntary right of individual citizens to express themselves politically as guaranteed by the first amendment. Furthermore, we find inherent dangers in authorizing the Federal bureaucracy to fund and excessively regulate political campaigns. The abuses experienced during the 1972 campaign still were funded through a system of essentially unrestricted private financing. What now seems appropriate is not the abandonment of private financing but rather reform of that system in an effort to vastly expand the voluntary participation of individual citizens while avoiding the abuses in earlier campaigns.

Why did the committee say that? Well, the committee said it, and I intend over the course of the next day to be very specific because it was, in essence, the nature of my entire minority report. The committee said it because the matter of Watergate was not so much a burglary or the illegal actions of the President as it was a Federal Government run amok; a Federal Government, not a handful of officials.

When I say entire Government I mean, for example, the Internal Revenue Service, the Commerce Department, the Federal Bureau of Investigation, the Central Intelligence Agency. I go right down the whole checklist of bureaucracies in this Government. That was the ill of Watergate. And the committee was unwilling to put more power as to the election process in the hands of the Central Intelligence Agency. I almost dragged the entire free election process into the gutter to stay.

I am appalled that we have so soon forgotten that lesson.

The one experience that we have is the experience of Federal financing of Presidential campaigns. This was one of the initial reforms. Take a look at what we already know about that.

Already the violations are myriad, in the sense of overspending in State after State by the candidates and disguising it and waiting until the reporting period is over and then it does not make any difference. Or those violations which are less easy to identify, whereby the candidates, their campaign committees, or the independent committees, or whatever, are not covered by the Federal Elections Campaign Act of 1971 and requiring full public disclosure of contributions of the 1972 campaign still were funded through a system of essentially unrestricted private financing. What now seems appropriate is not the abandonment of private financing but rather reform of that system in an effort to vastly expand the voluntary participation of individual citizens while avoiding the abuses in earlier campaigns.

Now, that was the official position of the Watergate Committee much as we here are. Actually, to be completely accurate on this, 14 years later, we are totally ignoring the lessons of the greatest scandal of our times. We are totally ignoring the advice of Thomas Jefferson, who refused an order to disperse when men and women who refused an order to disperse were assaulted and murdered in full view of the National Guard, not the wrongful deeds of the Watergate Commission Act of 1971 and requiring full public disclosure of contributions of the 1972 campaign still was funded through a system of essentially unrestricted private financing. What now seems appropriate is not the abandonment of private financing but rather reform of that system in an effort to vastly expand the voluntary participation of individual citizens while avoiding the abuses in earlier campaigns.

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Vietnam policies were invited, implying professional scrutiny. Involvement in Vietnam were either implying that those who had questioned our land.

Uproar." It was questioned about the President's role by a Senate committee in March, he lied.

On June 17, 1972, burglars employed by the Committee to Reelect the President of the Democratic National Committee with bugging equipment and large sums of cash.

In December of 1972, failing to get congressional approval for a reorganization of the Cabinet, the administration moved autonomously to establish three or four "super Secretaries" and to place various Executive Office employees in key sub-Cabinet positions. The obvious goal was to create a White House-directed network of decision-making and reporting quite different from the formal Cabinet structure which remained subject to congressional scrutiny.

In February of 1973, the White House held a Peace-with-Honor reception to celebrate the end of the Vietnam war. Only those Congressmen who had supported the President's Vietnam policies were invited, implying that those who had questioned our involvement in Vietnam were either against peace or were dishonorable men and women.

Some of these incidents were matters of life and death and were publicized. Others were matters of principle and were little noticed at the time.

In each instance a significant outrage had taken place.

What was common to all?

In each instance no one complained. A constitutional stillness was over the land.

The next chapter was entitled, "the Uproar."

That American decency, idealism, honesty and reverence for the Constitution that some thought bought off has been stirring and reasserting itself for many months now.

Yes, a few still shout treason when questions are asked.

A few still espouse the end as justifiable means.

A few still goggle at an American title as a matter of principle.

But it was only yesterday, June 17, 1972 to be specific, that today's few were part of a large American majority.

Why the turnaround? The truth.

Because Frank Wills discovered taped doors at the Watergate, America's doors didn't close in all our faces.

The next chapter is "Constitutional Democracy in the Era of Watergate."

For this Senator, Watergate is not a whodunit.

It is a documented, proven attack on laws, institutions, and principles.

The response to that attack was and is a nation of laws at work, determining whether men shall prevail over the principles of a constitutional democracy. It has been and will be the testing of a great experiment in Government begun some 200 years ago.

Laws, institutions, and principles were squarely before this committee, to be debated, probed and documented, in order to assert remedies and reassert time-honored concepts. Guilt or innocence was an issue. This was a fact-finding body; it was a legislative body; and those duties go to the heart of what Watergate was all about.

In keeping with the committee's duties, this is a report of facts and evidence, leading to legislative recommendations, one of which, I might add, I just read to this body here, being against Federal financing of elections.

To document the abuse of laws, institutions, and principles, the facts and evidence are presented, first, as they bear on the basis of our laws, the Constitution; second, as they relate to the institutions of our Government; and third; as they affect the principles of our political system.

I. THE CONSTITUTION

One of the most disturbing facts about the testimony presented to this committee is that so much of it went relentlessly to the heart of our Constitution.

To appreciate what happened to the Constitution, it is useful to analyze the seven articles and 26 amendments into substantive versus procedural provisions. The substantive sections lay out rights, powers, and duties. The procedural areas address somewhat more technical and administrative matters. The important point is that the essence and strength of the Constitution springs from its substantive areas, primarily the first three articles, the first 10 amendments and the 14th amendment.

A. THE EXECUTIVE

Of all the issues confronting the Constitutional Convention at Philadelphia, the nature of the Presidency ranked as one of the most important. The resolution of that issue was one of the most significant actions taken.


2 As a result of experience with the royal government, it was felt that only the President, who had the power to interpret the laws, in any sense of the word, might do so. But the Articles of Confederation (which was the agreement by which the national government was functioning at the time of the Constitutional Convention) vested all powers in a one-body Congress. C. Thach, chs. 1-3. The Virginia Plan, which was the basis of discussion, offered a weak executive, with only power to "execute the national laws" and to "enjoy the Executive rights vested in Congress." Id., ch. 7; Congressional Research Service, p. 430.

3 It was not until the closing days of the Convention that there was any assurance the executive would not be tied to the legislature, devoid of power, or headed by plural administrators. Although the discussion about the executive opened on June 1, 1787, as late as September 7, 1787, eight days before the final Constitution was ordered, President of the Convention committed for an executive council that would participate in the exercise of all the executive's duties. M. Farland, "The Article of the Federal Constitution, 1787" (New Haven: 1977), 21 and 542.

The easy place to locate the beginning of Article II was the New York Constitution. On June 1, 1787, James Wilson moved that the executive should be one person. A voice on the Wilson motion was put out under the other attributes of the office had been decided. The decision resulted largely from experience with the Articles of Confederation "that harm was to be feared as much from an unfettered legislature as from an unexecuted executive and that many advantages of a reasonable strong executive could not be conferred on the legislative body." Congressional Research Service, p. 430.

4 According to Alexander Hamilton, "The Second Article of the Constitution of the United States, section first, establishes that the President of the United States, that the Executive Power shall be vested in a President of the United States of America." That same article in a succeeding section, provide for the punishment of "offenses against the law of the United States." 229 U.S. 334 (1913).

5 This grant of executive authority, with no limitations, led to the conclusion that the President "is a nation of laws at work, determining whether men shall prevail over the principles of constitutional democracy." The Red Book of the Watergate Investigation, 2d ed. (Washington: 1969) 430; 7 "Works of Alexander Hamilton," J.C. Hamilton ed. (New York: 1981) 76.

6 U.S. Constitution, Article II, Section 1.

7 The practice of expanding presidential powers has continued steadily but was irrevocably established when the "strict constructionists" came to power in 1801 and did not curb executive power, but rather enlarged it. The modern theory of Presidential power was conceived by Hamilton, but it is interesting to...
February 23, 1988

Congressional Record—Senate

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However, the initial broad authority is often qualified by other significant factors: the enumeration of executive powers later in Article II. These declare in part that the President is to be Commander-in-Chief, make the President responsible to Congress, and authorize the President to "make Treaties, but subject to the Ratification of the Senate." 2050

The fact that many of the powers attributed to the President by the Constitution are enumerated, however, is not in conflict with express sections of the Constitution, such as the Bill of Rights, or Article I (the legislature), or Article III (the judiciary). This then is the proper context for examining facts.

The facts reveal a multiplicity of evidence concerning the Watergate affair: a significant number of actions by the President which were illegal, or at least in violation of the Constitution and laws of the United States. These actions will be set forth in proper context for examining facts.

The Watergate affair may be seen in this context as having two main themes: the personal behavior of the President and the officials in his administration, and the methods used by the government to investigate the President and his associates.

The Watergate affair has become a national issue because of the actions of the President and his administration. The affair has had a significant impact on the American political system, and has led to a re-examination of the role of the President and the government in general.

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It had received transcripts of illegal wiretaps and never reported that crime, 44 that was warned of the planned break-in at the Watergate and did nothing to stop it, 45 that knew of Liddy's activities, and shortly after the Watergate arrests and kept those facts from proper authorities, 46 that shredded Watergate evidence in the CIA, 47 that tried to produce a list of its executive branch agencies as a "cover" for the Watergate operation, 48 that was the scene of meetings at which high officials participated in and instructed the presidency to cover up crimes and obstruct justice, 49 that saw advisors invoke the power of the presidency to use an FBI Director in ways that would eventually cause him to resign. 50

That used the President's fundraising powers to collect illegal corporate contributions, 44 to raise funds to finance a crime, 45 and to solicit perjury; 44 that discussed using the President's elementary prerogatives as early as July 1972, to keep the lid on Watergate and other crimes, with Richard Kleindienst, 51 that called Watergate a "third rate burglary," 52 that made offers of clemency for improper purposes, 53 that announced, in a Presidential statement, a Dean investigation clearing the White House, when there had in fact been a coverup not an investigation and the President had never, ever talked to Dean about 'Watergate' in the White House Oval Office, unethical out-of-court contacts with the presiding judge in one of the Watergate civil suits, 54 that purposely lied to the grand jury, 55 that encouraged campaign officials to commit perjury and plead the Fifth Amendment to obstruct justice, 56 that used the President's personal staff to try to get Justice to pay criminal "hush" money, 57 and to pay for a private eye operating out of the White House, 58 that used its influence to get raw FBI files for political purposes, 59 that prevailed upon the FBI not to interview certain witnesses, 60 that used patriotic concern for the presidency to pressure defendants to plead guilty in a criminal case, 61 that used its influence to get high officials before a federal grand jury, 62 that plotted to cover up the Segretti story and denounced in the harshest terms those who uncovered it, 63 who underestimated the media, 64 that noted "it would assuredly be psychologically satisfying to cut the innards from Ellsberg and his clique," 65 that obstructed Congressional investigations of Watergate and related matters, 66 that filed Watergate counter suits for the distorted purpose of using subpoena powers to delve into the finances and sexual activities of political opponents, 67 that made numerous misleading or false statements about Watergate to the American people, 68 that failed to promptly inform the proper authorities of the crimes involving White House officials, 69 that forced the resignation of a special prosecutor, Attorney General, and Assistant Attorney General, 70 that used the executive's authority over the media's regulatory agencies to intimidate the media, 71 that ordered a personal tax audit, surveillance by an FBI agent and Secret Service agents, and an anti-trust action, all in response to a newspaper article about one of the President's friends, 72 that tried to punish foundations with views different from the administration's, who undermine the IRS to review their tax exempt status, 73

44 Mr. Strachan testified, "I did not tell Mr. Dean that I had, in fact, destroyed wiretap logs, because I was not then sure what they were. I only had suspicions that they existed."

43 Mr. Strachan, according to Mr. Magruder, was as well briefed, on the evening of June 16, 1972, on the second break-in (excluding information for a second break-in on June 17) as anybody at the Committee to Re-Elect. Testimony of Jeb McGruder, Vol. 2, p. 2.7.

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An Attorney General, for a significant period of time, ran the President's re-election committee, the Committee for the Re-election of the President, and was then removed from office shortly after the Watergate break-in to help get Mr. McCord out of jail before he was identified. He was then later told by the President not to investigate the Ellsberg break-in.

Another Attorney General was placed in that awkward position of being asked immediately after the Watergate break-in to help get Mr. McCord out of jail before he was identified. He was soon thereafter warned of White House concern with a too aggressive FBI investigation. He then was asked to provide raw FBI Watergate files, perhaps improperly, to the White House. That same Attorney General was later used as a secret contact with this Committee's investigation of Watergate, and was then removed from office in an apparent connection with the Watergate affairs. He eventually became the first Attorney General in history convicted of a crime, for his testimony about that Watergate matter.

A third Attorney General was forced to resign his office when he backed the Special Prosecutor's procedure for obtaining Watergate evidence from the White House.

An Assistant Attorney General was also asked to provide raw FBI Watergate files, perhaps improperly, to the White House and was later told by the President not to investigate the Ellsberg break-in.

Another Attorney General was forced to resign when he backed the Special Prosecutor's decisions in the Watergate case.

Still another Attorney General

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Mr. Mitchell testified that he "had frequent meeting with individuals from CRP dealing with matters of policy," before he resigned as Attorney General. Testimony of John Mitchell, Vol. 5, p. 1653.


Vol. 4, p. 449.


See note 70 supra.


Richard G. Kleindienst pleaded guilty, on May 16, 1974, to one count of refusing to testify about the Watergate of July 6, 1974 to one month unsupervised probation.


Testimony of Henry Petersen, Vol. 9, p. 3631.

Vol. 4, p. 3050--51; compare with testimony of John Dean, Vol. 4, p. 1503.
General gave confidential Justice Department and FBI intelligence information to the President's re-election campaign, at the direction of the White House.118

Is the point starting to come through: Take the last one there. Still another assistant on:

Still another Assistant Attorney General gave confidential Justice Department and FBI intelligence information to the President's re-election campaign, at the direction of the White House. And we want under S 2 more power to go to the Federal Government in this re-election process? This is the one check that we have as a people on these types of things not happening is that our vote and our resources and our energies are not restricted in any way by any entity of Government.

Three Attorney Generals and three Assistant Attorney Generals. And all this was done on behalf of the presidency, which a Constitutionally responsible to "take care that the Laws be faithfully executed."

And I bring that back into focus because we say around here of course obviously we are all obligated so is the President to see that the laws are faithfully executed?

No. No. That is not the way it happened and that is not the way it can happen.

Things can go wrong, very wrong but as long as the last repository of power is in the hands of the people, then the whole system is saved from collapse.

A Secretary of Commerce with all the authority as to corporate affairs that goes with that position, was placed in charge of raising funds for the President's re-election, including, as it turns out, a number of illegal corporate contributions.112 A Secretary of Treasury met with a milk producers association and supported their request for higher price supports. After the President granted higher support prices, the milk producers arranged for him to be offered at the White House and given material from the CIA to cover up Watergate.113 The Acting Director of the FBI was brought to the White House and given material from the CIA to cover up Watergate to keep it hidden, an act which resulted in his eventual resignation.116

Now, Mr. President, my time has expired but will I be back on the floor if I can. I hope the distinguished acting minority leader will allow me to continue to refresh the memory of this Nation as to what transpired which caused the Watergate Committee to recommend against what is being proposed to this body in the year 1988.

The original reform was not Watergate reform and neither is this reform anything associated with experience of the past.

It is the little public relations dabbling is what it is and having spent a good 2 to 3 years of my life in the consequences of others dabbling in the Federal system I do not think I care to expand the list of dabblers or those who can be called upon to pervert our free election system.

Is it not ironic that we sit here debating a reform of the reform and that only a few years after the reform was enacted?

In any event I repeat as to why I feel so deeply about this matter. It is that I have seen firsthand a government, not a man, but a government run amok in the perversion of our free election system, and I am not about ready to give one iota more of power to government when it comes to that election process and neither should the American people do it.

The distinguished acting minority leader has well described the deep feelings that run on this side. I am sure that others have different reasons. But, believe me, I speak from the heart and from a good portion of my career on this matter.

If you want to call this bill—I do not know—I am not the one that devised it, but call it anything that you will, a political party would want to government when it comes to that election process and neither should the American people do it.

There is something we can really grab onto this chunk of meat, there is something that is going to make any sitting or acting minority leader feel deeply about this issue, obvious feels deeply about this issue, and I think that all of us that know him have come to know him that has been my great pleasure for 9 years.

There are good, decent, honest people on that side of the aisle as well as on this side of the aisle. There are lots of things that need to be reformed in this election process. If you want to really grab onto this chunk of meat, get into the business of negative advertising. It is a disgrace to the Nation, an absolute disgrace. All you have done in negative advertising is sort of legalize the dirty tricks of Watergate.

There is something we can really sink our teeth into. But this dabbling could have a disastrous effect in some future election as to if the Federal Government turns itself on a candidate or candidates plural a la Watergate.

I am bound and determined to see as long as I may live, see that the Federal Government turns itself on a candidate or candidates plural a la Watergate. There is something we can really sink our teeth into. But this dabbling could have a disastrous effect in some future election as to if the Federal Government turns itself on a candidate or candidates plural a la Watergate. There is something we can really sink our teeth into. But this dabbling could have a disastrous effect in some future election as to if the Federal Government turns itself on a candidate or candidates plural a la Watergate.
years, this remarkable compassionate gentle giant of a man who can be tough and fair and firm. You want to listen to what he is saying because You do not know of many Members who have the deep social conscience that he does. It is a part of him. It abides in him and he is a very fair man.

I want to thank him because it was marvelous and I listened to it and anyone who knows the Senator from Connecticut and knows an issue knows that the words will be listened to. And there is a fairness to him which runs as a thread.

So, I thank him very much. I appreciate his participation in these efforts. Now, he shall continue into the evening, no, into the morning. It falls upon me since I have been knighted with the task of acting minority leader to do a little more than I had anticipated, but I always somewhat reminds me of you know, when you get elected president of the rotary club or the chamber of commerce, or whatever, in a little town they say “We will help you, Al, and I see at this hour at 4:30 there are few people here unless the Senator from Colorado is going to join here in this remarkable effort. If so I would certainly appreciate that. We are under unanimous-consent agreement of various motions and so on.

Does the Senator from Colorado wish to dabble as the Senator from Connecticut called it?

Mr. WIRTH. If the Senator is yielding the floor, the Senator from Colorado would appreciate being recognized.

Mr. SIMPSON. Mr. President, let me do that. There are now three of us here at this hour, the occupant of the chair and the Senator from Colorado, and there are no motions that can be made, no moves to suggest the absence of a quorum. And, whatever the Senator from Colorado would have, may I inquire at this time that the Senator from Colorado would intend to speak? We have others coming to the floor and I can spare them the anguish of the morning hours if you wished to do that, I inquire of the Senator from Colorado.

Mr. WIRTH. If the Senator from Wyoming yields the floor, when he does, the Senator from Colorado will seek recognition for only a short period of time for the purpose of making sure the record is clear on some of the things that were said earlier.

Mr. SIMPSON. Sure.

Mr. WIRTH. I think it is appropriate that the record be made clear. But it is your filibuster, not ours, and the Senator from Colorado will only be talking for a few minutes for the purpose of modifying the record on behalf of the majority.

Mr. SIMPSON. Let us go forward with that, Mr. President. We can have a colloquy. If there is an explanation coming from there, we can have a clarification coming from here.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. WIRTH. Mr. President. I just wanted to make three very short points. First, the distinguished Senator from Colorado has spoken eloquently of his very distinguished role in the Watergate Committee’s investigation. The Senator from Connecticut played a notable role in that wonderful moment of the Congress exercising its responsibility.

I am sure that the Senator from Colorado had no intention whatsoever of implying that the sponsors of S. 2 in any way, shape, or form are to be equated with the perpetrators of Watergate.

There were a number of people in the White House who were transgressing the law in all kinds of ways, and were abusing the privileges of public office, and the Senator from Connecticut has laid that out in a very understandable manner.

Many of us who are sponsors of this legislation were closely watching the events of Watergate unfold, as Members of Congress or from other positions, and understood those problems. Many of us were involved in securing enactment of the campaign finance reform of the mid-1970’s in order to prevent the replication of some of the abuses we witnessed. For many of us who support S. 2, the desire to eliminate some of those abuses in congressional campaigns is a key determinant of our support. Above all, we certainly do not want to leave any impression that being a sponsor of S. 2 or an advocate of S. 2 suggests in any way that we approved or condoned what the perpetrators of Watergate were doing, and I am entirely confident the distinguished Senator from Connecticut meant nothing of the sort. That was just the first point for clarification that I wanted to make.

The second point I wish to address concerns the distinguished Senator’s comments about spending limits in Presidential campaigns. I think one of the most instructive that I have is the minds of the American people that emerged from the unfolding of the Watergate episode was the conclusion that massive amounts of money were being spent in Presidential campaigns, and that there should be limits placed on the amounts of money being spent in those campaigns. I believe history and objective statistics show conclusively that the existing voluntary limits in Presidential campaigns, which was enacted following the Watergate revelations, has been extremely successful in that way.

Let me cite a few numbers. In 1972, while there were no spending limits, President Nixon financially overwhelmed his opponent by spending some $62 million, a great proportion of which came from a handful of contributors. Adjusted for inflation, the comparable figure for Presidential campaigns has been more than $150 million. There is every reason to believe that at least $150 million would have been spent in 1984 had there been no limit established before that election. However, with spending limits and public financing in place in 1984, President Reagan spent $68 million, or less than half of what President Nixon spent in real dollars.

We see that the campaign finance law, which established voluntary spending limits in exchange for partial public financing, has effectively limited expenditures in Presidential campaigns. President Reagan accepted the spending limits and public financing in his 1976, 1980, and 1984 campaigns, as have 34 of 35 candidates for the Presidency since the law went into effect. What we have seen is that the spending limits that have been put into Presidential campaigns indeed have had a salutary effect. I believe strongly that most people would agree that having less money rather than more spent on Presidential campaigns has been good for the process. Unfortunately, as has been pointed out in the debate over and over and over again, we have not seen any kind of spending limits in congressional campaigns. The amount of money in congressional campaigns has increased by almost 500 percent, 450 percent for House races, 500 percent for Senate races in this same general time-frame—from 1972 through 1982—during which inflation only doubled prices. We advocates of S. 2 firmly believe we ought to put a ceiling on House and Senate campaign expenditures, and believe doing so would be both beneficial and successful as was placing limits on Presidential campaign costs.

Finally, the suggestion was made in the distinguished Senator’s remarks that enactment of S. 2 would shunt an enormous amount of public money, 450 million dollars, into Senate campaigns. That simply is not the case, and the facts of the legislation in front of us will bear that out.

S. 2 in its current form is primarily a bill to establish voluntary spending limits and limits on political action committee contributions to cam-
campaigns. It does not authorize tremendous outlays of public funds for congressional candidates.

S. 2 provides for public funding in only three cases: First, candidates who agree to spending limits will be entitled to reduced postal rates, with public funds used to make up the difference. The cost of these reduced postal rates will be more than offset by the S. 2 provision eliminating the existing reduced postal rates for political parties. In other words, the net effect of these two provisions taken together is to actually return money to the Treasury. The cost will be less than today's cost in public funds.

Second, direct public funds will be provided to a candidate only when one or she agrees to spending limits and his or her opponent in the general election exceeds the spending limits. In such a case, the individual who agrees to spending limits is given public funds in order to minimize the ability of the free-spending candidate to buy the election, as an equalization device.

Third, a candidate in a general election campaign who is the target of independent expenditures by one individual or group, or coordinated independent expenditures exceeding $10,000 will be provided an equivalent amount to assure he or she can reply to the message for which the independent expenditures paid.

These very limited public financing provisions are in the legislation in order to enable establishment of voluntary but effective spending limits which will satisfy the Supreme Court's Buckley versus Valeo standard. In order to have spending limits that meet the Supreme Court's first amendment standard, the spending limits must be voluntary, and compliance achieved by providing incentives. I think it was important to make these three points at the conclusion of the remarkable but distinguished Senator from Connecticut. We will hear, I am sure, a great deal more debate, but I just wanted to assure that the Record was clear. Mr. President, I yield the floor.

Mr. SIMPSON. Mr. President, that was important. Those comments are very valid in connection with this debate. I thank the Senator from Colorado and appreciate that very much.

The comments of the Senator from Connecticut, knowing him, I feel quite sure, I would not think were in any way to cast aspersions on those sponsors of S. 2. That is a remarkable list of sponsors and cosponsors of S. 2. I think certainly that is not the issue.

The issue is the Watergate issue. The issue is seven cloture votes and the real issue is. There really is not an other issue. The whole case. The issue is when you will a snake and snip it in seven sections, you would think it would be dead. But in this case we are going to have to lob the eighth stroke, and it is the unprecedented more time in which we will do Friday. I am not going to bet on it. I quit that business in this place. But that is the frustration, that is the essence of this thing that we are involved in at 20 minutes to 5.

But there is an interesting thing. I do not know if any of you saw it, about the spending limits. And this is one page. This is not really filibuster material. This is rather fascinating. "Spending limits and taxpayer financing in practice; the failure of the Presidential system." This is current, February 1988. This is just one page. It is fascinating. Overall cost to taxpayers so far, $40 million in the last 2 months, $60 million in the last four campaign dollars. We had half a million dollars go to Lyndon LaRouche in 1984—half a million. We had $200,000 to psychologist Lenora Fulani to run for President. I do not know how well she did. I had not heard of her before. But anyway she ran and we paid for it. And we paid for Lyndon too.

And then we got more bureaucracy and not democracy. One out of every four campaign dollars—now we are talking about the individual taxpayer. One out of every four campaign dollars goes to lawyers and accountants. In the 1980 Presidential race, $21.4 million was spent on compliance alone, as much as the most expensive race in Connecticut, knowing him, I feel quite sure. And I think certainly that is not the issue.

The difficulty now is that far more spending is now increasing at the rate of the expenditures in Presidential campaigns. We did not do that. The overall spending is now increasing at the same rate as before. So here we go. The difficulty now is that far more of the spending is done outside the legal limits and the disclosure requirements where there is less accountability than more accountability. I think certainly you read the article the other day on how you do it in Iowa. They have certain restrictions. You can only spend so much. So they get the rent-a-car and plane out and on the weekend they fly away from Iowa, both parties. They go out and they come back. Now, really, that is the most absurd exercise. And that is what we do with the Federal on the Presidential level. But the prescription is now, in a sense, for President becomes a cheater. Every major candidate since 1976 has been cited, Democrat and Republican alike, for serious violations of the law in which they have obtained bad press and large fines. That has happened.

One candidate spent $2 million in a State with a $400,000 limit and his campaign manager reported that a year or two later and said that is the way it was. "We had no choice. We were forced to steal." And Democrats and Republicans alike do this various dabbling.

Delegate and precinct committee delegates are "loopholes big enough to drive a truck through." I do not know whose quote that is; I have heard that somewhere—conduits for millions of dollars outside of spending and contribution limits. Corporations and labor both help circumvent limits by paying off candidates and giving away generous loans. That is the way that works. And that is a sham.

Campaign managers now tell us there is an absolute growing disrespect for the law and for the election process. Campaign managers report that the first planning priority is to identify in advance the various ways to circumvent the limits and the rules. That is the first object of a campaign as it gathers for the Nation to a Presidential level. This is rather fascinating.

And what that is disturbing to me. A respected observer and a campaign staffer declared "This whole FEC thing on the Presidential races is a sham. It's your job to find every single loophole."

I do not know who made that quote. Special interests wield control by spending which is far outside of the legal limits. Here is an interesting statistic. In the 1984 general election, $40 million spending limit. Fascinating; $25 million to defeat him and that was 62 percent of his entire limit. Wow that is disturbing to me. Nearly half the money spent in the 1984 general election, $72 million was outside of the candidate's direct control. I think that is extraordinary. Nearly half the money was outside the candidate's direct control.

At least one-fourth of all money spent in Presidential races is unreported, unlimited, and unaccountable. Some of the money, which we have described in this debate in various ways but I think we all know what it is—it just is a different way of getting the money to the same source without going through the reporting which in fact all the money in Presidential races is roughly tripling in each election cycle. The races really resemble un-
Senator strongly on system, all the things that sound good the tough votes and he knew he was know how you would ever get at that. He was going to touch on it but it would he; sat right there at that desk. Really not the issue here because we when uttered or seen in print are body. I was privileged to serve with been personal to the occupant of the be any kind of activity and political savvy, David Broder said:

Spending limits and taxpayer financing have shut down local campaigns. Grassroots democracy has died.

That is a quote of David Broder, whom I have the greatest respect for. We have to heed his words.

Then in this kind of orgy of activity with regard to reform, as we talked about corruption and polluting the system, all the things that sound good when uttered or seen in print are really not the issue here because we do not get at the things that the Senate frontmen was talking about. Negative advertising; I do not know how you would ever get at that. We are going to have to address that.

But certainly the independent expenditure provision is not covered under this bill. That is one of the most egregious things that I have ever seen. I was going to touch on it but it would be personal to the occupant of the Chair whose father-in-law was one of the most able U.S. Senators in this body. I was privileged to serve with him; sat right there at that desk. Chuck Percy of Illinois. He cast all of the tough votes and he knew he was coming up for reelection. There were times we would say, Chuck, do not do that. That vote is 67 to 30. You really do not have to dive off the cliff on that one. And he would say, "I feel strongly on that," and he would cast the vote.

I am not challenging what the outcome of that race was. His successor was Paul Simon, one of our finest Members, a Presidential candidate. But if you tell him he faced one of the cheapest shots that have ever been fired at any living U.S. senatorial candidate by one man, one embittered—I do not know how else to describe him. There must be a lot more. There are more allegations but we do not know how many. I understand his own money to defeat Chuck Percy. Some of the nastiest, crudest, racist, in a sense; stirring the pot, bringing up the specters of anti-Semitism. A bizarre character. And he is still loose.

He was in the Chamber one day when we voted on some kind of campaign reform, and I said I would like to see a guy like that. I would like to visit with him face to face. I do not think guys like that like doing face-to-face business very well. I have not seen him yet. He called my office and babbled into the vapers: Simpson can't say that about me. So I just said it again. And I would love to visit with him sometime. He is an interesting fellow.

I do not know what he will be doing in the next campaign, what Republican or Democrat he might pick, but he has got a lot of money and he apparently knows he has got power because it worked.

And that he went up to the wife of one of our colleagues, a California colleague, at a social event one night and he said: I am the guy that beat Chuck Percy. And the wife of one of our colleagues said: I like Chuck Percy, and I am offended by the way you did that. That kind of startled him.

Well, let me tell you. S. 2 will not even take care of him. It will not even lay a finger on him. Is that right? Of course it is not right. You do not want those kinds of guys polluting the system and that is what they do, and that is what he did, and he was totally effective, and he is totally loose and ready to do it again.

That is not right. That is just one way gaps have occurred in this piece of legislation.

So I would hope we would do something with those and, of course, it will always be said that that was his right, that was his constitutional right of first amendment expression: to spend all the money he had, if he wanted to, to defeat a candidate. OK, that is fine. The Supreme Court has dabbled in that area, made some interesting decisions: Buckley versus Valeo.

Probably if his situation went to court, they would preserve it. It is still not right. Especially when it is late in the campaign, when you have expended your money in a thoughtful way, warding off your opponent in an honorable race, and then to have this phantom enter the fray in the bucking that out of some type of vindictiveness or pleasure that is beyond my particular grasp at this early hour of the morning.

But he will revisit himself upon the path of those and he will be ready for him the next time. There would be even a better way to get ready for him or her, whoever is out there, and that would be to do something about it right here in S. 2. But we have not.

There are a lot of things we have not done in S. 2. Another thing we have not done in S. 2 is to prevent those remarkable calls that are placed by a phone bank on the edge of town, set up in trailer houses. They called the Bell operation and say, "We will need you about October 29, and we want you to get set up," and they will be paid, you need not worry. They will be staffed and the dials are set up and the lists are set up; and they were there in three races this year where we lost Republican incumbent U.S. Senators, which is kind of one of our interests that we preserve that fragile species, just as you would, as the Senator from Colorado would, as the occupant of the chair would for your party. So how did they disappear from the scene? We had a lot of good, tough scraps. Their opponents are honest and voted and are proving to be splendid colleagues, it appears. But I do not know that they were a part of this. I am not even suggesting that. But I am saying it took place and it was placed for about 3 or 4 days and the phone banks hummed and it was simply: You do not want to vote for Senator So and So. He look away your Social Security. And the calls were made to a select list people which was done and it was placed demographically selected. And that was the question.

It was not a question. That was the statement placed in their mind by a recorder or by a fellow human being. That is a pretty powerful way to get the troops juiced up. And that happened to three, and I am saying that those three were probably not even involved in that. But it happened. And S. 2 does not even reach that. It does not reach that at all. It does not get to that kind of contribution.

It does not get to soft money as others of the debate have shared, and I am sure it is repetitive, but at this hour anything is repetitive, the Democrats get more money from the "big guys" than the Republicans. That is a curious statement, but it is true.

Republicans get more money from the "little guys." If you look at the breakdown of the $5 and $10 and $20 versus contributions of corporations, labor, and wealthy individuals. That is a fact. It was reported. It has already been placed in the Record, Thomas Edsel wrote a fascinating article on that in the Washington Post.

So that is a myth. There are many myths here that it is difficult to discern the truth and the truth is, and honesty I say this in, hopefully, not a total partisan way, the truth is that the Democrats know how we raise our money and win and the Republicans know what the Democrats do with their money and win, and we are both trying to do a number of the other.

We do our number through a bill and you on that side, or those on the other side of supporting S. 2, do their number in their bill. That is unfortunate because we both know where the soft underbelly is. We both know where the abuses are and we are not dealing with it. And I do commend this group of eight, I really do. They are trying.

Perhaps one of the reasons that there was less action today by that group is that one of the central members of that group, Senator McConnell, was unavoidably called away by business activities in Kentucky. He
That has been done in the past. In 1981, before the Senate of Justice authorization was passed, some of the myths raised in the campaign spending and fundraising by putting a lid on campaign spending, taking a first step toward limiting independent expenditures, and limiting aggregate PAC contributions to each candidate. The Senator from Wyoming intends to repair to his chambers to rest his gangly body until my return at 10 a.m. and fecklessly rip through another day. I shall be here.

An important one in this democracy.

Another one of the myths that has been advanced this evening consists of various claims that public financing of Presidential campaigns is evil or undesirable. Mr. President, if public financing of Presidential campaigns is such a bad thing and the law is as detestable as suggested, why have those expressing their displeasure with the law not put forward proposals to change that law or to eliminate that law? And if that law on which so many Republicans are heaping criticism is so bad, why is that all of the Presidential candidates this year, all the Republican candidates as well as all the Democratic candidates, are accepting public financing and abiding by the spending limits? And why is it that after a decade, why is it that after the midseventies, why has every Presidential candidate except John Connally agreed to participate? And here is where one of the myths is that this bill does not do anything about independent expenditures. I am very familiar with the issue of independent expenditures, having been one of the prime targets of independent expenditures in 1986. A number of groups, from the NRA to the realtors to the Committee for the Survival of a Free Congress, and a couple of others come in to my State and ran just exactly the kind of negative campaigns that the Senate from Wyoming has described so eloquently this evening. What the legislation in front of us does within the constraints of the Buckley versus Valeo—within the constraints of the independent expenditure issue, though the Senator from Wyoming is absolutely correct in saying it remains a major problem no matter how we address it.

I yield the floor.

Mr. SIMPSON. With that, Mr. President, I leave this now to my good friend, and I thank the Senator from Colorado for his remarks which are well worth hearing, but the Senator from Minnesota has been aroused from his bed. I appreciate very much this evening how I feel he has met a personal need. I am going to leave. I thank him very much. I know of great instruction in his day. I thank my friend from Minnesota very deeply.

Mr. DURENBURGER. Mr. President, I welcome the opportunity to speak, for a few minutes on this subject. Obviously, it is a great opportunity to be here at this time of the day, for this is one of those unique chambers, and we cannot tell the time of the day except by the condition of the occupants. It is quite clear that from the President down to the managers on both sides that some people have been on their feet discussing this subject for a long period of time.

Mr. President, if public financing of Presidential campaigns is such a bad thing and the law is as detestable as suggested, why have those expressing their displeasure with the law not put forward proposals to change that law or to eliminate that law? And if that law on which so many Republicans are heaping criticism is so bad, why is it that all of the Presidential candidates this year, all the Republican candidates as well as all the Democratic candidates, are accepting public financing and abiding by the spending limits? And why is it that after a decade, why is it that after the midseventies, why has every Presidential candidate except John Connally agreed to participate? And here is where one of the myths is that this bill does not do anything about independent expenditures. I am very familiar with the issue of independent expenditures, having been one of the prime targets of independent expenditures in 1986. A number of groups, from the NRA to the realtors to the Committee for the Survival of a Free Congress, and a couple of others come in to my State and ran just exactly the kind of negative campaigns that the Senate from Wyoming has described so eloquently this evening. What the legislation in front of us does within the constraints of the Buckley versus Valeo—within the constraints of the independent expenditure issue, though the Senator from Wyoming is absolutely correct in saying it remains a major problem no matter how we address it.

Finally, there was a brief discussion about snakes, of cutting up snakes in a variety of ways. I learned a lesson from a long time ago from my mentor in the House of Representatives, Congressman John Dingell from Michigan, who had a wonderful expression related to snakes. He did not cut them up. He said "If you want to kill snakes, squash the eggs." It seems to me that we have the opportunity here in the form of S. 2 to really squash the eggs of excessive and inappropriate campaign spending and fundraising by putting a lid on campaign spending, taking a first step toward limiting independent expenditures, and limiting aggregate PAC contributions to each candidate. The Senator from Wyoming is interested in killing snakes. I guess we would have a different way of going about doing it, or are focusing on different snakes.

In any case, Mr. President, the Senator from Wyoming deserves to retire to his chambers to rest, and we look forward to seeing him at 10 o'clock tomorrow morning. Some of us have drawn watch duty for the remainder of the evening. I know he is going to miss us. We are going to miss him. We look forward to the dulcet tones of the Senator from Minnesota momentarily.

I yield the floor.

Mr. SIMPSON. With that, Mr. President, I leave this now to my good friend, and I thank the Senator from Colorado for his remarks which are well worth hearing, but the Senator from Minnesota has been aroused from his bed. I appreciate very much his standing here. Honestly I feel he has met a personal need. I am going to
reform that is carrying the day, the organization like Common Cause for example that is carrying the day, or there is a particular need like improving the way in which we in elected office represent our constituents that really is the issue.

And as I have observed perhaps too often from the sidelines on this debate, this debate over the last year or so on S. 2, and prior to that 1986, 1986 and so forth, I have been getting the impression that we have been carried a little bit too far along by the institutional arrangements and the desire for reform that has brought us to this debate, and not enough by our sense of the basic realities of the need to have good people doing their best in the representation of a constituency that in large part probably more accurately views what we need to do here than often we do. 

Now, Mr. President, having indicated that I am a late-blooming politician, let me say that while I did not seek public office until the middle of 1978, I am a very connected politician. I am in particular a stranger to the whole issue of election law reform and campaign finance reform. As has often been stated on the floor in connection with this particular issue, we have been in the reform mode since the early 1970's.

We in Minnesota are, if there are good reformers in this country, probably the best. As the present occupant of the chair well knows, who is one of our neighbors, we in the upper Midwest or the middle Northwest or whatever the case may be are constantly trying to find better ways to do things which has a lot to do with our northern European heritage, which rises from permanent winter and the effort to constantly find a better way to keep warm or whatever the case may be. But there is something about us that constantly seeks a better way to do things.

As you, Mr. President, are aware, in the old days of reform, it was the populous, the nonpartisan movement, this grassroots prairies are burning kind of energy that get rid of the special interests, and let us bring equity and fairness and all that sort of thing back to the farm.

So it is those roots that have brought many of us to reform, and in the case of Minnesota, I think we were one of the first States in this Nation to adopt major campaign finance reform in the early seventies. We did it as I recall under a Democratic Governor and a Democratic legislature, and it brought us a variety of very interesting reforms in Minnesota, all in the name of getting rid of the special interests and raising the value of the general interests, cutting down the trees in that we could see the forests. We probably did one of those usually good jobs of questioning whether it was really a forest we were looking at or something else. But the reality is that Minnesota went through this period in 1971-74 of changing everything.

We made arrangements with public financing in the State so that people could check off somebody else's money on their tax return, get the good feeling that they were making a contribution without making a contribution and creating public financing of elections in the State of Minnesota. We made arrangements so that those who are enthused about the political process could get out early, arrange for shared rides for those who were less enthusiastic to make sure we could get people to the polls, something that in Republican eras we thought smacked a little bit of undue influence on the process, that is calling up people you did not know saying "Can I come pick you up at the house at 7 in the morning and drag you to the polls?"

Well, the reformists looked at that very differently, and they said, of course, these people could vote unless someone came and gave them a ride. So, the Government ought to legislate rides. So, we make it possible in Minnesota for people to be picked up at home, driven to the polls, so to convenience their participation in the process. It it probably a very good thing, one of the things that contributed to the fact that Minnesota always votes more of its eligible voters than any other State in the country. Seventy-five, seventy-six, seventy-seven, seventy-eight percent of the people vote in the State of Minnesota. That was facilitated by the campaign finance reform. When the people got off the bus at the polls and walked in, it did not really make any difference whether they had been in the State for 5 days, 50 days, or a lifetime because the reformists had also arranged for people to be picked up on fixed spot. All you had to do was bring the bus driver or some other fairly knowledgeable person along with you, who would vouch for the fact that, yes, you had lived at such and such an address for two required 3 days and therefore are eligible to vote.

We watched from the seventies as college students from all over the country would march in and lay claim to being lifelong residents of Minnesota and a variety of other wonderful things that raised the level of participation in the electoral process in our State.

There probably are some other reforms along this line that I should be able to think of at this hour of the morning to remind my colleagues of, but it is enough to say that my State made a major effort to franchise the vast majority of the electorate; again, the notion being that everyone ought to participate in the process, we ought to cut down the trees of special inter-
genesis, but it began as simple as sitting around someplace after work besmirching the fact that government was going to be left to the real special interest or the single interest, unless somehow this broad base of support for the process were saved from all of the reform that was going on at that time.

So, a couple of people at that time got together. It was the chairman of the Democratic Party in my State, called, as the President knows, the Democratic Farmer-Labor Party and the chairman of the Republican Party, which is now called the Independent Republican Party. I can tell you something about Minnesota. We get very hyphenated in our efforts to distinguish ourselves from other Democrats and other Republicans. But the leadership of both the parties got together in the period around 1970-71, to deplore the fact that broad-based participation in the process was disappearing, that in the aftermath of all of this scandal in campaign, illegal and otherwise financing, the people were pulling out of the political process. And of course, the party people recognized that if they got away from the process there would not be any political parties because political parties obviously are sustained by broad-based contributions to the political system through political parties and those of us who were not officers of the political party but were involved in the government also saw that broad-based participation in this process was the only way you are going to get two, three, four, five sides of an issue.

So, we put our heads together, Republican and Democrat, to talk about what were we going to do about it. The net result was that we began an effort for a couple of years at that period of time to encourage people in the community at large, the business community, the professional community, and so forth, to broaden the base in their own memberships, employees in the case of businesses, members in the case of professional and other associations, to try to continue to broaden the base of participation in the political process, and believe it or not, in a nonpartisan or a very bipartisan way we went out, held conferences, seminars and all that sort of thing trying to push the notion of political action committees because we felt in this very progressive State of Minnesota the political action committee and/or whatever it may have been called in those days probably the best way to make sure you had a lot of trees in the forest and not just a few so that you could get a wider interest represented.

So, with that process I think a couple of things happened in Minnesota. One, we sustained some modicum of campaign finance reform, contributions, membership associations, employees in some kind of involvement in the political process, and some of us who were involved in trying to sustain this effort were drawn in the implementation of the campaign finance reform in my State of Minnesota.

So, when the Democratic legislature got around to passing all of its reform legislation and when they as part of this reform legislation created a Senate Ethics Commission, as they called it at that time—I think it then became the Ethical Practices Board—that gave this commission responsibility principally for implementing the new campaign and election law financing legislation in the State of Minnesota, together with some small amount of ethics at work, that is lobby registration, lobbyist registration, an all of that sort of thing.

But the principal job was the task of setting up this new public financing system making sure that it worked and made all of these other registration, and so forth, was done.

So that is my recollection. That happened in 1973-74. And because, I suppose, there was still a modicum of bipartisanship in the legislature at that time even though one party controlled both Houses, there was a requirement that if the Governor chose a Democrat as a Chair, which he did, that he would have to choose a Republican as the Vice Chair of the committee. And I just happened to be lucky or unlucky enough to have been fingered by the then Democratic Governor of the State who used to occupy a seat in this Senate for several years to be the Vice Chair of that committee.

So from the time that campaign finance reform and election law finance reform came to Minnesota I came to second Chair the process of reform.

All of that, Mr. President, is only by way of background as to why I rise to comment on this issue and also to indicate as I have previously that each of us is an expert on this subject, but we come from a different particular view and I wanted everyone to know what colored my particular view on this subject.

We spent an interesting couple of years putting this whole program together, spending the other people's checkoff money in one way or the other, and I think during that process learned some important things and some important lessons that this Senator has not lost sight of as he has watched during the eighties the national efforts to move in the direction of restraining the growth in campaign expenditures by exploring constitutional means for that restraint, much of which in one way or another involves what is so-called public financing.

Now, Mr. President, my experiences as I recalled them with the system in Minnesota and into the mid-seventies were while they were enjoy-
But that was the era in which we were building a new election financing process in the State of Minnesota and we started off from 1974 to 1976 going down one track of implementing this legislation. When Buckley versus Valeo came along, we obviously adjusted that track.

Again, Mr. President, strictly by way of informing my colleagues from whence I come to this issue and from whence I come to my fairly strong opposition to the efforts on the part of my colleagues in this body to reform via an amended S. 2 this whole election process.

Now, the experience that we enjoyed in this period of time in the seventies was valuable to me from several respects. First, it showed me more deeply than I had probably previously suspected that the rules for political campaigns can be kind of a risky endeavor. It is sort of like the proverbial putting your finger in the balloon because when you push in on one side of the system, something comes out on the other side.

We were talking about Buckley versus Valeo. If you want to dissect that decision, you can find one of those typical balloon situations where you push in here and it comes out on the other side. And at some point the Court quit pushing on the balloon because it could not handle the fact that those incredible consequences that we mere humans have not been able to figure out a way to deal with. And so in much the same way this hour are we looking at people that have the money, or how are we going to require people to spend money in the process of elections, too, is very difficult.

But as others on this floor have indicated also in the period of the seventies—and I think it was my colleague from Connecticut who spoke fairly strongly, the former member of the Watergate Committee spoke quite strongly to the fact that one of the things that came out of the Watergate era was sort of a new view of political action committees and PAC's and so forth. And that one of the things that the reformists of the Watergate era wanted to be sure happened was that we had some kind of a broad-based constituency under a campaign financing.

And so we in Minnesota, as we approached that issue, we also found that we were struggling with how do you direct the interests on the one hand and how do you broaden them on the other hand and found that that was difficult to accomplish unless at some point you trusted the public to make judgments about the electoral process.

So as a sort of an original free enterpriser, consumer choice, "don't let the Government make the decisions for you" people figure out how to do it knowing that if you want to do public financing in one way or another, you could. Certainly, there is nothing per se wrong with public financing of elections. What was wrong or seemed to be wrong with this process was how we actually set up the process.

Public financing is something most of us, I think, have participated in at the Federal level, until those of us on the Finance Committee, in our relatively poor judgment, in 1986 eliminated the opportunity to take a $100 deduction for a $100 political contribution. So we have been at public financing for a long time, and there is nothing wrong, in this Senator's view, with a tax policy or some other Federal or governmental or public policy that enables us to broaden the responsibility for our individual decisions about where our money ought to go.

By the same token, it has been my experience that the efforts of others to broaden the base under this system through, for example, the political action committees which encourage people who otherwise would not contribute to contribute. And there is nothing wrong with them. What seems to be wrong in any system is not telling the electorate what you are up to.

So if we go about this process and leave to occasional newspaper disclosure the fact that the members of such and such an association put $5,000, or $10,000, or $20,000, or $30,000 into Senator Durenberger's campaign and this comes as a once every 2-year or every 6-year disclosure, and it comes from some bold headline and it may be, the illicit behavior, we react adversely.

Where they disagree, it would seem to me that those who would take the current election financing laws beyond where they are today in one way or another have to agree that disclosure is an important part of this process. Where they disagree, it would seem to me, is as to whether or not disclosure in and of itself is an adequate way in which we can take influence or undue influence out of this whole process.

So I would begin by making the argument that disclosure in and of itself does most of the job. We can go beyond that in a variety of ways and say in addition to that we ought to put $1,000 per election limitation on individual contributions or we ought to
put a $5,000 per election contribution limitation on political action committee contributions. We can step beyond disclosure and put other kinds of limitations on this process. And, of course, we have already done that. And I do not know that there are a lot of arguments that come to mind best to accomplish that in this body today nor has there been among our predecessors.

Where the argument, Mr. President, seems to arise most frequently, as we have acknowledged many times here on the floor of the Senate, together with other parts of the day, asking people who had been in office, 22 years ago. He won it. And it strikes me, it is my recollection at least, and I think this is approximately correct, he ran a statewide campaign which ran through 18 ballots at a Republican convention, running against three other better-known candidates, including a former Governor. He ran through that process and then he ran against the incumbent Governor of the State for election and won by a very slim majority in a very hotly contested campaign in 1966. But I think the total expenditures in that campaign were something in the neighborhood of $400,000 or $500,000.

Well, my first election 12 years after that cost over $2 million of his own money. So we spent together, in a relatively brief campaign—one mine began around the 1st of May and ended on the 2nd or 3rd of November—whether we spent over $3 million in the same State. We do not have a lot of population influx into Minnesota, so it is not like we were going from a million population to 4 million. We were roughly 3.7 to 4 million in 1966 and 1978. So you are going from a $400,000 statewide campaign, hotly contested over a year and so forth, to a 6-month campaign that cost over $3 million on both sides.

And then only 4 years after that, in an effort to seek reelection, I found myself spending $4.3 million. And I spent $4.3 million, not because I felt like spending $4.3 million or that was the most I could raise. I spent $4.3 million because that was the most I could raise against a person who spent $7.2 million of his own money to try to unseat me at that particular point in time.

So together we spent $11.5 million, $12 million or something like that, maintaining representation from the State of Minnesota in 1982 in the U.S. Senate.

In 1984 my colleague in this body up for reelection for the first time was not lucky enough to run against a self-funded campaign. He ran against a secretary of state who had been in office for a long time and was fairly well known, was able to raise maybe $1.5 million, $2 million and my colleague raised something in excess of $6 million. That was his judgment, I guess, about what it would take to win an election and his judgment proved right. He won the election. I would suggest it was a lot easier year in which to run but it was one of those judgment calls that everybody has to make. The process then raised, again, between the two of them something between $8 to $9 million and in a State with 4 million people in which a few years previously it had cost less than a million to run statewide.

So, on and on, people look at those figures out there in Minnesota, in the good government State where you think it seems obscene. And I think people look at —"where the strong are the strong, the men are good looking and all the children are above average" as Garrison Keillor made famous about folks in Minnesota and you say why should it cost so much? This is terribly obscene that all of this money should get spent on elections.

It is only obscene, though, Mr. President, in the sense that we here wish, we who are willing to get up at 4 in the morning to come and debate this issue, wish with all our hearts that we did not have to raise all of this money and we would like to couch that in terms of: why should elections cost so much? But the reality is we would like not to have to do all of this work. Most of us enjoy coming here at reasonable hours, debating some of the great issues of the day—this may be the greatest in the judgment of many of our colleagues and you and I spend a lot of our time between 6 and 8 every evening at fundraising receptions and/or other parts of the day, asking people to provide financial security for our campaign.

But the reality as I have observed it, Mr. President, over the years that I have been near public office, involved deeply in campaign financing reform, and then as a participant in this process now, in three elections, the reality is that compared to everything else that Americans spend their money on in my book there just ain't nothing obscene about a $6 million campaign by my colleague or a $6 million campaign by me or anybody else. It is not the totality of the money we raise in these campaigns that is obscene.

People who are better equipped at this debate than I can take you through the amount of money that we spend on advertising everything from the chewing gum to, you know, Lord knows, all the other things we do not need in our society. Just find out how much money, hard-earned cash, Americans will spend on the useless things that are spent by a consumptive society and its advertising genius and compare that with the relative pittance that is spent to influence the way that the politicians of this country are spend on the useless things that are spent by a consumptive society and its advertising genius and compare that with the relative pittance that is spent to influence the way that the politicians of this country are

So I guess that particular word, in association with what I do or what I spend, I find inappropriate. Again, I would say from my personal preference I would rather not spend a lot of my time raising money. I would rather be a statesman than a politician. I would rather spend my time listening to my constituents, digesting them through this well-trained brain of mine that there somewhere there and in shaping the future of America.

But the reality is that what makes America really something, a special place, is not so much what goes on here in the shapening of policy as it is in the way that the politicians of this country are shaped. I would like to suggest, despite the limited audibility of this message at this particular time of the day, one of the things that we lose sight of in this process is that particular point. It is not the shaping of policy, particularly today, that is as important as the shaping of policymakers and those in the election process.

Many of us have come to this process in midlife, so to speak, I think look about us at the high quality of the people in this place. And yet we also have the experience of pleading with others to run for public office. We find it, and I am sure others have shared this experience with me, find it very discouraging to see around us in our constituencies, people who are unwilling to participate in this process for one reason or another.

Much of it is a discouragement, not with the election process, not with what you have to do to get elected, but a discouragement with what you have to do to be a shaper of public policy.

So it seems to me that if we put most of our effort into shaping the politician and the election process and less of it into the numbers involved in campaign finance and how we are going to go about it, we would all be substantially better off.

One of the reasons of raising the money that I need to run a good campaign is for me a very healthy process. I was on the floor here a few months ago in a little discussion with the majority leader on that subject. He was defending, as he has many times, the schedules that Senators have to keep. They cannot be here on the floor
when he would like to see them on the floor because so and so has a fundraising scheduled here and so and so has a fundraising scheduled there and so forth.

The allusion at the time that I drew, and I will admit that it was implied, that somehow or other going to a fundraiser or exposing yourself to the opinions of those who were potential contributors, somehow was either degenerating to the process around here or was something less than a proper influence on the shaping of this system.

At the time, and today, I strongly disagreed with that theory. I remember saying back in 1982 all over the State of Minnesota that I thought there is something arrogant about a multimillionaire saying: "I am going to get myself elected on my inheritance." I mean, if that is the case, well, let us populate this place with those of inherited wealth. This would, in effect, be the House of Lords. Let us put restrictions on all contributions and say that you cannot spend anyone else's money. The only way you can get to this place is on your own.

I found that while I do not think the man I ran against is arrogant, in fact I like him a great deal, but I think the political process because they can say, this man I ran against is arrogant, in fact I had a candidate or an opponent who operates on the same rules you do; who has the same kind of financial parameters around him or her that you do; who has to go to the same people you do, not only for the vote but also for the contribution to run that campaign compared with running against somebody who does not have to do that. While I am not advocating that all of the millionaires in the country get to work running against my colleagues here on the floor of the Senate, I suggest that when it does happen to you it is going to be a healthy experience and one that you ought to have before you come here, prejudging the opponents of S. 2 and our views on the restrictions that would be placed on this process.

Now, I am talking about the so-called obscenity of campaign spending, Mr. President. Let me remind my colleagues that, after talking a little bit about chewing gum and some of the other things we spend money on, that the Supreme Court has ruled that campaign spending is free speech. We have talked about Buckley and Valeo in the past here and I think we have also, at least I have argued that some of the interpretations of free speech in Buckley versus Valeo I do not agree with because I think that they are outside the realm of, sort of, the reality of the way things work in this society.

I have just addressed myself to one of the principal problems with Buckley versus Valeo and it is a commitment to free speech and that is the right of those of independent wealth and means to flaunt the electorate in a sense in their participation in financing campaigns and to reject their participation.

But the reality is that if we stick with this notion of free speech that limitations on the amount of money that can be spent in a campaign are also a limitation on the right of free speech. If I take away from the millionaire his right to spend his millions, that is a limitation on his right of free speech.

If I take away the right of the independent expenditure—maybe I should limit it in some way—but if I take to someone who makes the decision that something like Buckley and Valeo, I have placed a limitation on a free speech in this country.

So, Mr. President, to the degree that you say to someone who comes from a State in which the spending levels in a Senate campaign have gone from $1 million to $2 million to $4 million to $8 million, whatever I was just describing to him how would he do reform of this political system, if he did not like the amount of money that was spent in a campaign for some
Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE, Mr. President, first I do want to thank my distinguished friend and colleague from Minnesota for those kind remarks. I have served in this body now for some 8 or 9 years, and it has been my pleasure to work with him on several different committees, principally the Finance Committee, where he does such an excellent job.

Mr. President, I just would like to address the subject for a few minutes, if I might. I feel badly that we are undergiving this present process. I must say I cannot quite understand it. I voted last year for cloture seven consecutive times on this measure. And I have been one of two Republicans that have voted for cloture every single time. It is clear that cloture is not going to be achieved. Nothing has changed.

So I just cannot understand the tactics that the distinguished majority leader has chosen to follow in this instance. I might say that he is a man of whom I have great respect and have worked closely with on many separate occasions. But the question, it seems to me, before the body now is: Do we want a cause or do we want a bill? If we want a bill, then this business of cloture votes, unsuccessful cloture votes—as took place last year, when no bill emerged and, as a result, the chance for meaningful reform, not the total reform that the majority leader would like or that indeed I have supported, was lost—this practice of cloture votes is not the way to go.

In the best of all worlds, everybody would get exactly what they want. But that is not the world of government. That is not the world of politics.

As legislators, we must compromise settling for half a loaf or three-quarters of a loaf in order to make some progress and move ahead. But unfortunately, that is not taking place in this instance. There is such insistence on the public financing of the campaign spending limitations that the other chances for significant reform are foregone. This is very, very unfortunate. Apparently, that is the process that again is going to be followed this year.

What am I talking about with significant other reforms? Well, I think I personally strongly feel there should be a limitation on the political action committees. We all recognize that in nearly every State a political action committee can give a candidate $10,000. This is absolutely ridiculous. And the contributions that the individual can make to the PAC is sizeable.

It just does not make any sense. That is what I find my constituents are most indignant about, the so-called power of the PAC's. The argument is that if you limit PAC's to, say, $5,000 or $3,500 or some amount like that, that they will then just split like a meatloaf and instead of having one PAC, you have two PAC's and one PAC not being able to give $10,000, you have two PAC's giving $5,000, or three PAC's each giving $3,500.

Well, that can be addressed. The technique of limiting the PAC's themselves, limiting the amount of money that the PAC's can be addressed. But unfortunately those issues are not being considered and enacted into law.

As a result, that type of reform is being deferred later and later because clearly those candidates running in 1988 have already exceeded any possible limitation that would be in a bill on the total PAC contributions. And they are not going to unscramble the eggs at this time which would be too complicated. And those who are running in 1990, I am convinced, have already exceeded any limitation that we might put into legislation for PAC contributions. So it is too late for that game.

Whether the class of 1992 that has already been out there and has exceeded the limitations that we might put in for PAC contributions I do not know but I would not be a bit surprised if aggressive candidates just elected 2 years ago or a year ago are on out there seeking more campaign funds, and probably have at least come up near the ceiling, potential ceiling, that we might enact on PAC contributions. They probably already may well have reached it or exceeded it.

So what is happening here, Mr. President, is that we are deferring the enactment of meaningful reform by this process that is being followed here and was followed last year as well.

Let us review the bidding if we might. It was Senator BOREN from Oklahoma in 1974 and Senator Goldwater, who started with the whole campaign reform measure. While there was no overall spending limitation in their proposal, it did contain restrictions upon PAC's, addressed to some degree to the so-
called soft money problem, but principally it was a PAC limitation bill. If I recall correctly, the Byrd-Boren approach was losing its battle against certain aspects of what some view as the perfect-and I felt very badly about that. There is some indication that the thrust in our campaign spending laws should be disclosure. That is what we want. Let the public know what is happening, where the money is coming from.

I must say I personally have run into a situation where I think a reform that clearly should take place is that the individual contributor. It seems to me this is one case—I do not want to say it is the only case—but it is clearly a case where extended posing that we repeal that legislation? I have not heard it.

Now, let me take a look at this particular argument. It says, in one of the points that the junior Senator from Kentucky made that every major candidate since 1976 has been cited for serious violations of the law. Large fines result. One candidate, and I believe this was in New Hampshire, in 1984, spent $2 million in a State with a $400,000 limit. I do not know how that can take place. But apparently it did, and if the individual candidate is just cited for violations of law, it does not seem to me the law is being enforced appropriately. Now, that particular candidate lost, and I suppose there is no point in beating a dead horse in trying to fine him, as it were. Probably he had no money left from the campaign anyway.

But, something is wrong if that takes place.

Another point that he makes, is that overall spending for Presidential campaigns is now increasing at the same rate as before spending limits and taxpayer financing was enacted.

Again, I am not quite sure how that takes place, but it is worthwhile look-
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ing into it and I am not sure that those points have been addressed on the floor. But I have heard, and these are people who I have been allied with, mind you, the great concern over the increased spending that has taken place. What does it amount to? How much time that is consumed and I believe those are legitimate points.

I am up for reelection next fall and I have found that I have spent some time talking about it. Whether it has been more or less than in other years, I do not know. I think perhaps a bit more, but again in past years I did not spend a total of a great deal of time and so the amount that I am spending now is not that much time and clearly it has not interfered with senatorial activities, especially, I might say under the schedule that the majority leader has adopted for this body this year with 3 weeks on and 1 week off. Any fundraising that we choose to do can be done in that week off. As everyone recalls previously, if we had fundraisers, we would have them on a Monday when the Senate was in session because that was usually a very quiet time.

There is one other point I failed to address in the significant reforms that might be undertaken that we are losing a chance at, and that is the unreasonable, outside contributions and unaffiliated contributors.

Now the way the law currently works is if candidate X is running in Rhode Island for reelection, somebody from California unaffiliated with X's opponent can come in and spend any amount of money he or she wants in that campaign, both pro the incumbent or anti the incumbent, and to me that is just plain unfair.

Now, what can be done about it? I do not know. I am not sure. I suspect, again going back to the Buckley case which, of course, concerns an individual contributing to his own campaign, that under the constitutional provisions for freedom of speech, an outside individual cannot be prohibited from spending as much money as he or she wants it to his or her defense for the reelection of a candidate. I wish we would spend time addressing that problem. It is a legitimate one. We have seen it come up. We have seen it come up in one notable race in Illinois. I think we ought to address it, and undoubtedly it is possible to address it.

But those are things that I think we ought to be dealing with here instead of this driving attempt to achieve these campaign spending limitations that are not going to take place. And I can say, from my point of view, that this is unfortunate, because, as I mentioned before, I have listened to the arguments of those who have been against these limitations. Up in our region of the country where it is very, very hard to get Republican candidates to run, public financing is not all that bad. We have rather solidly entrenched Democratic incumbents, in many instances—I am talking about the whole New England area. The ability to attract donations or the amount of money that is consumed in time that is consumed and I believe those are legitimate points.

So, thus, it appears, particularly under the present situation with the Presidential candidates who have voted against federal out campaigning—that the vote for cloture would not be 55 but would be 53, perhaps one less if somebody were out for unavoidable reasons such as illness or recovery or whatever it might be.

So cloture is not going to be invoked. And, thus, I feel very strongly that we are in a good position to move ahead and achieve some reform.

I introduced four measures: the limitation on the millionaire's loophole; outside contributors; limitations on the PAC's; and soft money disclosure, and perhaps limitations. All of those are very, very important items that I wish we would take up.

Now, I have here an article on campaign finance reform which is in a printed booklet entitled "Commonsense." Now, who publishes Common sense? Well, it turns out it is called A Representative Journal of Thought and Opinion, published by the Republican National Committee and its Chairman Frank Fahrenkopf, right here in Washington, D.C., and the Republican National Committee can be identified as the national operating arm of the Republican Party.

This article is entitled "Homogenizing Congress." It is written by BILL THOMAS, a Representative from the 20th District of California.

I think it touches on this subject and I will just read some of the paragraphs in it.

During the past decade, political reformers have enacted numerous measures to regulate federal elections and various evils, both real and imagined. These reforms vastly changed the landscape of political campaign fundraising but not always with predictable results.

That certainly is true.

While frequent attempts to regulate political participation have yielded some of the desired outcomes, they have also affected the kind of candidate who can succeed in this new environment. This unintended consequence holds considerable implications for the future of our representative democracy and raises the question: How healthy are such frequent campaign reform crusades for our political system? As the 98th Congress considers further campaign finance limitations and the possibility of taxpayer-financed congressional elections, policymakers should pause to consider the unintended effects which past reforms have spawned.

It is interesting to note that in the legislation we have before us, S. 2, only deals with Senate campaigns. It does not deal with House campaigns. Now I think any reforms that are enacted should deal with both.

I have heard it said that if the Senate enacts these limitations, then
the House would follow. Well, I do not know whether that is true. I wish that S. 2, which as I say I supported, were broadened to include the House because with this change we are seeking in many respects through the legislation is fairness, equity. You can well have a situation where representative candidates, that is Members of the House, have been able to spend large sums of money getting themselves known in re-election campaigns, particularly in relatively small States where they are without limitations. They, in their re-election campaigns, can get well known all over the State to a greater degree than a senatorial candidate who is limited in his campaign could. And then, lo and behold, one day the Representative decided to run for the Senate. And, having achieved this far greater exposure, he branches out and takes on the incumbent Senator who has been restricted.

Now, to me, that does not seem very fair. I hope that in any campaign reform, whatever is finally done, that if it is going to include the Senate the Representative know the argument is put forth: “If you ever try that, they will never pass it in the House.” However, if that is true, then what makes us believe that if we pass it the House will subsequently pass it themselves. That is taking a chance.

So I do not see why both bodies are not included. If we can work out a formula to restrict the number of dollars that a senatorial candidate can spend, why can we not work it out the same for House Members? And, frankly, the House situation should be a lot easier since each of their districts is relatively similar in population. In the United States now it is probably closer to 500,000 in each representative district. That is man, woman, and child, not voters.

The proliferation of political action committees (PACs) has been one and a half reported example. PACs are direct products of the limits slapped or individual contributions by the 1974 campaign finance law. PACs, invested on their own in the competition in the political process, individuals banded together and continued to raise funds and distribute to candidates, all within the confines of the new law.

Some groups, however, have not exercised all their options under the laws which they themselves, in many cases, helped to create. Now that their earlier efforts to contain the so-called evils of money in campaigns have been largely superseded by public support of PACs, these groups want to make further adjustments in campaign law. They refuse to face the reality that a politically-active public will continue to be so—despite further unreported attempts. Attempts by reformers to “bottle reality” through various strictures and complicated regulations have had consequences beyond the PAC phenomenon. Not only have the type and manner of public participation changed, but the characteristics of elective candidates have also undergone a metamorphosis, and campaign reforms are partly responsible. Other factors have contributed to changes in the kind of candidate who is more likely to be successful today, but campaign reforms are chief among them. If current proposals to limit campaign contributions which taxpay-er-financed congressional campaigns are successful, I believe such efforts will serve to accelerate the process of redefining the “electability” traits of Members of Congress.

Some tremendous changes in the demographic makeup of Congress, use of Representatives are already evident. The average age of House Members, for example, is considerably younger than at any time in history, a trend set in motion by the 93rd Congress which convened a decade ago. House Members of the 93rd Congress averaged 51.1 years of age. The average for today’s 98th Congress, however, is 45.5 years and the median age of an entering Member of Congress is now less than 40 years.

Other demographic trends were set in motion by the 93rd Congress. For the first time in the Twentieth Century, Blacks represented southern constituencies, and Representative Barbara Jordan of Houston became the first Black woman to represent a southern congressional district. Another maxim of southern politics was broken in that election—for the first time since Reconstruction, Mississippi sent two Republicans to Washington. In 1980, the House elected its first Republican congressman in this century.

These trends are continuing in the 98th Congress. There are 37 Jewish Members, an increase of four from the 97th Congress. The number of Black Members increased from 19 to 21. There are 11 Hispanic Members, an increase from seven in 1981. The 98th Congress began with 23 women—the same number that was present at the end of the 97th Congress, which started in 1981 with 21.

The snapshot then of the current Congress shows a much younger, seemingly more diverse group of individuals. Nevertheless, in many respects this new group is more homogeneous than past Congresses. The typical new Member of Congress is wise in the use of electronic media; better educated in the complicated myriad campaign rules; more willing to wage long campaigns, as well as repeated campaigns, in order to get elected; and, is more independent of political party support than ever before. A pipe-smoking Milliken or a flamboyant Bob Eckhardt will become increasingly rare in Congress. Instead, the typical Member of Congress is becoming more and more a professional; someone who is both an electoral and technological revolution which has taken place in the last decade.

Well, I am not so sure I agree with that conclusion. I think that as times change, so the approaches of the candidates are going to change. And I do not think that the, if you want to call it, rugged individual, those who are different via the pipe-smoking Milliken or a flamboyant Bob Eckhardt are ruled out from taking office today. Indeed, in the past they stood out as individuals because there were not many like them, and I think similar individuals could be elected today.

Now, here we address the problem of spending limitations.

Now, here he addresses further limits: decline of parties, splintering of consensus.

How will the proposals for further limits on campaign contributions and for taxpay-er-financed elections affect the pool of candidates from which Congress is chosen? One immediately evident result is that candidates would become even less dependent on political party support and influence in their elections. Candidates would be approved under strict contribution limits and with public money available, the traditional roles of political parties—formulating public policies and recruiting candidates—who share their broad philosophies—will become obsolete or, worse, meaningless.

We will candidates necessarily forge closer ties with their district constituencies under public financing? I believe the opposite would result.

It is not me speaking. It is the author.

Candidiates would no longer be required to seek periodic support in the form of campaign funding primarily from their constituents; rather, they would rely on taxpayer funds channeled from Washington, D.C. To the extent public financing permeates congressional elections, the public interest would become further and further removed. By "public interest I mean that amorphous label which is so often invoked by proponents of campaign reform, but the public interest as represented by people who would receive any benefits from the reform process, who seek to participate in the public decision process by supporting candidates who reflect theirs views. The linkage between this public interest and the Member of Congress would be broken by public financing of campaigns because taxpayers (most of whom oppose such plans) would have no control over who receives the funds.

Well, I think that is a scare line that I do not subscribe to. As I say, I have supported public financing and there may be reasons against it and I think the strongest reasons have been set forth by the junior Senator from Kentucky, that it just plain does not work; that it is expensive. One of his points is that it encourages a proliferation of extremist candidates. That may be. There is more bureaucracy on the Presidential level. The figures he cites, I was thinking if some time is not occurring.

One out of four campaign dollars goes to lawyers and accountants.

In the 1980 Presidential race, $21.4 million was spent on compliance alone. That is as much as the most expensive race in Senate history. Campaigns must process each contribution—again we are talking about the Presidential system now—through 100 steps.

I do not know how he ever gets up to 100 steps, but in any event it is complicated. Political decisions have become accounting decisions.

Well, all that may be true, but I do not subscribe to the points that are made here by Mr. Thomas in his article in Common Sense. There he sees the dangers of Federal financing of congressional—in this case Senatorial campaigns that would distance the candidates from their constituents. Because they do not raise money from their constituents any more. They just
go to the public trough in Washington, DC.

There may be objections that can be raised to campaign financing, but I do not think that is one of them.

Now, I do commend to those who are interested in the whole subject, this booklet which was published in December of 1983, just 4 years ago. There is a rather interesting description of major campaign finance reform legislation, which deals with legislation introduced by Senator Paul Laxalt, whom we all remember so well, and Representative Bill Frenzel and others.

Now, just so we can get a broader view of this, let me commend to individuals who might be interested, an article on page 77 of this booklet, "Major Campaign Finance Reform Legislation," where it deals with legislation introduced by Senator Mathias in the House, Jim Leach, Dan Glickman, and David Obey, all Congressmen; legislation introduced by Representatives Conable from New York and Barber Conable and the legislation that I talked about earlier namely, the legislation that was the forerunner of S. 2, Senator Boren's legislation.

That bill limited—just to touch on the Senate—limit Senate candidates' acceptance of funds from all multicandidate committees to an amount varying with the population of the State ranging from $75,000 to $500,000.

All right. There are a series of other articles on that subject there.

Now, let me turn once again to the points raised by the junior Senator from Kentucky, in which he feels so vigorously about campaign financing as it has been practiced in the last 2 months, as I say, it has not come to my attention.

Well, I do not think we have to say it is one-third billion dollars. It sounds like a lot more than $330 million. So, $330 million has been spent on these National Presidential races. I do not think that sounds like so much.

The next point he makes is the proliferation of extremist candidates. A half a million dollars went to Lyndon B. Johnson, who many of us remember as a psychologist, Lenora Pulani to run for President. I am not familiar with Lenora Pulani's campaign for President. And if she received $200,000, I am amazed. I suppose there should be some qualifications. How many signatures or individual fundraising, before one is entitled to receive the Federal money. And indeed that is true. Ms. Lenora Pulani must have raised substantial sums by herself. You have to raise a certain number of dollars from most of the States before you qualify for the Federal funds.

But I must say I do worry about the extremist candidate charge. Would that transpire in this and another $330 million that is $500,000. I have been supporting? Are we encouraging extremist candidates to get into the races?

One of the great virtues, it seems to me, of American democracy, as it has evolved in this country, is that we have a Constitution—is the fact that, though in the two-party system the candidates tend to move toward the middle, toward the moderate center whereas in the multiparty systems you have candidates on the fringe who achieve excessive power unrelated to the amount of votes that they have been able to obtain. We have a winner-take-all system and that encourages moderation. Every candidate has to go out and appeal to as broad a spectrum as possible, whereas in those countries that have proportional representation, which I consider to be a disaster, fringe candidates make demagogic appeal that is to a limited sector with the belief, and often the realization, that by this appeal to this limited group, which might be only 10, 12, or 14 percent of the people, that the individual will ensure, through the proportional representation system, that he or she can be elected to the parliment or whatever the governing body is.

We have not had that in our country and I am deeply concerned that we might. I do not want in any way to encourage it. So this charge by the distinguished junior Senator from Kentucky that there will be a proliferation of extremist candidates as a result of the public financing of senatorial candidates may be a serious one.

I would like to hear further discussion, I might add, and I do hope that the junior Senator from Kentucky who undoubtedly will be addressing this matter in the future on this floor, will address that particular point. It is one that I would worry about. However, as I say, it has not come to my attention before and has not been brought out on the merits of an issue which is of great interest to our Nation, of great interest to the State of Alaska; that is, the issue of opening the Arctic wildlife reserve to oil exploration. But in the spirit of the time, for the time being at least, the Senator from Alaska will stay on the subject of S. 2 and attempt to highlight for the benefit of the President the specific points that are of grave concern to those of us on this side of the aisle.

One of the major concerns that often is not brought out on the merits of public financing is just what is it going to cost the taxpayers of this particular country? Well, an estimate that has come into my hands on spending limits and taxpayers' financing obligations suggests that in the last 2 months alone over $40 million has been expended in public campaign financing costs, and over one-third billion dollars in the last three elections alone.

The question of proliferation of extremist candidates, the issue of wasted dollars, is very much appropriate for this body to reflect on. It is estimated that in the 1984 campaign one-half million dollars was given to Lyndon B. Johnson, and approximately $200,000 to psychologist Leona Pulani, who at that time was a candidate for President.

So, Mr. President, it appears that we are contemplating building more bureaucracy and not more democracy.

An interesting note for those of my colleagues who are involved with the issue before us of legal profession is one of four campaign dollars, that is dollars that are
given by the taxpayers, goes to lawyers and accountants. It is estimated that in 1980 in the Presidential race $21.4 million was spent in compliance alone, as much as the most expensive race in the Senate's history.

Campaigns must process each contribution under 100 steps. So in reality, Mr. President, political decisions have also become in this bureaucracy accounting decisions. We have seen under the experiences that we have had unprecedented growth in campaign spending under "limits." Overall spending now is increasing at the same rate as before spending limits and taxpayer financing. The difference is that far more spending now is done outside legal limits and disclosure requirements and there is less accountability.

Some would suggest, Mr. President, that the system mandates that every candidate becomes a cheater. Figures indicate that every major candidate since 1976 has been cited for serious violations of the law. Needless to say, both major candidates faced difficulties. One candidate spent $2 million in a State with a $400,000 limit.

The Senator from Alaska hopes, Mr. President, that the significance of these figures even at this early hour may penetrate the open minds of those who are still undecided on the issue and would reflect again on the merits. So as we consider the realities of what S. 2 mandates, it is corporations and labor that help circumvent limits by paying office rent, phone deposits, and giving overly generous loans.

There are those who would suggest that this provides for growing disrespect for the law and the election process. Campaign managers report that the first planning priority is to identify an advance way to circumvent limits and rules. One observer, a campaign staff er, declared this whole PAC thing is a sham. It appears to be "your job" to find every loophole. We have special interests that will control by spending outside the law. In the 1984 general election, special interests spent $25 million. President Reagan, this represents 62 percent of Reagan's $40 million spending limit; and nearly half the money spent in the 1984 general election, $72 million, was outside the candidates' direct control.

At least one-fourth, Mr. President, of all the money spent in Presidential races is unrecorded, unlimited, and unaccountable.

In soft money, which we have heard a great deal about, spending is roughly tripling under each election cycle. Races resemble uncontrolled corrupt politics of a pre-reform era.

Another thing that should concern us all, if we reflect on the merits of political contributions. What effect has it had on the voter? Well, statistics tell us that voter turnout has stagnated; 55 percent in 1972, and in 1984 it is down to 53 percent, a 2-per cent decrease. Some have suggested that campaigns have lost their identity, they have lost their enthusiasm, they have lost their imagination. Spending limits and taxpayers' financing have been called the "art of campaign" and the unique attribute of American politics—that is the grassroots democracy—has to a large extent died.

Mr. President, I have a number of references in regard to status of S. 2 because S. 2 is really not the answer. The Senator from Alaska is in favor of campaign reform but not at the expense of the taxpayer.

The junior Senator from Alaska supports the efforts of this body to bring about this needed reform. But, Mr. President, it must be done in a fair and equitable manner. And this legislation, S. 2, is not the appropriate way to accomplish that reform.

As has been pointed out by a number of my colleagues and others that will follow me, the bill as currently written has many serious flaws. As I have stated, the legislation would initiate a system for using taxpayers' money in funding Senate elections. If a candidate violates voluntary spending limits, the money to combat excessive expenditures, make no mistake about it, would come from public funds raised through checkoff on probably tax returns.

The problem is that a true measure of national support for such financing is the tax checkoff for the Presidential campaigns. Only approximately 20 percent of all taxpayers annually "vote" to spend their tax dollars in this fashion. Eighty percent vote "No."

One would ask what if the checkoff system does not work? If the checkoff system does not raise sufficient funds, what is going to happen then? Why, it is obvious Congress is going to have to appropriate money, appropriate adequate money, for our own reelection effort. To me, there is something very wrong, very inappropriate about that kind of a situation.

Some have said in this debate there is an evasion association with PAC's. S. 2 would allow candidates to continue to accept funds from political action committees. Only the total amount a candidate could receive from all PAC's would be capped.

Some are asking if PAC's really are the problem. Small voluntary contributions of like-minded individuals really make up a majority of PAC funds.

Does not this PAC process actually help to preserve the rights of individuals to freely choose the ways they want to participate in our election process? Mr. President, I have mentioned soft money and S. 2 does not address this issue. We have seen union get-out-the-
support for a candidate? A rather interesting speculation, Mr. President.

Should the value of that support be filed with the Federal Elections Committee just like an oil company's employees are required to file their PAC contributions? Or, Mr. President, do we intend that newspaper publishers be exempt from the limit placed on other individuals?

These are among the questions that I think deserve more attention by the public.

Mr. President, I would like to take this opportunity to share with those of my colleagues who are up this early some of the letters I have received from around the Nation in opposition to S. 2. The first is from Mr. Geraldine Morrow of Anchorage, AK. It reads:

DEAR SENATOR MURKOWSKI: The American Dental Association has notified me of the seriousness of S. 2, the Senatorial Election Campaign Committee's alleged political action committee is alleged political action committee abuse. Its impact on the amounts of money political action committees can contribute to candidates. Along with the information they sent a cosponsor list. May I express my deepest appreciation to you at not seeing your name on this list. There are many of your colleagues who have signed the cosponsorship. Hopefully your missing name indicates your opposition to this legislation. I want to speak to opposition and sincerely urge you to continue in nonsupport.

Currently there are 4,000 political action committees representing all interests in our country. PAC's have proven effective in aiding candidates, yes but also in greatly increasing citizen interest and involvement in government and the political process.

The alternative proposed—partial public financing—does just the opposite, and may, in fact discourage citizen involvement because publicly contributed funds cannot be earmarked to a favored candidate.

One of the promoting ideas of this legislation is the claim that political action committee abuse. Current disclosure laws assure full knowledge by the public of all PAC activities. Protections are in place. If abuses are discovered, certainly they should be addressed. But the solution should not be elimination of the incentives for citizens' involvement.

How could concerns with campaign costs be appropriately addressed? Dr. Morrow suggests the following: The creation of an independent commission to be established to study the overall issue. Items suggested for the study would include the length of campaigns, the period of funding, the overall cost of elections. Should candidates be permitted to retain unused campaign contributions? Should elected officials continue to be permitted to establish PAC's in addition to those used for their own campaigns so they can assist other candidates? And can the role of major political parties be strengthened?

Once again Dr. Morrow states:

I do acknowledge, Senator Murkowski, your restraint in this matter and I am grateful for your understanding of the seriousness of a situation.

I would strongly urge your opposition to this legislation and sincerely appreciate your ongoing efforts.

Best regards,

Dr. Morrow.

I think the point in this letter that strikes me is how the involvement of citizens has been encouraged in the electoral process through the concept of the PAC's.

We have, of course, seen letters come in from the U.S. Chamber of Commerce, the National Right To Work Committee, organizations, corporations with PAC's such as Texas Industries, the Eaton Group. We have also seen an expression of genuine concern on the part of the public with regard to the need for campaign reform.

But as we reflect on the type of campaign reform that is in the interest of the public it is important to understand the reality of the issue of soft money, and what should be done.

I would ask my colleagues to reflect on the soft money issue and as to why they do not feel it is appropriate that this issue be reported.

There is a problem of inequity when you have one candidate running in an election and reporting his funds in the conventional manner and an opponent who has the benefit of an organization working for him through the contribution of personnel, phone banks, and letter writing. These efforts are very effective as I know from personal experience in my own campaign of 1980 and later in 1986. This is an issue that all of us whom are elected officials have a difficulty with the issue of soft money.

Now, we have seen in this particular issue the effects of an organization called Common Cause, a rather interesting group in our country. It is a special interest group. It claims approximately 400,000 members nationwide. It is an integrated entity, enjoying a status under the 501(c)(4) tax-exempt provision under the Internal Revenue Code. It has placed legislation changing financing laws on the top of its legislative agenda.

The Democratic leadership and all but two of the Senate's 54 Democratic Members, I understand, support its call for taxpayer financing elections and spending limits in congressional races. It is no secret that Republican Senators view the bill as nothing more than a political ploy by our friends across the aisle to lock in their control of the U.S. Senate. Not surprisingly, given the high partisan stakes, the bill has fared poorly with Common Cause and the Democratic Party unable to break a filibuster, a record up to this time we have had, I believe, a record of seven cloture votes.

Now, Common Cause's role and that of the Democracy Party in this debate has yielded communications that are the subject of complaints that have been filed in various parts of the country. Common Cause, as we have seen in various areas, has seen fit to take out a series of full-page newspaper ads against some Republican Members of this body not supporting Common Cause's position on S. 2.

The feeling of the Senator from Alaska is that the aim of Common Cause is obvious. Since Republican Senators who are the subject of the ads have not waved on this point, Common Cause wants them defeated in the upcoming 1988 elections so that the makeup of the Senate will favor Republicans.

In addition, Mr. President, Common Cause has taken out an advertisement against the Presidential candidacy of our own leader, Senator Robert J. Dole. And this occurred at the height of the national Presidential primary season which we are in.

To this end, Common Cause is expending substantial sums in an attempt to weaken the electoral system and, in my opinion, the strength of certain Republican Senators facing election in 1988. The ads are an attempt to affect the 1988 senatorial elections so that the special interest legislation pushed by Common Cause and benefiting the Democratic Party cannot pass this body.

I feel that the FEC needs to investigate to determine the extent of Common Cause's coordination of its advertising efforts with those who are planning the policy in the Democratic
Party’s Senatorial Campaign Committee.

We have seen ads, as I have referred to before, on standing Members of the Senate. The text of the ads, which are similar, demonstrate why they are highlighting reportable expenditures whose purpose it is to influence Federal elections. The ads we have seen identify the Senator running for reelection in 1988 and criticize him for lack of integration if his views are opposed to those of Common Cause.

Now, the ads that we have seen are from newspapers, either published or widely circulated, and they depict Republican incumbents running in 1988. The ads that I have seen make repeated references to “congressional campaigns” and “candidates” and suggest that those who do not vote Common Cause’s way are somehow “fundamentally corrupt.”

Now Common Cause is obviously making these expenditures in the hope that they will be reelected. If the aim was to make Common Cause’s views known to the Senator, a mere letter would certainly suffice.

Now ads supporting Democratic Senators facing reelection in 1988 contained similar factors demonstrating why they should be reelected. Of ads supporting various Senators, one praises a Senator for voting the right way on Common Cause’s bill. The ads ran in newspapers published in the States where Democratic Senators were facing election or reelection in 1988. The ads compare these Senator’s positions favorably with what they might get if someone else was serving the voters. The ads make repeated references to congressional campaigns and candidates and suggest that the only way to work toward restoring honesty and integrity in Government is to compare the merits of the Senator supported by Common Cause and the one who is not.

Now, Common Cause’s aim is obvious. It is to tell the voters in the Senator’s districts that the Senators running for reelection do not have the support of Common Cause because of common offices held by the identified officeholders. The Commission determined that the communication, either with or without a partisan “vote-Democratic” statement, would be subject to the act’s moratorium. In reviewing the communication’s language, the Commission determined that the communication was attributable where it was made for the purpose of influencing a general election to depict a clearly identified candidate and convey an electioneering message. These ads by Common Cause fail squarely within the articulated test.

Thus, Mr. President, the FEC makes Common Cause’s actions are designed to influence Federal elections under the FEC’s tests. These ads are paid for by a corporation. This, Mr. President, is against the law. The FEC needs to enforce the law and make Common Cause play by the same rules as other groups attempting to influence Federal elections.

The Commission addressed this issue in Bulletin A01985-14 and concluded that expenditures by the Democratic Congressional Campaign Committee were reportable expenditures allocatable to the candidate from the communication under the 11 CFR 1061.

The proposed communication at issue identified by name specific Congressmen and went to part or all of the districts represented by the identified officeholders. The Commission determined that the communication, either with or without a partisan “vote-Democratic” statement, would be subject to the act’s moratorium. In reviewing the communication’s language, the Commission determined that the communication was attributable where it was made for the purpose of influencing a general election to depict a clearly identified candidate and convey an electioneering message. Electioneering messages, according to AO 1985-14, which was cited in United States v. United Auto Workers, 352 U.S. 567, 587 (1957) includes the statement designed to urge the public to “elect a certain candidate or party.”

It is important to note, Mr. President, that there is no requirement in either of these two regulatory bulletins that the advertisement to be attributable contain expressed advocacy, a term of art under the act.

Well, Mr. President, in AO 1984-15, the Commission recognized that an advertisement was attributable where it “effectively” advocated the defeat of a candidate.

In AO 1985-14 the FEC interpreted that particular ruling, stating the requirements that an allocable communication included an electioneering message. On the facts of that particular case, the SEC issue of the dates, election, and other communication in direct mailings which identified the Member of Congress and which were distributed within the Member’s district.

Mr. President, the Commission erred in conclusion even though the question asked indicated that there might not yet be a Democratic candidate, either announced or qualified under the act, in the congressional contest which received the communication at issue.

The next propounded by the Commission centered on whether the expenditures were made “for the purpose of influencing the outcome of the general election.” As the FEC made clear in this ruling, expenditures made with a genuine election purpose count, regardless of whether a nominee has been selected or even clearly identified. And, as the FEC stated, whether the FEC believes a candidate or a candidate assured of nomination at the time the expenditure is made, is immaterial.

Thus, Mr. President, Common Cause was contributing under the act, whether there was as yet a Democratic candidate opposing the Republican Senator criticized or a Republican candidate opposing the Democratic Senator criticized.

The proposed mailer examined included reference to “rhetoric” by a named political party. The Common Cause mailer does not make reference to any political party by name. This difference may not be significant. On one hand, the regulation does not state what aspect of the proposed mailer constituted an electioneering message. It may be that the mailing as a whole conveyed an electioneering message.

Similarly, the Common Cause communication conveys an electioneering message constituting an expenditure under the act by Common Cause.

A proposed mailer included references to an election by its inclusion of a list of campaign contributions from. In this case, an oil group to the named representative. The Common Cause communication refers to the way our congressional campaigns are financed and that too much money is given to
candidates by special interest PAC's. Too much money is spent by candidates.

The ad also states obstructionist tactics, to preserve a fundamentally corrupt campaign finance system, have no place in our democratic process. And the ad further states that the Senate's integrity is at stake.

It asks the question: What will Senator X do? There are references to an election in which one party wishes to restrict the Senate's integrity would be to vote the named Senator facing reelection out of office, the Republican Senator, or leave the praised Democrat pending to the office.

Common Cause ads at issue are similar to the proposed communications in AO 1984-14 in several respects. The Common Cause mailer identifies by names specific Republican or Democratic Senators, just as proposed in the regulation referenced to named specific Republican Congressmen in its adversarial opinion request.

The ad involved an attack on or certain testimony to the record and position of a clearly identified candidate of the opposition party for a single office, an office to the U.S. Senate. Although made before an official nominee had been selected, Mr. President, by per peremptory the clear purpose and the effect of the aids concerning the Senators is to influence the general election since voters will not have an opportunity to decide between Democratic and Republican nominees until the general election. And the ad that I mentioned earlier against Senator Robert Dole is, similarly, against his candidacy.

Commission rulings are unequivocal. A communication such as I have referred to, directed by Common Cause against the incumbent Republican Senators or in support of the incumbent Democratic Senators, comes under the act when it identifies by name the candidate under the act and argues either for or against his or her performance in office or position on the issues and is distributed to the voting constituency.

It is therefore felt that the Office of the General Counsel and the Commission should find that, indeed, Common Cause Itself is in violation of the Federal Election Campaign Act.

Now, Mr. President, the merits of this particular debate, which have caused many of us to be up a good portion of the night, and I recognize my good friend from Kentucky, who is kind enough to listen intently to my statement, I am in something tired of this issue. It is the hope of this Senator that this particular evening session will not have been for naught, that something of a positive nature will occur.

But I think it is fair to say that between the two sides of the aisle we are, indeed, at a substantial impasse.

I think the references that I made, the organization, Common Cause, the particular position it has taken in the area of campaign disclosures, the reference to the issue of soft money, all bear on the matter of fairness and equity as we reflect on just how this body will reach a conclusion in some type of a compromise.

We have all reflected on the merits of this being the most deliberative body in the United States. Therefore, we have had the extraordinary experience of the Senator at Arms proceeding with warrants for the arrest of Senators to mandate at quorum call. Obviously, we failed to reach a compromise and extreme measures have resulted, although I was not physically in the Senate at the time. It is my understanding that one Senator was brought in, carried into this Chamber by the Sergeant at Arms and his comrades—physically. And that presence constituted a quorum.

Further, it is my understanding that this particular Senator had already severely sprained his left arm. It may have been his right arm. In any event, that arm was in a cast, the fingers were in a cast. In the transportation which was a physical transportation, namely, the four gentlemen from the Sergeant at Arms Office bodily removed the Senator from his office to the Senate, the process further injured that arm. And those Members who have been called out to come in for a vote requiring absentee Senators appear, one wonders in all due respect just how those actions will be perceived by those who observe the process of the U.S. Senate.

Obviously, there is a numerical difference within our membership, and the power and influence of the party in power is no secret. But are we not expected to be above this almost childish, immature ruckus? It is almost like a case of whose football is it really?

And if you are not going to play the game my way, why perhaps I will take my football.

Perhaps that is not the best example of what occurred during the evening. But I think it is fair to say that it was the opinion of some that a very strong message be sent to those of us on the other side of the aisle.
I do not think it is any secret that we were all very much aware that we had reached a stalemate on the issue of S. 2, but to bring this body into that kind of arena hardly reflects on the best traditions of the Senate, and it only think it causes us all to reflect not just on the issue of the inconvenience of being up all night but, indeed, on perhaps a more important issue, and that is the role of the Senate from the standpoint of its respect in the minds of the public for our ability to get on with the problems and the debate in a manner befitting this body.

I think it is fair to say, Mr. President, that we would all agree, and that there is a genuine concern for concerns of the other as we look at the valid need for campaign reform in these United States.

Mr. President, there has been a great deal said, and there will be more. And those who follow this debate with the President, find ourselves unable to in reality cannot reach a satisfactory conclusion. Any degree of finality are probably great deal said, and there will be more. In my State of Alaska, Mr. President, there is a genuine concern for concerns of the other as we look at the valid need for campaign reform in these United States.

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spending increased 183 percent between the party endorsement or the support ofAlexander's estimates, campaign spending in the century, party control over the election trend has accelerated sharply since World War II. Finally, party organizations lost their legal prerogatives. Beginning early in the century, primaries—the first Presidential spending (known as "independent expenditures") have increased much more rapidly than inflation and, compared to a general price rise of 97 percent. Against a general price rise of 97 percent, campaign spending in the century, party control over the election process has steadily diminished, and this story. Central city political machines crumbled and local races.

As Drew and other reformers suggest. To be sure, the political system is changing—it always is, even in cases where it has not been.

No one seriously disputes the campaign (as opposed to legislative) politics needs more money than ever before. The critical questions are whether money's new role functions as a vehicle for ideas and the opportunities for representation and influence.

Dependents on the standard of comparisons, the amount of money now spent on elections is huge, reasonable, or small. In 1980, it totaled $1.203 billion, according to Alexander, and $1.832 billion in 1980, federal elections, $275 million for the Presidential campaign, and $239 million for congressional campaigns; the rest went for state and local races. Alexander points out, the total equals about one-tenth of 1 percent of taxpayer money spent by government in fiscal 1980 ($985.7 billion)—which seems a shrunken pie in comparison to the $4.3 billion budget of Procter and Gamble ($649 million). On the other hand, campaign spending has outpaced inflation and, compared with the recent past, totals—huge. By Alexander's estimates, campaign spending increased by 759 percent between 1952 (when it totaled $140 million) and 1980, while general prices rose only 210 percent; campaign spending increased 183 percent between 1972 (the total $425 million) and 1980 against an inflation of 97 percent.

These increases stem from basic changes in the political system. Since early in the century, party control over the election process has been diminished and the trend has accelerated sharply since World War II. Party organizations were once almost omnipresent, and Alexander points out, the emotion-charged atmosphere of Watergate and the illegal contributions to the Nixon White House. Congress passed campaign reform laws and produced a crazy quilt of restrictions and practices.

-Individuals can give up to $1,000 to a candidate in each primary and general election. An individual can also give up to $2,000 to a political party and up to $5,000 to individual political action committees (PACs). All these limits are subject to an overall individual ceiling of $25,000 in gifts annually.

-PACs can contribute $5,000 to a candidate per election, with no overall ceiling. Nor are there limits on how much an individual or group, including PACs, can spend on advertising to aid a Presidential candidate needs to be coordinated with the candidate, Drew quotes a friend of mine at the State (New York) campaign director to Bill Casey (Reagan's 1980 campaign director). I'd have a friend of mine talk to Bill Casey. I wouldn't have any problem setting that done. There's no way in the world that if I'm running an independent campaign I'm not going to get the information I need, or Dick.Wirthlin's [the Reagan pollster's data].

Another easy evasion lies in the states. Federal election laws don't (and constitutionally can't) regulate contributions to state and local parties for state and local elections. But, as Drew contends, the line between local and federal activity is often thin or nonexistent. If the state party registers voters during the year of a federal election, is that local or Federal activity? When local party leaders use television advertising—knowing a large turnout will help its congressional and senatorial candidates—is that local or Federal? Many states (California) allow unlimited contributions to individuals who can skirt the restrictions imposed by federal law. The national political party candidates who run on their own or as independent candidates in other states. Drew correctly argues that this and the effect of "independent expenditures"
mock the legislative intent of the 1974 law to limit spending in Presidential campaigns. If easily evaded, the laws also have had perverse side effects. One obvious conse-
quence is an acceleration of campaign con-
tributions and spending. By limiting individ-
ual contributions, the law almost certainly diverted giving to PACs. The few (mostly labor) PACs before 1974 had been established to abide by the prohibitions and restrictions. After 1974, 
many labor and business—many large 
construction firms were terrified by the disclosures of 
campaign contributions, in corporations and 
unions. With separa-
tions. Of course, by separa-
tions, the labor PACs—best known is the A.F.L.-C.1.O.'s Committee for Political 
Education (COPE)—skirted the restrictions. 

All this has changed the flavor and 
sociology of politics. Washington is awash in 
political money. The campaign contribution con-
tact is now an art of campaigning. Power has passed from 
party bosses and fabulously wealthy con-
tributors to the shrewd operatives who can mobilize 
activist individuals to give. 

What this signifies is, for all the 
hoopla about advertising, consultants, and 
polling, campaigns haven't yet deteriorated 
into scientifically programmed combats where 
victory goes to the candidate with the largest 
est war chest. 

Challengers almost certainly need to 
at least a high-spending threshold to 
offset incumbents' name recognition; in 
almost all the 1982 races where Republican 
incumbents lost, their opponents' spending 
exceeded theirs by only $16,000. But once the threshold is passed, extra dollars 
don't necessarily guarantee extra votes; diminishing returns on money can easily set in. Campaigns are usually crazy. 
Mistakes are made, money is wasted. Incum-
bents' reputations count heavily, but so does the national political mood. If money has 
changed campaign politics, it has hardly 
destroyed democracy. 

Granting this, it's still possible that the 
results of campaign money have become so 
skewed that legislative politics is corrupted. 

Votes may be bought and sold at the 
ballet box, but on the floor of Congress. 
Because this is the core of Drew's case, you 
might reasonably expect her to devote the 
bulk of her book to its documentation. Not so. 
A relatively small part (perhaps 10 to 15 
percent) of the book concerns itself with the 
results of a consistent research into how 
legislative and campaign contributions affect 
individual candidates. More to the point, camp-
paign contributions alone hardly dictated 
the results. 

Like most campaign reformers, Drew is 
most agitated by the rise of PACs, especially 
business and trade association PACs. It's 
true that these PACs have assumed a larger 
share of total campaign financing. But this is 
partially the doing of the campaign reform 
law itself. From so-called public embarrassing, 
this realignment reform law was. 

Aside from legitimizing 
PACs, it also restricted, probably unintention-
ally, every-who directly affected 

between 1974 and 1982, prices roughly dou-

bly, meaning that 1974's $1,000 contribu-
tion was worth only about $500 in 1982. 
This almost certainly made it more essential 
for Congressmen to accept money from 
PACs and more attractive for politically 
active individuals to give. 

Even so, PACs' total share of campaign 
495,000, which accounts for the lion's share of congress-
sional funds. In 1982, PACs accounted for 
about 29.3 percent of the total for winning 
candidates. But in the House, the proportion rose from 25.6 percent to 34.2 percent; the comparable 
Senate figures were 14.9 percent in 1976 and 
17.1 percent in 1982. These figures do not imply anything about legislative in-
fluence, because PACs are remarkably diver-
sified. 

They come in all sizes, shapes, and flavors. In 1980, corporate PACs accounted for 
about a third of the total and labor PACs 
about a quarter but there were also 
PACs from trade associations (also about a 
quarter). PACs set up by independent politi-
cal action committees included members of Congress (including Republi-
cans and Democrats, liberals and conserva-
atives). In total, Democratic candidates re-
ceived $32.7 million, Republicans $42.8 million against $36.4 mil-
lion—because labor PACs favored Demo-
crats. Democrats paid $18 to Republicans. 
The acid test lies in legislation. What hap-
pons in Congress? An example of Drew's 
tunnel analysis involves oil provisions in the 
1981 tax bill, which she says proved it 
these resulted primarily from a "bidding 
war" for oil campaign contributions. Al-
though the original White House tax bill 
contained a small pro-oil section, the Demo-
crats sweetened it considerably. They 
hoped, Drew says, to reclaim their share of 
money, which the Reagan administration pro-
ablely to the Republicans. The Republicans re-
taliated by sweetening the proposal even 
farther. When the bidding was over, the bill 
provided $42.8 million in tax breaks for oil firms. 

Of the forty-eight Democrats who 
ultimately voted for the Reagan (tax bill, the 
Republicans ultimately prevailed), twelve 
came from Texas, Louisiana, and Oklahoma. 
In 1980, these three states accounted for 81 
percent of U.S. oil production. Although 
Drew discusses the bill as if it benefited only oil producers, much of the tax relief 
went to royalty owners, who own land on which oil is produced for a fee. 

As one Hill staffer puts it: "Oil filters 
down throughout the whole district. Even 
people who don't have a direct interest in 
the oil have an indirect interest, because of its 
economic importance. You get a political 
orientation that is pro-oil." But had the 
Democratic leadership contested the White 
House tax proposal with a philosophical al-
ternative—conceding tactical defeat, instead 
of being blown into submission—the Boll 
Weevars would never have acquired negoti-
ating leverage.

An even more important omission mars Drew's analysis: oil producers. As inde-
dependent oil producers have long used camp-
paign contributions to further their own 
ends. But if anything, their influence was 
out of sight in the 1980 campaign. Most the 
government controlled domestic oil 
prices and prevented producers from reap-
ing most benefits of higher world oil prices. 

The oil producers had been criticized 
by most economists and by Europe and Japan, which saw low 
prices feeding America's oil glutony...
gress limited producers’ gains by imposing a windfall-profits tax in 1980. The entire 1981 struggle was to lighten, not eliminate, provisions that restricted the excise tax. The independent producers and royalty owners were fighting a rearguard action. They did influence policy to the extent that the maximum tax, $5 per barrel, was raised to $10 per barrel. In the end, the oil provisions accounted for 1.5 percent of the total estimated revenue loss.

Most of Drew’s other examples founder on the same ground. She quotes approvingly a passage from vigorously a critical analysis. Republican of Kansas: “There aren’t any PACs. Suppose, one candidate spends $90,000, and the other candidate spends $100,000. It is inefficient, an act of extreme political and legal irresponsibility. It is beyond the limits on Presidential spending, expenditures with which the limits on Presidential spending were evaded—via fundraising. And, finally, it is a danger to campaign finance reform. It makes challenging more attractive by making one of the obstacles to campaign finance reform—the obstacle: fundraising. And, finally, it enhances the challengers’ prospects of victory. Drew, in her introductory remarks, would actually win, but, almost certainly, incumbents would become more obsessed—if that is possible—with electioneering as opposed to legislating.

Inevitably, Congressmen would seek to win the loyalty of groups that might finance. They would seek to win the loyalty of groups that might finance. This, he notes, “increasingly resembles the tax law, with the Federal Election Commission “doing for polities what the Internal Revenue Service does for tax law.”

To enact laws whose failure can be predicted is an act of extreme political and legal irresponsibility. It means government spending that does not increase government spending that will not be speedily suspended. The ease with which the limits on Presidential spending increase, the need for professionals—accountants, lawyers, and other skilled individuals—to help collect and spend the money, the complexity of regulations, and it may “chill enthusiasm for citizen participation . . . since non-knowledgeable amateurs may easily violate the law.”

Although Drew says that enacting campaign reform laws “means government spending . . . that will not be speedily suspended,” she does not like Washington’s nightly drama of fundraising. When she reaches my limit. When my committee on oversight received money from banking PACs? Suppose, then, that PACs for brokerage houses (whose interests often conflict with banks’) want to contribute but I have already reached my limit. When my committee considers legislation affecting both banks and brokers, I am more or less beholden to banks than if I had accepted contributions from both sets of PACs? In any case, PAC restrictions seem likely to spur other campaign activities on the part of spurned groups. The most obvious are greater “independent expenditures” or more contributions to state parties.

The other extreme solution—barring private campaign spending and relying on public financing—runs an opposite danger. It subsidizes challengers, penalizes incumbents, and, therefore, risks unsettling the process of legislating. By trying to equalize spending, it deprives the incumbent of advantages—support by satisfied constituents—by which it has traditionally sought to win elections. But public financing is likely to mean less continuity, reflection, and independence in government, not more. One common proposal is to limit the amount of contributions a candidate could accept from PACs to, say, $90,000 for House candidates. It is not clear, of course, whether this would limit the influence of individual PACs. Suppose, for example, that I am running for Senate, and I received money from banking PACs. Suppose, then, that PACs for brokerage houses (whose interests often conflict with banks’) want to contribute but I have already reached my limit. When my committee considers legislation affecting both banks and brokers, I am more or less beholden to banks than if I had accepted contributions from both sets of PACs? In any case, PAC restrictions seem likely to spur other campaign activities on the part of spurned groups. The most obvious are greater “independent expenditures” or more contributions to state parties.

Perhaps, in the first flush of reform, virtue prevails. But as time passes and conditions change, the taboos against them diminish and the necessity of conforming increases. The participants in this process become steeped in either cynicism or in a desire to maintain their standing. The gap between enacted standards of behavior and actual practices, esteem for elected officials suffers. Reformers fan the fires of disillusion, declaring policies “corrupt” and pronouncing the candidates trying to reestablish the government’s moral authority. Actually, they are unwittingly destroying it.

In practice, reform risks enacting political self-serving or destructive legislation. Current proposals follow two strands: limits on campaign spending and public financing of congressional elections. If you are an incumbent, you have an obvious interest in spending limits. This is not immi-

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diately apparent, because, on average, incumbents have traditionally raised and spent more than challengers. For incumbents, there is a disadvantage for campaign spending. The number of candidates running for office is not the only way that a challenger might actually win. To choke off this possibility is to provide incumbents with extra insurance in a game where insurance is already available. Public financing would only increase this incentive. In recent elections, roughly nine of ten House members and seven of ten Senators serving systemically have actually had an incumbent. The reason is not perfect, but average results are not what matter. In most congressional elections, the independent expenditure (a very small, fewer than half) are genuinely competitive, involving either open seats or vulnerable incumbents. In these races, extra money can make the difference.
same as grass-roots movements that form around common interests, are becoming more highly skilled, directed organizations that use people's feelings about certain issues to gain influence. This is a mind-boggling train of thought. NCPAC and the Congressional Club differ from "grass-roots movements that form around an issue," yet they "use people's feelings about certain issues to gain influence." Can anyone make sense of that? To follow Drew's thinking to its logical conclusion, we would have to restrict them all, for she believes is demagoguery (as opposed to appropriate "grass-roots" groups). Somehow, one suspects, these are distinctions never contemplated by Drew.

Ultimately, the cause of reforming campaign finances leads to dead ends because it clings to a principle, unrealistic, and even unenforceable view of representative government. "Special interests" is one of those over-used phrases that is simultaneously descriptive and deceptive. It is descriptive in the sense that the interests of these groups are usually narrow and often selfish. It is deceptive in the prejorative implication that these interests are all bad. The burling out of the glory, too--of modern American democracy is the proliferation of these groups. Their expansion is the natural result of the post-Depression growth of government. Because government interferes more, it is interfered with more. Because government clings to a primitive, unrealistic, and even undesirable view of representative democracy, too--of modern American democracy is one of those endless stories that is simultaneously instructive and dispiriting. Partisanship has its appropriate place. But there are few, if any, who would contend that the structure of the U.S. Senate ought to be geared to preclude the possibility that one party could have an inordinate gain of control. However wondrous the majority party may be, which is in power at the moment, the essence of a democratic society is that there ought to be competition and the second party ought to have an opportunity to appeal to the voters.

But the structure of S. 2, as the Republican leader has articulated on this floor, as have others, is to preclude with finality or at least in the foreseeable future, the possibility that the Republican Party will have a majority in the U.S. Senate.

That is true because in so many States, it is necessary under our democratic form of government for each of us to have a voice in the selection of our representatives. It is also true because we expect in a democracy that our representatives will be responsive to our needs and desires. These ends are served by a system of elections, in which voters choose their representatives by casting ballots. This system is based on the idea that the voter has a say in the selection of his representative, and that the representative will work for the best interests of the people in his district.

During the course of just a few hours having elapsed from these remarks, I would not want to draw final conclusions as to what is the heart of this pitched battle or perhaps more accurately described as a war. It is more than a filibuster in the U.S. Senate at the present time, but I would choose instead to raise the question of whether there is a sense of concern on the part of the Republicans. Certain responsive tactics were then taken by the majority, or perhaps more accurately stated, by the majority leader which really raises many fundamental questions about the operation of the U.S. Senate and the U.S. Government.

Mr. MURKOWSKI. Mr. President, I see that my friend and colleague, the Senator from Pennsylvania, is on the floor and I would yield at this time.

Mr. SPECTER. Mr. President, I compliment my distinguished colleague, the Senator from Alaska, for his erudite comments delivered at a time of considerable limitations in light of the fact that most of us have been up most of the night.

As I prepare to comment on the pending issue shortly after 8 a.m. this morning, less than 5 hours after those of us left the Senate Chamber, there are many matters of concern to me as I address this body, depopulated as it is with only the guardians of each party present on each side of the aisle to see to it that undue advantage is not taken of the other.

The pending issue is S. 2, campaign finance reform. As the Senator from Alaska, for his erudite comments delivered at a time of considerable limitations in light of the fact that most of us have been up most of the night.

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up to $5 million for a Senator from my State, the Commonwealth of Pennsylvania. Had a similar program been available under the Fairness of Representation Act, the annual cost to the U.S. Treasury would have exceeded $300 million. This is a considerable sum of money when you take a look at the various appropriations bills, where you see the cuts on Federal funding for housing, the limitations on the Food Stamp Program, or the restrictions on WIC, funding for women, infants and children. The litany is virtually endless of Federal programs that have been hard hit by budget constraints.

There are other ways of solving the problem of unlimited expenditures by individual candidates from his or her individual wealth and that process is a constitutional amendment.

The decision of the Supreme Court of the United States in Buckley versus Valeo in 1976 was different, surprising, unique, perhaps even odd, where the Supreme Court said that it was unconstitutional for the amendments to the Federal law of 1974, the limitations on the amount of money an individual could contribute, $1,000, but you could not limit the amount of money an individual could spend of his or her own personal wealth, and that has injected into the campaign system what this Senator considers to be an element of unfairness.

I personally had a direct experience in 1976 with this issue when I decided to run that year for the U.S. Senate. I took a look at the Federal law of 1974, saw that the maximum that could be spent in a Republican primary in a State with the population of Pennsylvania was $35,000, examined my slim bank account, saw that I qualified for that amount, filed the papers and then, as I recall it, on January 20, 1976, the Supreme Court of the United States said that the limitation as to what an individual could spend was unconstitutional.

My colleague and now my colleague in the Senate from Pennsylvania was my primary opponent. That decision of the Supreme Court of the United States was not inconsequential in the course of that particular campaign.

There is a way to deal with that issue, however, and that is through a constitutional amendment. Given the national concern on this issue it is my judgment that it would not be too difficult to have a constitutional amendment which would give the Congress the authority to structure campaign financing and would limit the amount of money an individual could spend of his or her own wealth.

About a year ago this Senator met with the assistant majority leader of the Democratic Party and the chairman of the Constitution Subcommittee of Judiciary, 1 being the ranking Republican on that subcommittee. We discussed an approach for a constitutional amendment to deal with the problems raised by Buckley versus Valeo.

This Senator pledged support to processes that effort as promptly as possible.

Nothing has been done on that subject because there has been a tactical decision by the Democratic Party to press S. 2 as opposed to proceeding with the constitutional amendment. My thought was, and is, fine, if you want to suppress S. 2, why not proceed with the constitutional amendment at the same time? However, that has not been the choice of my colleagues on the other side of the aisle.

The problems which some address on campaign financing can be dealt with effectively through a constitutional amendment, as opposed to S. 2 which has public financing as its essential ingredient.

We simply do not need to have public financing to solve this problem. There is ample area where agreement can be reached on this subject. I was appointed as one of the five Republicans on that track when, in the course of the last several days, four Senators were appointed by the Republican leader and four Senators by the Democratic leader to try to work out a compromise on campaign financing.

Unfortunately, at least up until the present time, those efforts to work out a compromise have not been successful and that has brought us to this impasse on S. 2 and to the events of yesterday, which culminate 1 year of debate on the Senate floor. Since that time seven motions to invoke cloture, that is to cut off debate and end the filibuster, have been defeated.

It is said that seven votes constitute a record on that particular subject. If so, or even with seven votes on the record itself, it is a strong showing of a very firm position on the part of some 45 Senators in this case that those Senators are unwilling to proceed to have votes taken on S. 2.

Mr. President, the votes on cloture, as you know, and as everyone who serves in the U.S. Senate knows, and as many Americans know, constitute a very important part of the Senate procedure and the right of unlimited debate exists to stop 51 Senators from controlling every issue by a simple majority vote.

The cloture rules, therefore, say that there have to be 60 Senators to vote for cloture, where it is considered by 41 or more Senators that the issue facing the Senate is one of fundamental importance, one of importance sufficient to stop the business of the Senate from coming to a vote. That judgment has been made not by 41, not by 42, 43, or 44, but by 45 U.S. Senators, significantly above the number required under our rules to say that the Senate will not take up the matter on the merits.

There could have been an opportunity in the course of the past 7 days in the U.S. Senate for the majority leader to again test the cloture issue. We were on this bill every day last week. We are now on Wednesday of this week and have been on this bill for the last 3 days. As yet, we have not had another cloture vote because it is apparent what that would mean. Although because a cloture motion has been filed, one is scheduled later this week.

Yesterday afternoon, after a day of debate, the majority leader chose to keep the Senate in session and proceed with a series of votes denominated as motions to compel the attendance of absent Senators. Now, what was the purpose of that proceeding?

As I see it, none. The negotiators had not been able to reach any agreement. It was apparent that the lines were hardened and becoming harder minute as to the position on the underlying merits. If they were hard enough, at least up until the events of last night will turn concrete, into granite and steel into molybdenum in terms of what the responses will be to what the majority leader has chosen to do in the U.S. Senate.

The process, the questions raised, a series of meaningless rollovers and a session which would be round the clock, appear to many to be demeaning to the Senate and demeaning to the individual Senators.

What was the purpose of having the world's most famous deliberative body in session all night? What was the purpose of bringing Senators to the floor every few minutes, every half hour, every hour to respond to motions to compel the attendance of Senators? If it had the effect of advancing discussion or trying to help break the deadlock, then there would have been some purpose.

But Senators in this Chamber have worked willingly around the clock, past midnight, past 2 a.m., past 4 a.m. to 9 a.m. the next day and into the next night during my tenure in the U.S. Senate, and they have done so willingly where there was a purpose for what was being undertaken. Yet in this case, it seemed to many of us that the process was demeaning, demeaning to the Senators, and demeaning to the Senate and ought not to be complemented by the extent that the rules permitted an extension by the Republican side of the aisle.

So the Republican Senators last night, made a judgment to express their concerns, perhaps their sense of outrage—Mr. President, may we have order in the Senate?
The PRESIDING OFFICER. The Senate will be in order. The Senator from Pennsylvania has the floor. Mr. SPECTER. The decision was made to express our concern and our protest over the position taken by the majority leader by absenting ourselves from the Senate Chamber because there was the unreasonable approach of the majority leader.

By the vote of 47 to 1, but there was not a quorum present. That led to a motion to arrest absent Senators, a highly unusual proceeding and one which, according to my review of the rules of the Senate, is highly questionable. Even more highly questionable was the way and the manner in which that motion was carried out.

Mr. SPECTER. As I was saying, the Republican minority decided that it would express itself in the face of what our assistant majority—minority leader; a slip of the tongue, a Freudian slip, a wish. Last night our assistant minority leader took the floor after 3 a.m. and made a brilliant speech characterizing the tyranny of the majority, or the tyranny of the majority leader.

In response to the tactics which were being undertaken last night past the hour of midnight the judgment was made that the minority would not submit to the unreasonable approaches being taken by the majority leader. Therefore, the minority absented itself from the vote which was taken around midnight on a motion to compel the attendance of Senators. That motion passed, as I recollect, by a vote of 47 to 1, but there was not a quorum present. That led to a motion to arrest absent Senators, a highly unusual proceeding and one which, according to my review of the rules of the Senate, is highly questionable. Even more highly questionable was the way and the manner in which that motion was carried out.

Senator Packwood was brought to the floor of the Senate last night past midnight with the use of physical force. Senator Packwood was in his office, and he had it locked thinking that it was his office and his lock, but he was surprised, because representatives of the Sergeant at Arms, perhaps the Sergeant at Arms himself, we have not yet identified all the players—and I hope we will have a searching investigation of everything that was done last night. In this regard, the kind of an inquiry which is made when the most heinous of criminals in our society are subject to the operation of the physical force used by the Sergeant at Arms Senator Packwood more seriously injured his left hand.

We have seen Senator Packwood over the course of the past 10 days in this Chamber wearing a cast on his hand. He has broken a finger, I believe. It was required, Senator Packwood said last night, that he seek additional hospitalization and medical care for this injury as a result of what happened. During the course of Senator Packwood's conversations with those who took him into custody, he raised an objection to the force which was being used and to the arrest, and a telephone call was made. While Senator Packwood was only on one end of the conversation, he thought that the Sergeant at Arms, or representatives of the Sergeant at Arms, were calling the Secretary of the Senate. It was further believed that the Secretary of the Senate received his instructions from the majority leader, and those instructions were to take Senator Packwood to the floor of the U.S. Senate forcefully so that a quorum would be present and the U.S. Senate could continue through the night conducting the operation of the rules of the Senate and making a charade of the operation of the U.S. Government.

There are meticulous rules which are available for any individual in the United States of America, whether he is a citizen, whether he is an alien, whether he is a felon, as to what his rights are. Perhaps those rights ought to be accorded even to U.S. Senators who are exercising their own rights and living within the rules. The knock on the door and the forceful entry into Senator Packwood's office smack of Nazi Germany, smack of Communist Russia, but are hardly characteristic of the United States of America and should be even less characteristic of the operation of the U.S. Senate.

After the procedure last night, I question whether or not this Senate can function in that climate and with that conduct. The operation of this body depends indispensably on comity, on good will, on respect, and on confidence. The two most frequently used words in this body are "unanimous consent." It is possible for any Senator at any time to tie up the U.S. Senate by choosing to withhold that unanimous consent.

This body adjourns when the last Senator is finished speaking. The unanimous-consent requests occur again and again and again on the floor of this Senate and, should any individual Senator choose to object to the operation of this body, it would be very, very easy to do so. You do not have to have 41 Senators or 45 Senators. Any single Senator can accomplish that.

So, I question, Mr. President, what is the long-term effect or what is the immediate effect of the events which occurred here last night.

The bill itself, S. 2, has enormous implications of public policy and is subject to debate and disagreement. Forty-five U.S. Senators have said that they do not believe debate should be brought to a close, and the rules indicate that that is an impasse and a blockage and that ought to be respected.

Beyond the subject of the substantive matter itself, there is the issue as to what occurred here last night with arrest warrants being issued and arrest warrants being served in a way which did not even comport with the constitutional rights which are accorded to those accused of the most heinous crimes in our society.

Mr. President, again in the line of questions which this Senator is raising, I question the propriety of the procedures used by the majority leader last night. The Constitution of the United States provides for compelling the attendance of U.S. Senators. But it does not say anything about warrants of arrest. It does not say anything about the kind of tactics which were undertaken last night in bringing Senator Packwood to the floor.

Article I, section 5, of the Constitution provides:

Each House shall be the Judge of the Elections, Returns and Qualifications of its Members, and a majority of each shall constitute a Quorum to do Business; but a smaller Number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide.

Now, the language "to compel the attendance" of Members says nothing about warrants of arrest. The framers of the Constitution were well aware of the use of warrants, and probable cause and the procedural requirements which they saw fit, as evidenced by other sections of the U.S. Constitution. But this provision specifies "in
such manner, and under such penalties as each House may provide.'

The U.S. Senate, Mr. President, has no rule on compelling the attendance of absent Members and has no rule on the issuance of warrants of arrest. The provisions of rule VI, section 4, provide only that:

Whenever upon such roll call it shall be ascertained that a quorum is not present, a motion by the presiding officer to direct the Sergeant at Arms to request the attendance of the absent Senators, which order shall be determined without debate; and pending its execution, and until a quorum shall be present, no debate nor motion, except to adjourn, or to recess pursuant to a previous order entered by unanimous consent, shall be in order.

Rule VI, subsection 4, as is obvious from the face of the rule, makes no mention of warrants of arrest, nor of compulsion.

There are some precedents which have reference to the issuance of compulsory process. But they are very limited indeed, Mr. President, and hardly applicable to a process such as that which was used yesterday in bringing Senator Packwood to the floor of the U.S. Senate by force.

On page 1174 of the book on Senate procedure, there is a section denominated "Attendance of Absent Senators—Procedure for Compelling in the Absence of a Quorum." It reads as follows:

The last order adopted by the Senate to arrest absent Senators occurred on November 14, 1942. On that occasion when the Senate found itself without a quorum, it first adopted an order to direct the Sergeant at Arms to request the attendance of the absent Senators. After some time had elapsed, the Majority Leader, Mr. Barkley, made another motion, which was agreed to, to direct the Sergeant at Arms to compel the attendance of absent Senators. This order having been in operation for some time, the quorum was not being kept. At the time the Majority Leader asked that the Sergeant at Arms make a report to the Senate upon his efforts to compel the attendance of absent Senators with report having been made as to the absent Senators who were out of town and those who were in Washington, the Majority Leader, Mr. Barkley, made another motion, which was agreed to, authorizing and directing the Vice President to issue warrants of arrest of the absent Senators then in Washington.

This precedent, Mr. President, to the extent that it is valid, calls for the Vice President to issue warrants of arrest.

Mr. President, may we have order in this case?

THE PRESIDING OFFICER. The Senate will be in order.

Mr. SPECTER. Mr. President, the precedent of having the Vice President of the United States sign a warrant of arrest for an unpopular Senator the last time we were not able to obtain a copy of Senator Packwood's warrant of arrest, although I do, in fact, have a document which was served on Senator Packwood in an interesting sequence where, for reasons which have yet been explained, the representatives of the Sergeant at Arms chose not to exert bodily force on Senator Packwood. But, I believe it is fair to represent to the Senate that the procedures in Senator Packwood's case were identical with the Packwood warrant. Certainly they were issued at the same time. We can obtain the Packwood warrant and see precisely what it says.

When Senator Packwood had been arrested subject to that warrant, I questioned what his response would be the next time—well, Senator Packwood may never again fill out an application for employment since he is so securely ensconced in the U.S. Senate—but what would Senators under similar circumstances reply the next time they faced a questionnaire: Have you ever been arrested? If so, state the circumstances. Not a pleasant question to answer. But back to the question at hand.

The document which was served on Senator Packwood reads as follows: To, and then the Sergeant at Arms at that time, which was a long time ago because the document is dated 195— with a blank so as to be used in the 1950's. It reads, U.S. Senate, Washington DC, a line 195— with the year to be filled in, and then there was a name filled in—but it was whited out—Sergeant at Arms, United States Senate.

The undersigned presiding officer of the Senate by virtue of the power vested in me hereunder does hereby command, in pursuance to the order hereof, that warrant of arrest, a search-and-seizure warrant or any warrant under the system which mandates compulsory process. This document raises many questions on its face. This document does not have the identification of the party to whom it is issued. This document does not have a fill-in of the blank "to wit" where it recites someone is asked without leave, to wit requiring a specification of detail.

On the reverse side of the document there is no specification about who was appointed and empowered to serve this subpoena. And on the face of the document, it is internally inconsistent because it is not a subpoena. It is a warrant. On the face of the document, it recites, "Command you to forthwith arrest." On the reverse side of the document, it recites, "Subpoena." And there is all the difference in the world between these two legal documents. So on the face of this document, Mr. President, there is much to question as to whether there was compliance with some of the very basic and fundamental principles of law.

I would suggest that in the United States of America, the courts have observed meticulously the rights of those who were subject to compulsory process. The case books are filled with de-
decisions since United States versus Weeks—I believe decided by the Supreme Court of the United States in 1916—which require meticulous compliance before search warrants are valid. Volumes of evidence were suppressed because it was not known whether a defendant had been offended by procedure. Where guilt was obvious because of the quality of evidence were freed, because compliance was not made with those constitutional, mandatory requirements. In thousands, perhaps tens of thousands of cases on State prosecutions where warrants were invalidated under the mandate of Mapp versus Ohio. I know the date of that decision because I was there at the time, June 13, 1961, where the Weeks rule, applicable to Federal courts, was enforced upon State criminal prosecutions by virtue of the applicability of the due process clause of the 14th Amendment picking up the requirement of the fourth amendment on unreasonable searches and seizures. I could relegate this Chamber at some length, perhaps will to some extent, since my replacement has not arrived conclusively guilty were set free because the charge was first degree murder, robbing a cab driver and the evidence allowed before there will be intrusion identified conclusively, and there was no question that Mr. Hickey was guilty of his business with his door locked as of this moment, where those conclusively guilty were set free because of the importance of this requirement.

I recall very well a case called Hickey versus the Commonwealth of Pennsylvania where a defendant was taken into custody on a charge of murdering a cab driver and the evidence obtained from his house was conclusively shown to be that of the cab driver. The murder weapon, as I recall this case—it goes back to 1967—was identified conclusively, and there was no question that Mr. Hickey was guilty of the offense as charged, and the charge was first degree murder, robbery-murder. The case came to court and Mr. Hickey was released because the requirements of procedural due process were not followed.

The decisions of the courts of the United States have imposed these provisions with meticulous care because of our judgment as a society that these procedural rules have to be followed before there will be intrusion into an individual's privacy. What less protection is a U.S. Senator entitled to when he is in his office in the U.S. Senate after midnight on a Tuesday night, taking care of his business with his door locked and shown to be exercising his own rights as an individual, let alone as a U.S. Senator?

Mr. President, there was considerable dismay last night in the Republican cloakroom when it was announced that the locks on the doors do not work because there is a master key, including the dead bolt. There may be today quite a few carpenters on the premises of the U.S. Senate, Russell, Hart, and Dirksen Buildings, and the hideaways in the Capitol where Senators may choose to have their own locks on their doors. I know of no rule in the books to prohibit that kind of procedure, and that may follow because of the events as to what happened last night.

I would suggest, Mr. President, that the events of yesterday are matters requiring some explanation. I believe that this body, this august body, this allegedly august body, has to do some considerable soul searching and inquiry into our internal procedures to ensure that we are in function and do our job as U.S. Senators in the U.S. Senate in terms of being the world's most deliberative body, in terms of carrying out our responsibilities.

Last night was substantial evidence that if those practices continue, there will not be the basic comity and respect necessary to carry on the workings of the U.S. Senate. We are engaged in a dispute which has become a filibuster, which has become a controversy, which has become a battle, which has become a war. It has become a war where physical force is used to bring a U.S. Senator to the floor of the Senate, perhaps by minorities. There were recognized in the U.S. Senate perhaps before minority rights were recognized to the extent that they are today in the U.S. Constitution. Well, maybe not. Maybe minority rights have always been present for everyone in this country, but at least no less for Senators than for others.

Last night we saw an event where the U.S. Senate, more than 41 U.S. Senators said, repeatedly—seven times ought to be sufficient evidence that 48 Senators are exercising their rights as U.S. Senators under established and unchallenged rules not to permit an issue, a bill, S. 2, to come to the floor for debate. In the face of that declaration, and in the face of gridlock, deadlock among the eight Republican Senators designated, four by the Republican leader and four by the Democratic leader, being unable to solve the issue of S. 2. In the face of what was considered to be an inappropriate proceeding which was demeaning to the Senate and to the Senators, where we were called to this floor for repeated pointless votes. Republican Senators decided to exercise their rights, and that led to a response which, I would suggest, reaches a new low in proceedings in the U.S. Senate—where a Senator's office was invaded forcibly with a master key and the Senator was taken into custody.

Mr. CHILES. Will the Senator yield? I do not want to interrupt his chain of thought.

Mr. SPECTER. I could not be accused of having a chain of thought. In the course of this extended speech, I would be delighted to be interrupted, and I would be delighted to discuss this issue with the distinguished Senator from Florida, second only to discussing the issue with the majority leader.

Mr. CHILES. I heard some of the Senator's remarks and I heard the Senator was saying that another Senator, Senator Packwood, in this instance, did not hear a case. I believed as the constitutional rights of being able to make a phone call and have counsel.

I have to say I was sort of surprised and shocked to hear that.

Mr. SPECTER. The Senator did not hear that. I did not say that he ought to be able to make a phone call or have counsel. I did not say that at all.

Mr. CHILES. I stand corrected then. I was shocked to hear that the Senator from Florida had some rights. It seems to me that a Senator here had any rights. I found out a long time ago. The Senator has not been here that long.

Mr. SPECTER. I did not find out until last night.

Mr. CHILES. A Senator enjoys some of the rights that ordinary citizens do. I think we understood that a long time ago. That is one of the reasons that I want to go back and get some of those rights of citizens again. So I would suggest the Senator from Pennsylvania is not trying to let the American people know that Members of the U.S. Senate enjoy any of the basic rights, protections that ordinary citizens do. I have to have him put that kind of myth out in the countryside.

Mr. SPECTER. Well, I think the distinguished Senator from Florida raises an interesting point and a valid point. The conclusion may be that U.S. Senators have very important public business to conduct. That goes without saying. We have conducted that public business all night long, in good cheer on important legislative matters, on the campaign finance bill, on a variety of bills. On the continuing resolution, at 3 a.m., 4 a.m., there were 60 Senators on the floor and 40 Senators more in their offices ready to come to the Senate floor to discuss matters, to vote and to carry on the business of the Senate. But there is a certain objection when Senators are subjected to what is essentially demeaning and pointless; where Senators have expressed themselves seven times in insisting that an issue, S. 2, will not come to a vote because there are fundamental disagreements. The rules of the Senate have long been established in respect to the rights of the 41 Senators. It used to be 34. It used to require two-thirds of the Senate to cut off a filibuster and close debate.

When those rights have been exercised and then one step beyond, when
there is a sense of concern, perhaps a sense of outrage that Senators are not being up to the task of beating the 2 a.m. cloture vote, but I do believe that it is appropriate to retire from the Chamber, to retire to the privacy of a Senator's office and find the intrusion of the Sergeant at Arms, who makes a call to the Secretary of the Senate, and maybe taking instructions from the majority leader, questions which I hope will be answered on the floor of this Senate, under a document which is not provided for in the rules, where there is a precedent for issuance by the Vice President but not by any other Senator, where there is a real question about the authority of the Presiding Officer last night to sign this document because of the issue of compliance with either the direction by the President pro tempore in writing or in the open Senate, those questions are being answered. The document which has many defects on its face certainly, if it were issued for a common criminal, would be struck down as being insufficient. But a Senator being brought forcibly to the Chamber of the Senate, a Senator who sustained injury—how serious I do not know, but a report as of a few hours ago was he would have to go back to the hospital for additional medical attention to a broken finger, which injury was aggravated in the course of a scuffle—those are really very, very important issues and I would suggest this transcends the substantive issue embodied in S. 2.

S. 2 is very important in and of itself, but what happened here last night is even more important, and I hope that in the course of this day, we have the answers to these questions. I hope, even more, that we can reconstitute in this U.S. Senate a sense of comity and a sense of respect so that this body can function and perform its very important function as the second only to the House of the United States of America. I thank the Chair. I thank even more my distinguished colleague from Utah for appearing to relieve me and I yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER (Mr. SANFORD). The Senator from Utah.

Mr. HATCH. Mr. President, I am happy to be here this morning, and of course happy to have participated last evening as well. This is a very important debate which I think has gone on too long. As a matter of fact, I think it is a travesty to use the Senate's time with all the work that the Senate has to do to play around with this type of thing. I think, shameless legislation. I think we should reach a point in our lives where we realize that you have lost on this legislation, and even if by some miracle you won, it wouldn't guarantee the President is going to veto it and we are going to sustain his veto.

So this is an exercise in futility, to require Senators to stay all night and fight this bill. It has seven cloture votes, the most in the history of the Senate on a substantive issue. I know a little bit about that because I was the Senator, along with some other Members of the Majority, who conducting the filibuster back in 1978 that went to six cloture votes on labor law reform. It was hardly reform. It was just like this bill: Let us just have one party in America, let us make it the Democratic Party, and let us stack all the rules so that only the Democrats have advantages in this body. And that bill went down by really one vote after approximately 6 weeks and really 2 full years of battle, and I have to say the majority was right in pulling it down after the sixth cloture vote when they lost. Now, here on something that is even more heinous than that, causing all of us who were in the Senate last night to be treated like we were last night. It is a way of preventing garbage legislation from passing, and it may be a way of preventing legislation that may be good. But this is not good legislation. It is a way of protecting the minority. That is in the interest of our country to have that type of legislation. That makes this the greatest deliberative body in the world. There is no other body I know of that has that filibuster right. It is a protection to the minority. It is a way of preventing garbage legislation from passing, and it may be a way of preventing legislation that may be good. But this is not good legislation. As a matter of fact, it is one-sided; it is partisan; it is Democratic Party oriented; it is against the Republican Party. Any Republican who has any sense is going to stand up and fight this legislation tooth and nail, right down to its bitter end. If there is a chance of passing this and passing it in such a way that it would benefit the country, there is a good chance that it would be fair. In my belief, if that would be fair, then I think there would be cooperation from this side, and I think there would have been offers of cooperation from this side. But there is no chance in the world, based upon the present language in this legislation.

Therefore, what really bothered me last night was that we keep up everybody. Some of the Senators are younger and can take all-night sessions on something that is frivolous and not worthy of our time. A lot of us can do that. Some of us have been through it time after time after time. Some of us understand the use of the filibuster rule.

I have upheld the rights of Senators on legislation that I totally disagreed with, to take on the whole Senate because I felt strongly about an issue. I have relied on a distinguished colleague from Ohio, who is on the Labor Committee and the Judiciary Committee with me has conducted very effective filibusters in conjunction with other Democratic Party members, on issues that I thought were important, but not of Senate consideration. But I have upheld his right to do that; because anybody who has the guts to come out and stand on this floor and take the time and take the beating necessary to bring a filibuster down, no matter whether we agree with him or not.

This is a rule of freedom, and I will fight for it as long as I am in the U.S. Senate. I will fight for Senator Metzenbaum's rights as much as for Senator Simpson's rights or anybody else.

What happened last night, I think, was a little bit inexcusable. The Constitution provides that each House may be authorized to compel the attendance of absent Members.

The majority leader, for whom I have a great deal of respect, procedurally and substantively, came to the floor and spoke about obeying the Constitution. I feel that the rights of the majority were violated last night by the majority.

The Constitution provides that each House may be authorized to compel the attendance of absent Members—Article I, section 5. Pursuant to this power in his first term as majority leader, and now a second time in his second term. That this rarely used power was used to justify the breaking into of a Senator's office—Senator whose injured arm was severely jostled and hurt—and have that Senator physically transported to the floor of the Senate, I think takes on the aura of a banana republic and not the greatest deliberative body in the world. I thought it was a disgrace.

I do not blame the Sergeant at Arms. He is a wonderful man. I have a lot of respect for him, and I like him personally. But I think he should have done what was done in the past on these things after they had a debate here. There are Senators who will never forgive the people who did it to them. They took the warrants out and
I think that those who participated in this Kafkasque episode brought no credit to themselves and no credit to this institution. It bothers me a great deal that right and wrong and truth and error occurred, and I think the minority was in their rights. The majority could not produce a majority. They just could not do it. We know what a lousy bill this is, and we know how unfair and partisan and really downright hostile this bill is to the Republican Party.

If the American public could really find out what is in this bill—there are some editorials written by people who only care for the Democratic Party or for the more liberal point of view—they would be shocked that one side is trying to put this charade on the other.

If Senators who are unwilling to vote for cloture are to be subjected to this type of harrassment, then the protections of the minority, so often remarked upon in this Chamber, are just a sham.

It has been said that the worm has had a habit of turning in this Chamber, so it is true that there will be other days when maybe those who are strong and haughty members of the majority will know the rigors of bearing ways and wish they had re- spected the minority just a little more.

A great statesman once remarked that if the marble pillars of the Capitol were to fall, they could be built up again, if all we see around us were to be utterly destroyed, it could be reconstructed. But who is to build the pillars of justice and right if they be pulled down?

I think the Senate is more than just its physical surroundings, and those tangible things are the more difficult to con- struct once the curtain of comity has been rent.

I say let us see no more of this type of invillency. My colleagues in the Rep- ublican Party deserve better than this. I am a little concerned about the way it was done. I want to know who signed those warrants with regard to Senator Packwood and whether that was right, whether any Senator sitting in the Chair can sign those warrants.

I want to know if they were directed to Henry Giungi, the Sergeant at Arms, if they just nebulously went to the Sergeant at Arms. I do not believe they were directed to the Sergeant at Arms. I want to know if the procedures were really followed constitutionally, since the issue has been raised.

I think the distinguished Senator from Pennsylvania raised a number of very good points. Even U.S. Senators have constitutional rights. They have a constitutional right not to vote, if they do not want to. They have a constitu- tional right to filibuster, if they want to. They have a constitutional right to come on this floor and talk as long as they want to, if they can hold the floor. They have a constitutional right, it seems to me, to be treated fairly, just like anybody else in our so- ciety. They have a constitutional right to due process. I think they have a constitutional right not to have their physical person hurt just because there is some order from this body.

It seems to me that it would have been better for them to find somebody to bring in who did not have a bad arm.

Now, I want to put myself in the shoes of the Sergeant at Arms, who was directed to do this type of traves- tity. He has no choice. His job depends on it. I do not particularly blame him; although when a Senator is in his own chamber, locked in his own chamber, I question whether it is constitutionally sound for anybody, especially some- body lesser than that Senator in posi- tion in this body, to break into his physical office and force him out of that office, and carry him here to the floor—that Senator has a right to say, “I am not going to vote”—and then force him to vote. Where is the constitutionality for that?

Let me tell you something: I have been here for 11 years, and I have been in some of the worst battles we have ever had here, and I have led our side in some of the worst battles we have ever had here; and I, personally, have never been treated like that. I am not going to tolerate other members of my party being treated like that. And I will be honest with you; I will not tolerate members of the Democratic Party being treated like that. It is a disgrace.

Let us understand something. If this type of stuff continues, this place is going to shut down until there is civil- ility here. It is the minority. If you do not believe me, just keep it up.

I think there are a number of us who feel very deeply about this who basically have not participated as strongly as we could because we know that, frankly, it is not going to go any- where, anyway. To make that kind of a big show last evening, just so that the media might be able to say that the Republican Party is against cam- paign reform—they call it campaign reform when it is really campaign travesty—it seems to me borders on stupidity.

Let me just say this: I am very of- fended by what happened last night, and I think my colleagues on this side are very offended by what happened last night. I think my colleagues on the other side ought to be offended.

I do not always agree with Senator Packwood, but he is a terrific Senator who acts very properly in his own be-

iefs, for his own purposes. I think he has distinguished himself as one of the great Senators in the U.S. Senate. He and I have fought each other on this side of the aisle, but every time we have, it has been, if not an enjoyable experience, certainly an enlightening one, because he is one of the most in- 

seek power. Not just power, but power that will give them authority over anybody else.

They are searchers after power sometimes. Sometimes we have to fight against those who grab the power. When I come up for reelection, there are millions of dollars, even though I am a union brethren, because I have to fight against these power-grabbing bills from time to time which are one-sided, one-party oriented bills, and really contrary to our system and, in some instances, actually pushes toward socialism, and I have to fight against them.

Every time I come up for reelection, I can count on millions of dollars being brought in that are never, never, listed by my opponents in their Federal election returns. If I have a nickel that comes in that is required to be reported, I have to report it. Of course, I never handle it myself. Other people handle it, but if they make a mistake, I am being accused that I pocketed for it. It is really disconcerting every time to see one segment of our society have a complete and open right to come in and do whatever they want to do without ever reporting a nickel of that to the Federal Election Commission.

So you can count in any election that I am in, double or triple what my opponent actually lists as the donations made to him through political action committees itself in the period. Even though I might understand them, people they would support. You can double or triple it, because that is really what the undisclosed union-backed money really is in that campaign, and that happens to Republicans all over this country, and it happens to conservatives all over this country. It is unfair. It is not only unfair, I think it is unconstitutional.

The fact of the matter is, it happens every time. People like myself just have to raise a lot more money, and it always looks like we have raised more than the other guy, even though, in reality, they bring in political operatives and they run shows against us—picking people up, taking them to the polls, telling them how to vote, registering people, and spending countless dollars in other ways to advance the cause of their chosen candidates against us conservatives or against generally us Republicans.

The unions are right there to find me on their side, and they have. I do have some union support because they have taken time to look at the issues and realize that I am fighting for higher principles than just one special-interest group having a given presence over another, but this bill just enhances that. There is nothing done about that. Not a thing. Not one thing.

Let us talk about increased campaign costs. Campaign expenditures have increased at an alarming rate since the 1970's, exceeding the overall increase in cost of living. In congressional elections, the aggregate cost of House and Senate campaigns have risen to almost four times between 1976 and 1986. It is not $115.5 million to $450 million in 1986. This compares with an overall cost-of-living increase of roughly 167% during that period.

The increases in aggregate campaign costs were even greater for the average winning candidates. The campaign costs for the winner of the average House race rose from $87,200 in 1976 to $355,056 in 1986. The average for a successful Senate campaign increased from $509,100 to $3.1 million during this very same period.

The costs listed above do not include fundraising pressures or in political party support of candidates or support from outside groups beyond the direct contributions from political action committees and individuals.

Why have PAC's become so predominant? The rising costs of getting elected to office are closely linked to increased candidate reliance on contributions from political action committees.

Fundraising pressures tend to focus a candidate's attention on wealthy individuals and PAC's as opposed to the broad electorate, although I have to admit, there are hundreds, if not thousands, in various PAC's, little people making donations to the PAC hoping that the administration of the PAC would give the money to, basically, the people they would support.

I would say that fundraising pressures tend to form candidate expenditures on wealthy individuals, and, I might add, on PAC's as opposed to the broad electorate. As a result, the role of political action committees itself in the context of the relative role of other funding sources have become a major issue.

Statistics reveal a significant increase in the importance of PAC’s, in terms of number, money contributed to candidates and the ratio of PAC support relative to other sources of funding.

The number of federally registered PAC's grew from 508 in 1974 to 4,211 in 1987.

The amount contributed by PAC’s to House and Senate candidates during this period increased from $12.5 million to $132.2 million. That is more than a 400-percent rise, even factoring for inflation.

Critics of the present system say the PAC's have too much influence over a candidate, that they hinder an elected official's ability to serve his or her constituents.

Others contend that average Americans are being shut out of the political process. Given the strong inclination of PAC's toward incumbents, accounting for some 68 percent of political action committee contributions in 1986, PAC spending may hinder electoral competition by adding to an incumbent's natural political advantage.

Those who defend the role of PAC's in elections argue that they reflect the pluralism inherent in our political process. PAC's are viewed as one, representing a wide variety of interests; two, giving voice to many who were previously uninvolved in politics; and, three, promoting competition in elections by funding challengers in the more closely contested races.

What are the policy options?

Two primary considerations serve to frame this debate: What changes can be made that will not raise first-hand opposition and objections, given the Supreme Court's rulings in Buckley and other cases, and what changes will not result in new, unforeseen, and perhaps more troublesome campaign finance practices in the future.

One can argue that current law favors political action committees over individuals in that there is no aggregate limit on contributions by a PAC while there is a $25,000 limit on contributions by an individual.

There are two primary methods of directly curbing political action committees which have been proposed in legislative form: lowering the current $5,000 limit, as the Republican alternative bill—S. 1672—does, or placing an aggregate limit on the amount of PAC contributions a House or Senate candidate may accept, as S. 2 does.

Mailings and advertisements by Common Cause single out PAC's as special interest groups which are able to distort and control elections. Why then has Common Cause chosen to endorse a bill which does nothing to reduce the maximum contribution which individual PAC's are allowed to contribute to each Senate campaign? S. 2 would give PAC's even more influence.

So where is their great justifiable reasoning for election reform here? The fact of the matter is, if you follow Common Cause, which always talks in high sounding, far flying wonderfully ethical terms, if you really look at it, it is basically an organization that supports the liberal point of view in this society, and, therefore, the Democratic Party in this society.
I do not think anybody looking at it carefully would really tend to deny that statement, if they are honest.

The fact is, a lot of people do feel, and I think there may be some reason for that, that the organization called Common Cause is really just a front for the Democratic Party; certainly, in the very least, a front for the very liberal point of view in our society. They do not like obstructions to the party, and they do not like the conservative point of view. They do not like some of the things conservatives stand for.

They have a right to do that, but they should be corrupting the system off as the ethical institution that is really looking into these things through a bipartisan stand-pont, unless you say bipartisan-liberal stand-point, because that is what they are doing.

The current system provides a number of Americans with access to the political process. Access they wouldn't have under S. 2. In addition, the current system requires public disclosure of contributions to candidates. That is, except the soft money contributions which have been discussed at length here on the floor, and looking into these things through a bipartisan stand-point, nobody can exceed the Democratic Party in subservience. They love special interests, and they are supported by at least five of the major special interests of this country like nobody is. In fact, that is an absolute true statement.

Again, I make the point Common Cause is clouding the issue. The reality is, as I have said, Democrats rely more heavily on big contributions from PAC's than Republicans. Check the campaign finance reports for 1987. They support this statement. S. 2 hurts Republicans because it favors large contributors and PAC's and squeezes out the small donors who are at the heart of the Republican Party. They are our principal donors.

So the Republican alternative, as much as I have some disagreement with it, is a better alternative. If we really want to do something that is right, bipartisan, and really helps everybody, by making the playing field level, my gosh, let us do the Republican alternative.

The Congressional Campaign Reform Act, S. 1672, it seems to me, is much more significant effort at reform than S. 2. It attempts to bring the individuals back into the political process by adjusting the contributions and adjusting the limit on individual donations imposed in 1972 for inflation.

It attempts to close the millionaire loophole so wealthy candidates will not have a tremendous advantage in financing their campaigns. It requires disclosure of so-called, again, soft money expenditures for the corporations, labor unions, and nonprofit organizations which influence the outcome of Federal elections.

It is a far preferable bill and what we are trying to do is to do what is right here. The Republican bill also requires future reform under the auspices of a bipartisan commission, which would make periodic recommendations to Congress based on their own study and the recommendations of the Federal Election Commission. Some have suggested that embracing the individual contribution limit, the Republican bill favors wealthier individuals.

I did not make that argument. I certainly disagree with that. The $1,000 contribution limit has never been adjusted for inflation, and yet the costs have gone up four times, and in some cases, in my case, they went up almost eight times. It is ridiculous.

By combining an increase in individual contributions with reductions in PAC contributions, the Republican bill brings the individual contributor back into the political process.

To me, there is just not any question that the Republican bill is a far superior vehicle than the Democratic bill. I wish we had a bipartisan bill. But I can tell you this: I do not see any real desire for a bipartisan bill. I see a desire to gain an advantage. And I see a desire to do so knowing that they cannot gain advantage because this bill will never, never become law. There is no way that this President will sign it. There is every reason for him to veto it. He will, and we will have enough votes to sustain the veto.

So why are we wasting this time after seven cloture votes? Again, the votes that I know of will defeat this in the Senate.

Again, it is tremendous waste of taxpayer dollars and a tremendous travesty, what is going on here. To keep people up all night long under those circumstances has to be very irritating to everybody, but certainly to my side. That is a just a joke, and it is a joke to cater to some of these people who will write as though this is really campaign reform when, in fact, it is campaign de-formity.

What about the overall taxpayers? We estimate it will be $40 million so far in the last 10 months alone. Over a third of a billion dollars over the last three elections. We have a proliferation of extremists, a waste of tax dollars under the present system. A half million dollars to Lyndon LaRouche in 1984, $200,000 to psychologist Fulani to run for President. It has resulted in more bureaucracy, not democracy, these spending limits and taxpayer financing in practice.

One out of four campaign dollars goes to lawyers and accountants. It is incredible. In the 1980 Presidential race, $21.4 million was spent on compliance alone, as much as the most expensive race in Senate history. Campaigns must process each contribution through 100 steps. The political decisions have become accounting decisions.
We have to be more concerned about accounting and lawyers than we have to be about running for reelection.

True, I think it is important that people be honest in their dealings in these matters. It has become almost impossible to know what to do under the many rules and regulations unless you have a lawyer looking over everything that happens.

I think that every candidate under this present system of spending limits and taxpayer financing in Federal elections becomes a person who cheats. Every major candidate since 1976 has been cited for serious violations of the law and in some cases large fines resulted for many.

I have had frivolous charges brought against me that have cost me all kinds of legal expenses and accounting expenses. Every time they have been frivolous. Frankly, who knows whether it is going to be fair or not. It is a little bit like a Republican conservative being indicted in this town. It is almost impossible for them to come out of that free person. It makes you wonder.

There are some very, very sad things, some very, very bigoted things against the conservatives, and Republicans in particular, that come from this whole atmosphere engendered in this particular town.

I can cite one candidate who spent $2 million in his State with a $400,000 limit. Delegate and precandidate committees are loopholes big enough to drive a truck through, a conduit for soft money, independent expenditure money, and contribution limits. Corporations drive a truck through, a conduit for conservatives or moderates, even.

It is really one of the really frustrating things about being in politics today, that you have people in these independent expenditure campaigns who can do anything they want to do. I can tell you it was very, very frustrating to me even though at one time I considered these people friends, people who were allies. It was one of the most difficult times in my life to have to put up with that kind of stuff. I got burned up about it. It was just awful. They thought they were doing it out of the goodness of their hearts, but they were not.

In spite of all this, special-interest money, soft money, independent expenditure money, the voter turnout has stagnated. It was 55 percent in 1972. It was down to 53 percent in 1984. Grassroots politics in campaigns has died. David Broder said, "Spending limits and taxpayer financing have shut down local campaigning and grassroots democracy has died."

I have to confess, I have not seen much bipartisanship. Occasionally you do, but not very often.

Well, I could go on and on. It is easy to see why Republicans are getting worked up about this legislation. It is easy to see why we get upset when we see the media unfairly reporting that this is really campaign reform. It is really upsetting when you see Common Cause presenting itself as a body that represents all the people when, in fact, it represents all the liberal people and primarily one party. I have to confess, I think that it is a Democratic Party bill, and I think that feeling is sometimes justified, in spite of the high, wonderful, and ethical statements that occasionally come out of the lips of the leaders of Common Cause.

I have to confess, I have not seen much major leadership. Occasionally you do, but not very often.

Let me just end by again citing my dissatisfaction with what happened last night. I know that it is a very difficult job to be majority leader in this body. I learned to appreciate that over the years, and I know that I have, from time to time, made that job more difficult, and sometimes I have been wrong. As I look back over it, I do not think many times but sometimes I have been wrong. I have made the majority leader's life difficult. It is difficult when you are trying to push something that is worthy, and people assert their rights and stand up and fight against it.

But this is not even worthy. If this was worthy, even then I would not jus-
Mr. DURENBERGER addressed the Chair.

The PRESIDING OFFICER (Mr. Breaux). The Senator from Minnesota.

Mr. DURENBERGER. Thank you, Mr. President. I must indicate to my colleague from Utah that I have enjoyed listening to his comments this morning, and I do certainly understand his frustrations and probably the frustrations of everybody on both sides of the aisle in dealing with the very difficult subject probably at a very difficult time.

One of the things that I find somewhat difficult about justifying to any constituent that might ask me why I was not arrested last night or why, while all of my constituents were at their present caucuses, I was trying to figure out how much of my life I was going to commit to another filibuster on this issue, is explaining why we are doing this in an election year rather than some other point in time. And I suppose the honest answer to it is that the proponents tried to do it in a non-election year so here we are in an election year trying to finish off the work.

But those same constituents ask you, "Well, aren't there more important things to be done in this country other than politics?" And I think we all have some difficulty as a present candidate for reelection as I look at what is on people's minds in my constituency and across this country justifying the amount of time, the amount of energy, and the amount of effort that has been put into this, including the effort last night to arrest all Republican Members of the U.S. Senate.

Fortunately, most of the commentators in this country are going to be busier commenting on Pat Robertson's references to George Bush's activities in Louisiana or other things, and they may not be paying much attention to Bob Packwood trying to keep his door locked. But I do think there is an aura of unreality about this as I felt this morning driving into the Capitol at 4:30, to begin to make some arguments that I have been making as long as I have an opportunity to make those arguments against S. 2 and its most recent amended form.

First, I would like to say I heard someone say, and I think it was the point of a story by way of a characterization of some of the supporters, and I want to say on behalf of at least most of the people in Minnesota who have contacted me over the last year or two in support of S. 2 and against my position on it, they cannot be easily characterized other than to say that they are all very honest, very sincere people who have committed some part of their lives to trying to make this system work better. It is just that many of these people, most of whom seem to be associated with an organization called Common Cause, as I said this morning in my remarks, seem to be approaching this problem from the wrong end because if the solution to this problem is to get more representative democracy, then I cannot find anything in any of these versions of S. 2 that is going to make this place more representative than it currently is. In fact, one of the interesting things is to try to get 100 Members of this body here at one time and ask them just to look around this body and find out who should not be here or who would not be here if somehow or other this campaign financing system worked differently. I do not think that the kind of changes that are being proposed in S. 2 would change the makeup of this body.

So then the second argument very clearly is, well, it changes your behavior, the current system somehow or other changes your behavior. That is the argument that is often made to me, most recently the week before last. In Minnesota holding hearings on ground water, which is probably the most serious environmental problem in my State, in the rural areas of my State in particular, with one of those unique environment problems that is not prevalent across all sectors of society and it is not an urban problem, so we do not read much about it, we do not take pictures of it. It does not flow down the Monongahela so nobody would give to the Heart Fund or cancer or the Children's Crusade or something like that until the United Way came along and became an institution inside an association or a company and annually you had to cough up your contribution to the United Way. Now there is more of that kind of activity taking place in associations of people, so there are more people contributing to the process.

One of the things that I observed in Minnesota and, and, and, and, and, and observations about this morning, is that the growth of the activity generated by political action committees has gotten a lot of people to put $5, $10, $15, $25 in the pot at work, sort of like nobody would give to the Heart Fund or cancer or the Children's Crusade or something like that until the United Way came along and become an institution inside an association or a company and annually you had to cough up your contribution to the United Way. Now there is more of that kind of activity taking place in associations of people, so there are more people contributing to the process.

I did not give them all that explanation. I just said undoubtedly there are probably two or three times as many people contributing today to political campaigns as there were in the pre-Watergate period. Maybe it is four times, maybe it is five times as many individual contributions being made to
As a result, I said to these two people, "If you are concerned that we can't see the forest because of these single issues or these special interest trees, be assured that you need to get more financing under the political system has in effect represented a lot more of the trees in the forest and it may still be that it is hard to see the forest, but I do not think that is because more of the trees are not standing up and getting heard. If you have more interest in more participation in the process, you are getting a lot more under this system than you would if you turned the system over to the taxpayer to be financed at public expense or if you limited the number of dollars that could be put into a campaign." 

The second answer sort of came off the top of the head also and that probably was not going to be persuasive, but the second thing I thought of is that to the degree that these united or federated kinds of giving such as you see in the political action committees can be encouraged, you cut down the cost of fundraising very substantially.

One of the unfortunate things that I have noticed over the years in this political fundraising business is that the cost of collecting the money, whether it is telemarketing, which is one of these latest inventions—everybody is on the phone at night catching you when you are trying to doze off or have a tennis game in good shape, or the direct mail campaign mailing lists get run all around the country so everybody gets your mailing—whatever the case may be, the costs of spreading the base under the system are rising. So I said to the degree that somebody else can help in the collection process, all of us benefit.

In other words, more money goes into the message than goes into the fundraisers.

Those are two things that came quickly to mind, but then they got to the heart of the problem as I am trying to get out of the door because I have got to get in the car and go through the blizzard and get in the airplane and fly to the next town where it is going to be 30 below. They said, "But, Senator, can you deny that if we had public financing of elections, we would see a lot of the playing field among all of these Senators and all of these Congressmen, and so forth? Isn't it a reality that if we would limit these expenditures, have public financing of the system, that everybody would be in my point of view?" And I said, "You are absolutely right, absolutely right." I said, "You would not be able to tell—it would be so level, it would be so even, you would not be able to tell whether your Senator is American, or New Yorkers, or people who comes here for an hour and a half on ground water this week, comes back on run rural development next week, comes back to save your rural hospital next month, worked on long-term care around and we will pick up our check just like they do every 4 years in these Presidential races, go and pick up a check and go out there and use television or some other media to try to sell themselves.

Now that I have made some reference to the Presidential race and public financing—and I did not want to deal a lot today on the issue of public financing, but I spoke earlier about my experience putting the Minnesota public financing together, and I think I was on that commission as I indicated from its inception in 1974 until I resigned in the latter part of 1977 or 1978, but I indicated to my colleagues in my previous comments that that commission distinguished between the committed public servant, who is responsive to a constituency for more than a vote, you can do it. You can use tax-paid financing, you can have everybody check off somebody else's dollar on the tax form and then at the end of the year, that will go around and we will pick up our check just like they do every 4 years in these Presidential races, go and pick up a check and go out there and use television or some other media to try to sell themselves.

As a result, I said to these two people, "If you are concerned that we can't see the forest because of these single issues or these special interest trees, be assured that you need to get more financing under the political system has in effect represented a lot more of the trees in the forest and it may still be that it is hard to see the forest, but I do not think that is because more of the trees are not standing up and getting heard. If you have more interest in more participation in the process, you are getting a lot more under this system than you would if you turned the system over to the taxpayer to be financed at public expense or if you limited the number of dollars that could be put into a campaign."
prove the quality of anything around here. I see people I serve with in this body—I do not think that if I set out to do it, I could assemble a better cross-section of America or a more highly qualified group of men and women than those that come to this place each day and each week in this body. I think the system today works pretty well. In fact, much as I have spent time as a reformist, trying to figure out other ways to do this system, I have never been able to come up with anything.

The attack on the system, however, never ceases, and most of the attack is around money and the influence money has, one way or the other, in election campaigns, and the influence money has in making decisions around this place. Where are you going to put your efforts? Where are you going to put your time? Where are you going to make your commitments in terms of your vote, your efforts in committee, choice of committee assignments?

Mr. President, I remember the first 4 years I was here, and I reminded my colleagues this morning that I never wanted to come to this place.

I did not want to be in the Senate. I got here somewhat by accident. I wanted to be a Governor, and it was not working out, and there happened to be an opening, and folks showed me into the direction of the opening.

So, I spent a lot of time in the first 4 years I was here responding to the question: "Does the fact that you have to run for reelection have a big impact on how you make your decisions? Isn't the need to spend a lot of money in your campaign a clear factor in how you make your judgments?"

I said: "Well, on the first one, I can answer it right off the bat. On the second one, you will have to wait until after my first reelection and I can talk about it."

I said: "The first one is easy. There are two ways to come into this body. One is figuring that you are going to keep your finger wet all the time and try to know which way the wind is blowing, and the other is to do the best with what you have."

That is the way it works back home.

The wind comes from many different directions around this place, so that was not much help.

Most of my colleagues on this side of the aisle have settled down to do their best with what they have. We have parochial interests. I have a Minnesota interest. The Presiding Officer has a Louisiana interest, as I notice in his activities in the Committee on Environment and Public Works. Each of us has that kind of parochial interest.

That gets reflected in the committee assignments we take on. That is reflected in the kind of financial support that comes to us from a variety of political action or other kinds of committees.

So, I did not have a lot of problems with the notion that, in one way or another, I was not going to be influenced in my decision-making by the fact that I had to run for reelection. But people would always point to my races and say that it cost $4 million in Minnesota, $6 million in Louisiana, and so on.

Well, I did not have that. I got through with the 1984 campaign, in which I ran against a person who financed his own campaign, without even touching his spouse's inherited wealth. I was in a good position to answer the question, because I had to raise $3.4 million to stay in the race, and I had to raise it from poor people.

I can honestly say, as a result of that, yes, having to raise money does influence where you put your time and effort. There is no question about it.

Those who are interested in the political system, those who care enough about the political system to get involved in one way or another, as either contributors of information, of education, of pressure, in terms of the mail room—all those who are interested enough to get in the process through the fundraising are the ones who chose to run for office.

My mail room clogs up with 15,000 or 30,000 letters a week. I have to pay attention to what is clogging up that mail room. By the same token, if I am not a self-financed politician and I have to go out and raise the money whereby I can take my message to the electorate, I have to pay attention to the sources of potential contributions.

I went to the Rules Committee, I believe, at the end of January 1983, when the Senate was holding one of its very first hearings since Watergate, on the issue of political action committees and their influence on the political process. I think some members of the Rules Committee had experience in the old Watergate Committee. I obviously did not, because I was not around here. I think that probably a lot of them, because of the pressure from those who assumed that money translates into pressure—that the need for it translates into susceptibility—assumed that one of the recommendations that must have come out of that Watergate Committee in the Nixon era was to vest the Capitol action committees, that we get rid of the special interests, that we chop down the trees so we can see the forest, that we bring in tax-paid financing, into this system, to level the playing fields, which these two people from Rochester told me it would do.

Let me read specifically one of the recommendations of the Watergate Committee will be referenced in the financing. This is called campaign financing recommendations. It begins at page 563 of the final report of the Senate Select Committee of Presidential Campaign Activities. The specific recommendation to provide financing is not very long. It begins on page 572 and goes to page 573. It is their recommendation No. 7 on campaign financing. Remember, this committee is bipartisan. I think we decided that the dominance of the then-dominant political party, which was not mine.

The committee recommends against the adoption of any form of public financing in which any monies are collected and allocated to political candidates by the Federal Government.

The Select Committee opposes the various proposals which have been offered in the Congress to provide mandatory public financing of campaigns for Federal office. While recognizing the basis of support for full public financing, the potential difficulty in adequately funding campaigns in the midst of strict limitations on the form and amount of contributions, the committee takes issue with the contention that public financing affords either an effective or appropriate solution. Thomas Jefferson expressed the majority view that contributions of money for the propagation of opinions which he disbelieves and abhors, is sinful and tyrannical.

The committee's position is based like Jefferson's upon the fundamental need to protect the voluntary right of individual citizens to express themselves politically as guaranteed by the first amendment. Furthermore, we find inherent dangers in authorizing the Federal bureaucracy to fund and excessively regulate political campaigns.

The abuses experienced during the 1972 campaign and unearthed by the Select Committee were perpetrated in the absence of any effective regulation of the source, form, or amount of campaign contributions. In fact, despite the progress made by the Federal Elections Campaign Act of 1971, in requiring full public financing, the 1972 campaign was still funded through a system of essentially unrestricted, tax-paid public financing.

What now seems appropriate is not the abandonment of private financing, but rather the reform of that system in an effort to vastly expand the participation of individual citizens while avoiding the abuses of earlier campaigns.

Mr. President, as I remarked earlier in the day, down at the relatively ob-
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issue level in the State of Minnesota. I was in the middle of doing precisely that, reforming the system to expand the involvement of voluntary private contributions. Today, I am the beneficiary in my campaign of that effort.

I probably have a base under my campaign where I can raise up to maybe 150,000 individual contributors. I am not sure of the number. Many of those people are direct contributors, but a very substantial number of those people, maybe as many as half of them, have contributed through political action committees.

The interesting thing to me is that the individual contributions are smaller than the ones that come in through the political action committee than are the contributions that come in directly from private givers.

In my campaigns, three now—1978, which was a $1 million campaign against a $2 million millionaire, the 1982 campaign, which was a $4 million campaign against a $7.5 million millionaire, and the campaign in which I am currently engaged—there has been, and I think will be, a considerably smaller contribution from Minnesota might bear this out as well, a sort of uniform proportion, about 25 percent of all the money raised in our Senate campaigns in Minnesota comes in the form of checks collected from employees, professional association members through a political action committee.

While it is true that the contributions of these political action committees are characterized by Common Cause news releases or Ralph Nader news releases as "Durenberger Number 2 in Oil Money," "Durenberger Number 1 in Chemical Money," "Durenberger Number 3 in Dairy Money," the reality is that the contributions reflect the constituencies inside my State.

Just like you, Mr. President, I am sure it is true that contributions do reflect the constituencies in the State of Louisiana. It does not mean that some contributions do not come from California or some contributions do not come from Maine, but they reflect the particular interests that dominate the constituencies in your State, as they do in mine.

Agriculture is No. 1. Health is right up there. Chemicals, in the sense of people in the mining and petrochemical industries, is a big part of agriculture. It is not my votes on windfall profits taxes, and things like that, which are generally sympathetic to a lot of interests the President might have interest in. It is because there are other ways in which chemical interests have an association with my State.

So each of us in this particular case finds that in the base under our financial resources we have a strong interest in formulating public policy through a particular constituency, and a servent who can serve that constituency, has an opportunity to make these contributions. But the point is, again, is not a dominant factor in my campaign. It is a pretty consistent 25 percent.

It is interesting to me, when you get into Democratic House races in Minnesota, they do not have the money coming in because this is the reality, and this is one of the things that mystifies me about why we are debating on S. 2 which only takes care of the Senate and does not touch the House and which seems to make PAC's out to be a selfish interest, in my State, Jim Oberstar, who represents the Eighth Congressional District, which I do not think has ever elected a Republican, has over 75 percent of his campaign contributions coming from political action committees. Bruce Vento represents the Fourth Congressional District and has for a long time. Before that, it was represented by Gene McCarthy who spent a long time in this body. I think the last time that district elected a Republican was probably a fellow by the name of Ed Devil, I remember this, in the Fifties.

Bruce Vento has nearly 80 percent of his campaign contributions coming from political action committees. I could go through some of the other Members of the House as well. I might as well. It has been handed to me.

This is from today's Federal Post. While we were busy down here talking and submitting ourselves to humilieties, the Post was doing a story called, "They 'PAC a Wallop," PAC P-A-C. It appears on page A23 of the Washington Post, Wednesday, February 24, 1988, right above the wonderful picture of Will Ball taken many years ago, I think.

In the little box entitled, "They PAC a Wallop," it indicates the amount of money going to House Members up for reelection has jumped 44 percent, and includes the story that PAC has increased its contributions to the Democratic fundraising circles, 51 percent of the contributions to his campaign come from political action committees. Tony Coelho, a famous name in Democratic fundraising circles, 51 percent of the contributions to his campaign come from political action committees. Byron Dorgan, a famous name in my neighboring State of North Dakota, a Congressman who represents the whole of the State of North Dakota, a Congressman who, unlike the President, evidently chosen not to come to the U.S. Senate because of the way he was barred by fellow Democrats. He represents the whole of the State of North Dakota. He gets 68 percent. Again, another Democrat, 68 percent of his money comes from political action committees.

Beryl Anthony, Jr., who I think replaces his father for the Democrats on the House side, represents the State of Arkansas. I guess my picture of the State of Arkansas is not full of selfish interests, special interests, big oil wells, and legal and illegal, not that sort of thing. I guess if anybody had a broad base support in the campaign, it would be the Congressman from the State of Arkansas. So, Beryl Anthony has already received $207,187 from political action committees, or 74 percent of his contributions come from political action committees.

I could go on through the list. I see Bill Gray here, the chairman of the Budget Committee, from Pennsylvania, 79 percent of his contributions come from political action committees. In other words, I do not know, but all I have heard about Bill Gray, and what I know of him personally, is that he is a man of the highest stature, a very capable person, a person who you would not, because of the fact he has taken on something as impossible as the budget, think could be accused of being a tool of the special interest. Here he is, 79 percent of his contributions from political action committees, only to say that I think it is, one, difficult to come to judgment on the process by coming to judgment on either the amount of money or the source of money that goes into campaigns.

Second, you are not going to change Bill Gray, you are not going to change Jim Oberstar or Bruce Vento. You are not going to change this Senator, or anybody else that I know in this body, by adopting S. 2, by eliminating this so-called special interest and substituting for it the biennial or every-sixth-year trip to the Treasury to pick up a check from the taxpayers in order to finance these elections.

Mr. President, I use this occasion not to accuse the authors of S. 2 of some particular selfish interest of their own. I do not think that is true. As I said earlier, whatever characterizations of Common Cause, or some of the other supporters of this bill, that I may have heard in this floor do not apply to the members of that organization in my State. I think that we have more common cause in what we are doing here than meets the eye, but our frustrations ought to be taken out on some part of the system, other than the financing of elections.

The bottom line in a lot of this whether or not campaigns really need to be reformed, and the test of whether or not we ought to reform the system, I suppose, at least in an election sense, is whether or not Senate races are competitive or is this an establishment from which the incumbents cannot ever be ousted.

I guess it was a revelation that at one time in the history of this body, probably back in the pre-Watergate era, back in the 1960's, the
1980's, that once you arrived here, you stayed forever.

I currently enjoy going to, as I did this morning, the weekly Senate prayer breakfast where a number of our colleagues get together and are often joined by some of our former colleagues. It was a pleasure, once again, this morning to hear our former colleague from West Virginia, Jennings Randolph, tell us about his very fine Democratic Convention, which was in Baltimore, in 1916 when he went with his father, who was a delegate to that convention which eventually chose Woodrow Wilson, over Champ Clark, to be the Democratic nominee for President, eventually the President of the United States. So it is my impression that once Jennings Randolph, and I believe he told us he came here with Roosevelt in 1933, got here, he stayed here. That is the way it has always been in this place.

I guess the realities, as we know very well, are quite different. This Senate has changed hands twice in 6 years and it is debatable whether I have seen this process at work, the incumbents are getting knocked off right and left. I look at the little blue license ID tag in the window of my car every morning because I do not know if it is still in my possession so it does not kill me, which my colleague from Colorado advised I do, and put it on my dashboard so I can get through the flower pots out here, and it says S. 45. I am amazed at how far I have come in a short period of time, and I think that is because the elections for the Senate are clearly competitive. There is no evidence that I can find that the system is broken.

As I stand for reelection for only the second time, 55 out of the Senate's 100 Members have less seniority than I. In January 1989, depending on how things go, I may be in the top one-third in this body. At least 13 of the Members are being replaced, not by the Senate itself, but by beating sitting incumbents. So I ask, how low does the playing field have to get?

I would conclude my remarks with a few observations on what I think we ought to be doing.

If we are going to do some reform to the system this year, next year, or whatever, I have a couple of thoughts as to what we ought to be doing.

I do not think first of all we should change the campaign rules in this country, particularly for a body like the U.S. Senate, by a party line vote. You sure do not do it when that party line vote is as close as we currently have.

The first thing I would do would be to convene a bipartisan commission to study campaign reforms, just like we did in Minnesota back in the 1970's. I would find a consensus approach and a consensus solution to this problem.

The second thing is I feel equally about the House and the Senate, I have just gone through some examples of behavior on both sides. If it is sauce for the goose here, it has to be sauce for the gander over there. I do not have to agree with that theory. Well, I agree with the theory that the goose is sauce for the gander, but not the theory that there is anything wrong with the sauce. Anyway, if we are going to do it on the Senate side, why not on the House side?

The third thing is to adjust the contribution limits for inflation.

The fourth thing is to try to get rid of the millionaire's loophole.

The fifth thing I would do is encourage more voter turnout participation. Rather than just spending taxpayer money on the Liz Fulani, Alexander Haig, and Pete duPont, I would be spending it on other people coming into this process, so that more people like Minnesota could be voting 75 or 80 percent of their electorate.

Finally, and I have said this many times before, the main reform that needs to take place in this system is with regard to the participation of political parties. Until we change the contribution limits so that political parties can participate in elections, you cannot expect to get anything other than 100 of certain Members in the Senate and nothing more than a great deal of difficulty in making decisions in this place.

Probably, the ultimate reform is the notion that in a $6-million campaign only $300,000 can come from the Republican Party, not making me in any way beholden to the Republican Party.

I think that is unfortunate. I think that is unfortunate for all of us. It lends an air of lack of will, a lack of discipline in this place, and of the system this year, next year, or whatever, I want to ask my colleague, if he will yield further.

Mr. DURENBERGER. Yes.

Mr. KERRY. I listened also to his assertion that most of the money that comes to each of us as candidates comes to us as a representation of the constituencies we represent. If it is Senator Durenberger with oil or Senator Durenberger with Medicare or whatever, I want to ask my colleague if he truly believes that a Senator who comes from a State which has nothing to do with communications but finds himself on the Commerce Committee, or a Senator who comes from a State in the Southeast has no particular interest in the committee which he or she is on, does the Senator really want to say that this system does not find an enormous gravitation of particular interests within committees directing money towards Senators on those committees?

Mr. DURENBERGER. I will be glad to respond to that.

Mr. President, first I ask unanimous consent that my statement before the Rules Committee on January 26, 1983, pertaining to this matter, be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:
I appreciate the opportunity to come before the Committee this afternoon. And I want to tell you why I am here. Having the foresight to begin this Congress by looking back at some of the lessons we learned in the 1982 campaign.

We are all elected officials, and we have all had personal experience with the workings of today's campaign finance laws. My experience is simply more unique than most.

In both my 1978 and 1982 campaigns, I faced political opponents with immense personal resources, and a willingness to invest those resources in the pursuit of public office. In 1978, my opponent spent $2.1 million, the great majority of those funds from his own resources. In contrast, my campaign raised and spent $1.09 million. The numbers from my 1982 race are significant, on where each candidate raised his money, so voters could make their own judgments. The increase in the number of political action committees. The period from 1976 to 1982 has been an era of participation, an era in which the base of the political process was strengthened, so they can be more accurate in reflecting indirect expenditures that can so easily change the character of a campaign. The public has the foresight to begin this Congress by looking back at some of the lessons we learned in the 1982 campaign.

You will find that they reflect the interests of the States those Senators represent. My own campaign received financial support from sources as different as corporate donors, unions, private individuals, and PACs, such as "KIDPAC." Even within the corporate world, political action committees reflect the same diversity of opinion that characterizes their corporate sponsors—large and small business, banking and thrift institutions, trucking, railroads, barges, and airlines.

Although my campaign was well below the national average in the percent of its funds raised from political action committees, I am no more impressed by the argument that these legally limited contributions be deemed significant enough to make any Senator "belong" to the contributor, or for that matter, any more thankful to the PAC than to any of the 34,200 individual contributors who also supported the campaign.

I am not so impressed by the argument that the proliferation in the number of PACs establishes a need for reform. Actually, it suggests precisely the opposite conclusion. The increase in the number of political action committees reflects a general increase in the interest and involvement of millions of Americans in their system of government. That increase is itself a function of a generally more open and better system of mass communications. I would have asserted itself in one form or another even if there were no PACs.

Furthermore, a system in which elected representatives are being supported by a diverse, pluralistic collection of funds would be a weakness when the system it replaced—in which a small handful of "fat cats" with access to Washington lobbyist had a corner on access to the legislative process. The period from 1976 to 1982 has been an era of participation, an era in which the base of the political process was strengthened, so they can be more accurate in reflecting indirect expenditures that can so easily change the character of a campaign. The public has the foresight to begin this Congress by looking back at some of the lessons we learned in the 1982 campaign.
share of my constituents. They are Minne-
nesota interests I am proud to represent. And
the financial support that has come from agri-
culture is a direct reflection of the needs and concerns of my State.

Another significant percentage of my financial support has come from steel and rail. Steel is one of the largest em-
ployers in my State, and I am equally proud of the efforts I have made to help that ind-
ustry. I have been an advocate of giving unemployment compensation to unemployed Minnesota steel workers. The
high percentage of contributions that I re-
ceived from the industry reflect the inter-
stake Minnesota has in its future. I could go
on, but I think the point is clear. The con-
centration of PAC support for candidates within certain trade and business groups is a function of the same forces that influence all other forms of political support, finan-
cial or personal. They reflect the interests of the candidate's constitu-
ency, they do not clash with those inter-
ests.

It is also essential to bear in mind that a significant percentage of the Nation's politi-
cal action committees are association PACs—groups like the reators and the au-
tomotive industry have provided the funds of political involvement for millions of small firms and individual proprietors in States like Texas and California. The dollars contributed by association members in my State help build those funds. And the opinions ex-
pressed by my constituents play a decisive role in determining which interest group's contri-
But these decisions will support my candidacy or the can-
didacy of anyone choosing to run against me. Their voice is Minnesota's voice, and
their judgment is the judgment of my con-
stituents.

Yes, Mr. Chairman, these contributions are a way for people to influence the politi-
cal process—the same way as organization endorsements, volunteer help, and 35,000
letters on interest and dividend withholding
problems support my candidacy or the can-
didacy of anyone choosing to run against me. Their voice is Minnesota's voice, and
their judgment is the judgment of my con-
stituents.

Mr. DURENBERGER. Nobody goes to the committee by accident. You might get to certain third-level com-
mittees in this place by accident, but your first and second committee choices are usually your choices, I
know on your side it will be very hard to get a committee by accident. I think most of the time, depending on what side or the other you may have been of the majority or minority leaders, you will get those. On our side, the first come, first get here, first choice in the selec-
tion in the system.

You naturally gravitate in the first in-
stance to the committee whose juris-
diction represents either your personal strong interest or your constituency. I have the opportunity of the Finance Committee because I have a strong interest, both constituent and personal, in issues like health policy as
reflected in the Social Security Act. And a broad range of tax policies cause me to want to
go to the Finance Committee or something else. After that, of course, comes the opportunity to interface with a variety of legislation. I would
imagine that there are a lot of people who have interests before that com-
mitee whose interest in policy may also be reflected in their contribu-
tions. You cannot deny there is a rela-
tivity there. But it is also personal to you on your committee and it is per-
sonal in my interests and in the inter-
ests of my constituents as well.

Mr. KERRY. If the Senator will yiel-
Mr. President, about 8 o'clock this
morning when my turn came to speak
I yield further for a question, I wonder
whether the Senator is not really answering
my question exactly in the affirmative as I posed it. The Senator is saying there is a direct relationship between the committee, and maybe you get there because it is your interest and maybe you get there because you are adequately reflecting that that is the interest of your constituents. But I think the Senator is acknowledging that that is where the particular money of that interest gravitates. That is precisely the point we are making, that there is a direct relation-
ship between the money on the com-
mittee and the Senator on a commit-
tee.

Mr. Chairman, I yield to the Floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. DURENBERGER. I do not agree that it is there at all. What do you think this place is about? If, in
fact, you want to insulate the constitu-
ency from participating in this proc-
SPECTER. I thank the Chair.

Mr. President, I thank my distin-
guished colleague from Colorado, Sen-
ator Armstrong, for deferring his re-
marks to enable me to make a few ad-
ditional comments beyond the ones
which I had made earlier this morn-
ing.

Mr. President, about 8 o'clock this
morning when my turn came to speak
on the pending bill, I made some com-
ments about the propriety of the pro-
cedures used last night in the issuance
of the arrest warrants.

Since this morning I have had an op-
portunity to study the matter in some
additional detail, although not with fi-
nality, and inquired into some of the
underlying facts, although again not in detail.

Mr. President, I pointed out this morning that there is no authority directly for the issuance of a warrant of arrest to compel the attendance of a Senator; that the Constitution has a provision about compelling attendance but it is limited on its face to extraordinary use of force and invasion of the chambers of a sitting U.S. Senator.

I have before me a photostated copy of the document signed by Senator Brock Adams which recites that the undersigned Presiding Officer of the Senate "by virtue of the power vested in me hereby command you, in pursuance of the order of the Senate, this day made, to forthwith arrest and take into custody and bring to the bar of the Senate Bob Packwood who is absent without leave, to wit:"

As I said today, Mr. President, there are quite a number of reasons why this document is invalid on its face. It refers on the front side to a warrant. It refers on the reverse side to a subpoena, and a subpoena is very different from a warrant. A subpoena commands a person to appear at a time and place certain, whereas a warrant authorizes the holder to take physical custody of the person on whom the warrant is served. There is no insertion on the "to wit" clause. These are all important considerations.

But the most fundamental one, Mr. President, is the appearance that Senator Adams, the Presiding Officer, had no power vested in him to sign this document.

I had an opportunity to talk briefly with Senator Adams this morning, and he said to me that he knew of no writing which authorized him to perform the duties of the President pro tempore. He said that there had been occasions when he had been authorized in writing earlier in the session, but he knew of nothing which contained an authorization for him to do so yesterday. And it appears—this is subject to further confirmation and I do not state this with assurance because we have yet to check out all the facts, but on the statement of Senator Adams there is a strong presumption that there was not the kind of authority required by rule 1, paragraph 3. So that when Senator Packwood was taken into custody, it was done in flat derogation of the rule, and that Senator Adams as the Presiding Officer did not have the authority to issue this warrant of arrest.

Mr. President, the issue here is more than mere technicality, because a fundamental rule on the issue of warrants has always been the necessity of having these detached, independent authorities take a look at the facts presented to him by the applicant from a warrant and then makes that kind of detached, impartial determination. You can see why that was the majority leader yesterday. The assistant Republican leader on the floor this morning shortly after 3 a.m. spoke of tyranny. I am not sure whether it was the last arrest in 1942, and it refers to the proceedings authorized by the Vice President of the United States, and the last part of this Senate procedure quotes:

The report having been made as to the absent Senators who were out of town and those who were in Washington, the majority leader, Mr. Barkley, made another motion which was agreed to authorizing and directing the Vice President to issue warrants of arrest for the absent Senators in Washington.

The authority of the Vice President is therefore spelled out on that instance.

That may or may not be compelling authority but it is limited on its face to what the Vice President had done. Rule 1, paragraph 3, provides that:

The President pro tempore shall have the right to name, in open Senate or, if absent, in writing, a Senator to perform the duties of the Chair including the signing of duly enacting or adopting resolutions.

Now, here again it is not conclusive about the authority of the President pro tempore to act on a warrant of arrest, but to the extent that the authority is with the President pro tempore—and there is a question as to whether even the Vice President has the authority—to the extent that it exists, it goes to the President pro tempore, and the rule is specific in terms of setting forth authority for others.

When Senator Packwood was taken into custody early this morning, in what was an extraordinary event in the history of the Senate, Senator Packwood was accosted in his chambers when the Sergeant at Arms and representatives of the Sergeant at Arms entered Senator Packwood's chamber by use of a key, forcefully took him into custody and brought him with physical force to the Senate floor. Senator Packwood directly told me this early this morning, Senator Packwood thought that he had rights of privacy there. He had the deadbolt on. The key was inserted. The key was turned. The Sergeant at Arms and or representatives entered forcefully.

Mr. President, I spoke at some length this morning, and I shall not repeat the arguments which I made, on what seems to this Senator to be the extraordinary and unseemly conduct which occurred last night on the issuance of warrants of arrest presumably by 45 Republican Senators. I do not know. I had not seen one which names me, but I presume that all those who were absent were treated equally, if unfairly. Senator Packwood, if he ever has occasion to apply for another job—I do not suppose he will, his position is so assured here, but if he ever should and faced the question, "Were you ever arrested?" he might face some rather embarrassing moments; it is never easy to explain, even if you are a U.S. Senator, why you were subject to an arrest warrant.

I spoke this morning about the constitutional rights which have been enforced in this country and hundreds of thousands of guilty felons freed since the famous Weeks case, United States versus Weeks in 1916 where defendants are conclusively guilty as a result of police actions, evidence illegally obtained, and the guilty were set free, and as later applied in the case of Mapp versus Ohio, in 1961, hundreds, thou-
sands, probably tens of thousands of men and women who were conclusively guilty on the basis of evidence presented were set free because of the failure to observe constitutional rights. I recited some cases that I knew about personally as district attorney of Philadelphia—in one case a man accused of murdering a taxi driver, there was a confession and tangible evidence from the defendant's apartment, was set free, exonerated because his constitutional rights were not observed.

When I spoke this morning shortly after 8 o'clock I had not had occasion to read the morning press, but a lead story in the Washington Post today relates to the confession excluded in a hijack case. Overwhelming international importance on the hijacking led to a warrant of arrest being issued by the U.S. Government under extraterritorial jurisdiction, and in a Federal court yesterday Fawaz Yunis had a confession, and it was not observed because his constitutional rights were not observed.

The judge in that case said that it was not sufficient that there was a national interest. It was not sufficient that there was the interest of a fight against terrorism, that the constitutional rights had to be observed.

What egregious conduct was Senator Packwood more guilty of than Fawaz Yunis? Senator Packwood was exercising his right as a Senator, perhaps even his right as a citizen, by being in his chambers, which were unceremoniously broken into in the way that I have already described.

Mr. President, I believe that these matters are matters of enormous importance that I hope the Senate will address and that I hope the majority leader will address yet today. We are proceeding here on S. 2, which is legislation that has enormous areas of disagreement on the question of soft money, the question of the propriety and wisdom of public financing. There exists agreement by many Senators on this side of the aisle to eliminate totally PAC contributions, since there may be a public perception on PAC contributions, but that bill is fraught with controversy. Beyond the issue of controversy itself, there is the very important fundamental rule, unchallenged in this body, that when 41 U.S. Senators decide that a matter will not come to the floor for debate, that is that. It used to require 57 Senators to impose closures; but this body decided over the years, for good and sufficient reason, that if 41 Senators say "No vote" on the substance, then have no vote shall occur on the substance. This is a protection of minority rights. We know that for seven cloture votes, said to be a record in the U.S. Senate, not 41 but 45 United States Senators have said S. 2 cannot come to the floor because there are some matters so fundamental that the U.S. Senate has decided in its institutional wisdom, which is considerable, certainly more than the wisdom of those of us who are here today, and certainly much more than the wisdom of those of us who were here last night, that a majority of 51 Senators, or a majority of 55 Senators, cannot carry the day if at least 41 Senators say that debate should not be imposed. In the face of that, Mr. President, we had an extraordinary, really historical event last night. It was plain that those who had been appointed, four Senators by the Republican leader, four Senators by the Democratic leader, could not come to an agreement.

I had a talk on the floor of the Senate yesterday afternoon with Senator Bumpers and personally heard it from him. So then what was the purpose in scheduling an evening session? What was the purpose in scheduling an all-night session? Mr. President, I raise these in the form of questions because there is passion on the Senate floor today. There was passion in the service of the warrant of arrest last night and it may be that tempers cooled before we answer these questions, but there are very important questions for the future operation of the United States Senate and the future operations of the U.S. Government.

Was it harassment to bring in 90-some Senators—I will not say 90-odd Senators, but 90-some Senators to respond on a question which was irrelevant, which was nonbusiness?

Was there any doubt at all that 45 Senators stood firm, at least more than 41 Senators, and that cloture was not going to be imposed? Was it a form of harassment? Did it have any purpose? The Republican Senators decided last night that we would absent ourselves from the Chamber because then there would not be a quorum, and Senate business could not be conducted because, in fact, there was no Senate business to be conducted. What were we engaged in was non-busines.

There are other characterizations in front of "business" which would be less complimentary that I might use. But there was no business to be conducted, because it was plain that there was no compromise in the offering.

It was plain that 41-plus Senators had decided that the matter would not come to a vote. Never mind the underlying merits, which I think were substantial, on soft money and financing and the rest of it. That had been decided. The Republican Senators decided to absent themselves from the Chamber because of a proceeding they considered to be demeaning personally and demeaning to the U.S. Senate.

Then what was the response? The response was the issuance of warrants of arrest which have all the appearances and presumptions of being illegal, unlawful, null and void, and really constituting a false arrest of a U.S. Senator, taken from his chambers and laying him flat on his back, with a broken finger, and being removed bodily to the floor of the U.S. Senate.

Mr. BUMPERS. Mr. President, will the Senator yield for a question?

Mr. SPECTER. I will, in just a minute.

Mr. President, I now come to the most important issue—and I will be glad to yield to my distinguished colleague from Arkansas—involving here, and that is the issue of comity and temptation with which the Senate cannot function.

The two most frequently used words in this body are "unanimous consent." Without unanimous consent, the United States Senate cannot function. There is not going to be imposed? Was it a form of harassment? Did it have any purpose? It was 3 a.m. Everybody here was human, I think. Certainly, I was tired.

Then he asked unanimous consent for a number of other items. The temptation to object is strong, and they will reach the point where Senators may object, just to say to the majority leader: "You started it; you finish it. We are here."

It is pretty hard to go to bed at 3:30 a.m. I haven't to get up shortly after that to make a speech at 8 o'clock.

What is the point? If we are in the midst of it, why continue? Everybody was here all night last night until this morning. Perhaps we will not repeat it tonight, not as a matter of a Senate rule but as a matter of human endurance. We are bordering on the edge of that kind of response in every quarter and in every corner of this body.

Mr. President, it seems to me that, in a sense, the Senate is falling apart. In a sense, the Senate is disintegrating or has disintegrated, because without comity and courtesy the United States Senate simply cannot function, and that is our status today. I believe there are issues which are much more important than S. 2. I believe that campaign finance reform is of utmost importance as a substantive matter for the American people, but the operation and function of the United States Senate is even more important. The United States Government cannot function unless the Senate functions, and the United States Senate cannot
function without comity and courtesy; and the United States Senate cannot function if United States Senators are to be arrested in the middle of the night for no reason whatsoever.

I am glad to yield for a question.

Mr. BUMPERS. Mr. President, let me ask the distinguished Senator from Pennsylvania this question, with this prefacing remark:

One of the most distinguished constitutional scholars we ever had in this body was the distinguished Senator from North Carolina, Senator Ervin. Everybody remembers that Senator Sam was chairman of the Watergate Committee, and he was placed in that position by then majority leader Mansfield because of his knowledge and his reputation as a constitutional scholar.

Senator Ervin used to say that English is the mother tongue, and it means what it says.

So, my question to the distinguished Senator from Pennsylvania is this.

"Section 5 of Article I of the Constitution reads as follows:

"Each House shall be the judge of the elections returns and qualifications of its own Members, and a majority of each shall constitute a quorum to do business. But a smaller number may adjourn from day to day, and a smaller number . . ."

Those are my words. This is not repeated in the Constitution.

"If a smaller number may adjourn from day to day and may be authorized to compel the attendance of absent Senators in such manner and under such penalties as each House may provide.

The Senate has provided in its rules as follows, on page 577 of Senate procedure:

"Motions to proceed to the consideration of a case of the terrorist Fawaz Yunis, who was kept in custody for 9 hours, and the point was in retraction of Congressman Powell. It did not involve the arrest of Congressman Powell. If the distinguished Senator from Arkansas thinks we have to cut off a little finger to invoke a constitutional right, then I would suggest that he consult beyond Senator Ervin, to hundreds of court decisions on enforcing constitutional rights which involve being brought before a magistrate.

I referred a few moments ago to the case of the terrorist Fawaz Yunis, who was kept in custody for 9 hours, and that was the basis for the Federal court decision. They did not have to engage in torture, they did not have to cut off his left little finger to invoke constitutional rights.

If a suspect, in a case in a case is not given detailed Miranda warnings and then exercises alleged waivers, he has a standing in court. You do not have to cut off somebody's left little finger. Frankly, I am glad the Senator mentioned the little left finger, because that was precisely what was involved with Senator Packwood.

Mr. BUMPERS. I understand that he got an injured finger.

Mr. SPECTER. I wonder if that was intended.

Mr. BUMPERS. The Senator—Mr. SPECTER. I am in the process of making an answer. Senator Packwood had a broken little left finger. I have not looked for his picture, but it has worn its way in this Chamber for the last 2 weeks.

During the course of the physical, forcible entry by the Sergeant at Arms last night, Senator Packwood's little left finger was reinjured.

He said to me and a number of other Senators—and not in hiding, by the way, but in the Republican cloakroom, where we have a right to be—that he had to go to the hospital this morning to get his finger repaired.

So, if you have your little left finger involved, then, even by the standards of Senator Bumpers, I think Senator Packwood qualifies.

Now, as to the business of being in hiding. I think you have a constitutional problem. But when you have every Republican Senator in hiding. I think that was not in hiding. I was attending to the Senate's business, and I was exercising my rights as a citizen, perhaps even as a Senator, and check the CONGRESSIONAL RECORD. We are congenitally not in hiding, by virtue of our positions.

I repeat: I resent that.

Now, to the point, because all of what I have said so far is not to the point.

The point of the question was in response to a speech by the distinguished Senator from Arkansas, and I respect his right to make that. He is an avowed friend of mine. I do not think he has to quote Senator Ervin as a constitutional authority. I think Senator Bumpers is a constitutional authority. He is a first-rate lawyer, a first-rate Governor, and a first-rate Senator.

To the point now, when Senator Bumpers rose and said, "What do the rules provide," I am glad Senator Bumpers brought that up because that is where I started earlier this morning.

I started with the rules. I started with article 1, section 5, the same rule that you started with, and that is, the operative language, "each House" and a smaller number of Senators may adjourn from day to day and may be authorized to compel the attendance of
absent Senators. That says nothing about a warrant of arrest, absolutely nothing. If the framers wanted to talk about warrants, probable cause, et cetera, they knew how to do it because they had done that in other sections of the United States Constitution, and that further provides "under such penalties as each House may provide."

I want to express my apologies to the Senator from Colorado, whose time I have taken here, and I thank him.

Mr. ARMSTRONG. Not in the slightest.

Mr. SPECTER. The United States Senate, which is a reference to each House, has not provided any rules in such manner. When Senator Bumpers quotes page 577, and I will come to that in a minute, that is not a rule, that is a commentary on the rule. There is a big difference between a rule and a commentary on a rule. That is a discussion about a wide variety of things. Simply stated, it is not a rule.

And I do not need to go further for a specific statement of principle or policy.

Immediately preceding page 577, there are a lot of rules stated.

On page 572, they start off, "Rule XIV, paragraph so and so." It is not like there was a discussion or a commentary about rules, practice, and custom. Simply stated, it is not a rule.

What does the rule provide?

"There is another rule, and I quoted it this morning shortly after 8 o'clock. It is rule VI, paragraph 4, and it says:

Whenever upon such rollcall it shall be ascertained that a quorum is not present, a majority of the Senators may direct the Sergeant at Arms to request, and when necessary, to compel the attendance of the absent Senator, which order shall be determined without debate; and pending its execution, and until a quorum shall be present, no debate nor motion, except to adjourn, et cetera.

Mr. SPECTER. Simply is nothing in the rules about a warrant. Where you come to the commentary, and there is a reference to the issuance of warrants of arrest, that turns on the precedent on page 1174 of the Senate Procedure that I have already referred to, and that is on the authority where the Vice President issued a warrant of arrest in 1942, which was a matter of practice as opposed to any rule.

The distinguished Senator from Arkansas then cited the document in question, but that document, and the citation which the Senator makes, really undercuts the force of this authority.

That document recites that:

The undersigned Presiding Officer of the Senate, by virtue of power vested in me, hereby commands you to take Bob Packwood into custody.

And it is signed by Brock Adams.

I would return the question to the distinguished Senator from Arkansas. You heard the recitation of the rule that only the President pro tempore may designate someone in writing, or the Senate. You heard my statement where I recounted the conversation that I had with Senator Adams, who is the party senator there, that he knew of no such writing. I think there is a grave question as to whether even the Vice President can sign a warrant of arrest. I think there is an even graver question as to whether a President pro tempore can sign a warrant of arrest.

I think most gravely there is a question about whether the designee of the President pro tempore can sign a warrant of arrest. There is no question, however, that any Senator, naked of power and authority, has no right to sign a warrant of arrest to bring into custody a fellow Senator from this body, any more than I can sign a warrant of arrest for Senator Bumpers, Senator Byrd, or any other Senator in this body.

That is what the rule says, and, on the basis of this record, there is no authority for Senator Adams to sign this document.

As reluctant as I am to allow the distinguished Senator from Arkansas to speak, because he is so eloquent and forceful, I will put that question to Senator Bumpers.

Mr. BUMPERS. Mr. President, I am not familiar with the precise rule, except the rule that says the Vice President is the constitutionally designated Presiding Officer of the U.S. Senate. And in his absence, the President pro tempore and, if I am not mistaken, it says, "or his designee."

Mr. SPECTER. If I may interrupt, let me give the Senator the rule specifically.

Mr. BUMPERS. All right.

Mr. SPECTER. I will use the Senator's book, Senate Procedure.

Mr. BUMPERS. Where does that rule, Mr. SPECTER. Rule I, paragraph 3, genuine bona fide rule, page 657, says the President pro tempore—

Mr. BUMPERS. Is the Senator reading from procedures?

Mr. SPECTER. No, I am not reading from procedure and calling it a rule. I am reading from a rule and calling it a rule.

Mr. BUMPERS. Which page?

Mr. SPECTER. Page 657. Rule I, paragraph 3.

The President Pro Tempore shall have the right to name in open Senate, or, if absent, in writing, a Senator to perform the duties of the Chair, including the signing of the daily enrolled bills and joint resolutions.

The including does not delimit from the generalized authority, theretofore stated, to perform the duties of the Chair. On the basis of the evidence that I have, as I have outlined it today, there was no designation by the President pro tempore, Senator Adams. The President pro tempore had designated Senator Proxmire, and Senator Proxmire, according to the information provided to me, had not designated Senator Adams. I recount, again, a conversation I had with Senator Adams who said to me he knew of no such designation. To elaborate, he said he knew of a designation earlier in the session, but none yesterday.

My question is, when you are dealing with the authority to issue warrants of arrest and dealing with an intervening magistrate, different from the majority leader, what authority does Senator Adams have to authorize a body warrant, an arrest of Senator Packwood?

Mr. BUMPERS. Well, Senator, let me answer that question in two or three ways. Number one, the Senator has been here now for 12 years. How long has the Senator been in the U.S. Senate, 8 years, 7 years?

Mr. SPECTER. Yes.

Mr. BUMPERS. And during that 7-year period, has the Senator ever challenged a right of the Presiding officer to sit in that Chair?

Mr. SPECTER. No, but that is irrelevant.

Mr. BUMPERS. Well, it is not necessarily irrelevant. The Senator surely understood that a Presiding officer is by precedent here and oftentimes—

Mr. SPECTER. Are you talking about custom?

Mr. BUMPERS. Custom.

Mr. SPECTER. That is different than precedent. There is no precedent.

Mr. BUMPERS. If I may just answer the question and proceed. Quite often, when a parliamentary question is raised here, the Parliamentarian and the Presiding Officer confer on it, and that Presiding Officer makes the final decision as to who is right or wrong by parliamentary inquiry.

Now, the Senator, I do not believe, is seriously suggesting that every order that has been issued and, I would say, that probably since the 1864 session and 98 percent of the hours that have been presided over the Senate since I have been in the Senate have been by people who were not the first designee by the President pro tempore, if the Senator really believes this, if he believes that is the custom and the precedent of the Senate for literally 100 years, if he wants to suddenly challenge that, last night when Senator Adams was presiding and issued the warrants for arrest, it would have been a golden opportunity for the Senator to challenge and make the point he is making right now.

Mr. SPECTER. I am doing it, and very promptly, very timely.

Mr. BUMPERS. The distinguished Senator from Alabama, Senator Shelby, is now the Presiding Officer. He was not the officer designated by the President pro tempore. So why does not the Senator right now chal-
February 23, 1988

CONGRESSIONAL RECORD—SENATE 2097

In the absence of the Vice President, the Senate shall choose a President pro tempore, who shall hold the office and execute the duties thereof during the pleasure of the Senate and until another is elected or his term of office expires.

Mr. SPECTER. What page are you on, Senator BUMPERS?

Mr. BUMPERS. Well, I have that small Standing Rules of the Senate. It is a small document. It is not the big one. If you have the Senate rules there, just turn to Senate rule 1.

Mr. SPECTER. Do you have the citation of the book you used before of Senate procedures?

Mr. BUMPERS. Standing Rules of the Senate and Congressional Budget and Impoundment Control Act of 1974 as Amended.

Mr. SPECTER. Bear with me while I use the index and appendix to find the rules.

Mr. BUMPERS. Does the Senator have the Senate rules?

Mr. SPECTER. I have the Senate procedure. I have not had an assistant handing me documents on the floor, Senator BUMPERS.

Mr. BUMPERS. I do not know what to do about this, except to just read to the Senator and hope he will pay careful attention. This is the rule.

Mr. SPECTER. I will try.

Mr. BUMPERS. This is the rule, and I think the Senator will trust me to read it to him exactly as it is printed, section 2:

In the absence of the Vice President, and pending the election of a President Pro Tempore, the acting President Pro Tempore or the Secretary of the Senate, or in his absence the assistant Secretary, shall perform the duties of the Chair.

Here is paragraph 3:

The President Pro Tempore shall have the right to name in open Senate or, if absent, in writing, a Senator to perform the duties of the Chair, including the signing of duly enrolled bills and joint resolutions, but such substitution shall not extend beyond an adjournment, except by unanimous consent;

Here is the key phrase:

And the Senator so named—That is, the Senator who has been named by the President pro tempore,

shall have the right to name in open session, or, if absent, in writing, a Senator to perform the duties of the Chair, but not to extend beyond an adjournment, except by unanimous consent.

So every hour on the hour the Senate has, now for at least 7 years, watched various Senators replace the Presiding Officer. For example, Senator Shelby, who is now presiding, will probably be replaced at 12 noon and the Journal will reflect that his designation is the person who follows him pursuant to section 3 of rule 1.

That has been the rule of the Senate, I suppose, for 100 or more years.

Does that answer the Senator’s question?

Mr. SPECTER. Absolutely not. Let us start with the beginning.

We started with subsection 2 as if there were some importance to subsection 2 of rule 1.

Mr. BUMPERS. No, there is not really much importance to this debate in section 1 or section 2, either one.

Mr. SPECTER. That is what I was about to say. I had read paragraph 3 and I just want those who may be following this on television to understand that when this Senator cited the relevant rule and subsection, it was rule 1, paragraph 3. Then when Senator BUMPERS got the rule book out and started to go to another rule, subsection 2, I thought there was going to be some relevancy, but there is absolutely not.

Mr. BUMPERS. I am sorry, I had read rule 1 before you got the copy you hold in your hand. The reason I did not reread it was because it was not relevant to the debate we are having here.

Mr. SPECTER. That is the point I want to make. The governing rule was the one I read initially, rule 1, paragraph 3. That is cited on page 67. When we go to the other rules in the other document which has them all together, it has nothing to do with what we are talking about.

Mr. BUMPERS. Let us review the bidding so we are all on the same wavelength.

Mr. SPECTER. Let me go to the specifics of paragraphs 3, which is the one with relevancy and the one I put before the body and the television audience, to the extent there is any, at the present time.

When you talked about Senator Shelby taking the Chair—well, let me put a question to the Presiding Officer.

Senator Shelby, did your predecessor say, “I hereby designate you” anything when you took the Chair?

Mr. BUMPERS. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator from Pennsylvania has the floor.

Mr. BUMPERS. Will the Senator yield?

Mr. SPECTER. I do not.

The PRESIDING OFFICER. It is not customary during the session to make the designation. The designation is generally done specifically at the beginning of the day when the Senate is opened.

Mr. SPECTER. Let me thank the distinguished Presiding Officer. Let me note for the record for those who did not see the Parliamentary whisper into the ear of the Presiding Officer the answer which the Presiding Officer just gave, that was an interesting answer, but to a different question.

My question was, did the Presiding Officer say anything to you by way of...
designation? I shall not repeat the question, but I will withdraw the inference that he did not.

The PRESIDING OFFICIAL. The answer is an emphatic no, he did not. Mr. SPECTER. Nobody has ever designated me anything.

Mr. BUMPERS. My presidency is the same as if the Senate from Pennsylvania were presiding.

Mr. SPECTER. I asked that question and I know I do so dangerously because I did not know the answer. I violated all the rules of cross examination. It puts to rest the question Senator Bumpers last raised, which is not relevant in any event but assuming arguendo that it was. The latter part of section 3 says:

The Senator so named shall have the right to name in open session, or, if absent, in writing, a Senator to perform the duties of the Chair.

Nobody named you in open session to do anything. BUMPERS. But when the Republicans were the majority they did the same thing.

Mr. SPECTER. Wait a minute. I have the floor. Let me finish. By all means, yes, it was, which really does not, it would not establish any authority on your part, Senator Shelby, and it is a totally insufficient, gratuitous answer which the Parliamentarian offered you, that it is not customary to have it done. Custom has some importance but not in flat contradiction to a written rule. You cannot substitute custom for a written rule. In the absence of a written rule or some established law, custom may have relevance to established procedure or substance.

But where you have a flat written rule, it does not mean a thing.

So nobody named you to do anything. But the reality here is that the Senator who was designated in writing, according to the information provided to me, was Senator Proxmire, who was designated in writing from Senator Stevens, and nobody else. Where you are dealing with something as serious as arrest, you need a warrant of arrest, and you are looking for an attached magistrate, you may not be looking for one of the newest Members of the United States Senate. They customarily do not have committee chairmen presiding, and I say that in no disrespect to Senator Shelby or Senator Bumpers, and I did a lot of presiding in my first year of the Senate, or Senator Adams, who is now in the second year in the Senate, and it does not have quite the detachment that the Vice President does.

Do you disagree with the majority leader, Senator Shelby? Perhaps you would, but many second-year Senators would not have been disposed to state it. The President pro tempore, in this case the designation of Senator Proxmire, who may be next in line to Senator Stevens and in terms of succession probably is, might have more the mind of a detached magistrate in taking the view of what the majority leader as an advocate, a partisan, in these proceedings had. Should we have a warrant for arrest for Senator Packwood? It is late. It is past midnight. Senator Packwood may have a broken finger. Who knows? He was taken bodily to the Senate Chamber. I have talked to other Senators today who expressed amazement with what went on.

I do not think the Democrats had high ground on S. 2 to start with. Whatever ground they had I think has eroded, has disintegrated, has been the victim of a landslide, of impropriety and illegality in the issuance of this warrant of arrest, not to say what is really important about the comity of courtesy that this place runs on.

My replacement, Senator Wallop, has arrived.

Does the Senator from Arkansas have a question?

Mr. KERRY. Will the distinguished Senator yield?

Mr. SPECTER. I asked if the Senator from Arkansas had a question.

Mr. BUMPERS. I will make one brief statement and one inquiry of the Senator.

The PRESIDING OFFICIAL. The Senator from Pennsylvania has the floor. Does the Senator yield?

Mr. SPECTER. By unanimous consent, without losing my right to the floor, I would like to yield to the Senator from Arkansas.

The PRESIDING OFFICIAL. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, the Senator may be, from a purely legal standpoint, correct. But I also want to note that for perhaps 100 years there is a precedent in the United States Senate. It was a precedent when the Republicans were in control. The Senator is making an argument which could conceivably invalidate every single action the Senate has ever taken, and I think the rule may be as old as any rule in the Senate. He, who was the second and those in sequence who presided did not get up and say, "I now designate Senator Shelby to replace Senator Proxmire," who will exit, and Senator Shelby takes the Chair. That is the argument of the Senator from Pennsylvania.

But every time there has been a question raised like this, the Parliamentarian has always ruled according to precedent. In this particular case, when you had somewhere between 100 and 200 years of precedent, I do not believe the Senator would prevail with his argument.

Having said that, let me go back to one other thing.

Incidentally, as I say, the Constitution is clearly written. Sam Ervin said the mother tongue was English and I have never seen English more clearly written than the section on the rules of the Senate providing for the attendance of Senators. It does not say they should not come; it does not say you cannot touch them if they have a bolt of hideousness; it does not say anything about what you will do to compel their attendance. The Senate is the judge of that. It says they will compel their attendance. Alvin Barkley, in 1942, signed warrants of arrest and sent the Sergeant at Arms out to compel people and request their attendance. I think the language is absolutely clear.

Incidentally, the Sergeant at Arms tells me Senators were running from him last night. What a spectacle. United States Senators seeing the Sergeant at Arms coming taking off in a sprint to keep from being compelled to come here and do what the people of their States expected them to do.

Mr. SPECTER. When did that happen?

Mr. BUMPERS. This morning.

Mr. SPECTER. Before Packwood?

Mr. BUMPERS. Before Packwood. It was in a dead sprint. They should have been in Calgary at one of the Olympic events.

But the spectacle of United States Senators running from the Sergeant at Arms in order to keep from being compelled to attend the United States Senate is an outrage.

Let me just ask this question.

Let me lower my voice a couple of decibels. I thank the Senator for his nice remarks about me. I will reciprocate by saying there is not anyone in the Senate for whom I have a greater affection or whom I respect more on constitutional issues. The Senator knows that. We are close friends.

Let me ask: If you cannot compel the attendance of Senators who choose to absent themselves without Writs as happened this morning at 2 o'clock for whatever hour, any time Senators know that they can absent themselves and bring the Senate to a halt so that the Senate cannot function and you cannot do anything about it, where does that leave the U.S. Senate?

Mr. SPECTER. I think it leaves the U.S. Senate in a much better position than the United States Senate is in today.

Mr. BUMPERS. Well, why—

Mr. SPECTER. May I answer?

Mr. BUMPERS. Yes.

Mr. SPECTER. I believe that Senators ought not to be subject to arrest, except under extraordinary cause, any time, perhaps never, unless they have committed a crime, if there is probable cause to believe they have committed a crime.

I say to arrest a U.S. Senator at 1 a.m. in the middle of the night is unconscionable.
I would say there would have to be some extraordinary emergency for the majority leader of the U.S. Senate to take action to arrest U.S. Senators in the midst of the light on the allegations of performing Senate business. If you take back the curtain, there was no business to be performed for reasons I specified earlier.

There was not going to be any result of the motions to compel.

The negotiators had reached an impasse. Forty-five U.S. Senators had absolute rights not to have the matter come to the floor for a debate on the merits.

What was going on last night, in the instance of the majority leader, was harrassment and demeaning. Senator Packwood was within his rights of being within his chambers. There was no situation to justify arresting him in the middle of the night.

There are rules even for criminals on no-knock warrants when they are home in the middle of the night which limit the authority.

The PRESIDING OFFICER (Mr. Conran). If the Senator will suspend.

Mr. SPECTER. Right in the middle of my important issue, I suspend.

Mr. BUMPERS. The prayer of the Chaplain is much more important.

The PRAYING OFFICER. The hour of 12 noon having arrived, and the Senate having been in continuous session since yesterday, pursuant to the order of the Senate of February 24 of 1869, the Senate will suspend until the Chaplain offers a prayer.

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

The fear of the Lord is the beginning of wisdom.—Psalm 111:10

The fear of the Lord is the beginning of wisdom: and the knowledge of the holy is understanding.—Proverbs 9:10

The fear of the Lord prolongeth life.—Proverbs 10:27

The fear of the Lord is strong confidence * * * The fear of the Lord is a fountain of life.—Proverbs 14:26-27

Eternal God, full of wisdom and love, manifest Yourself in this place today. You reminded the prophet Samuel that "man looks on the outward appearance but God looks on the heart." (1 Samuel 16:7). You know all things, infinite and infinitesimal. Rule in our hearts. Mighty God, let Your peace descend. Your love infuse, Your will prevail—in His name Who is incarnate love.—Amen.

SENATORIAL ELECTION CAMPAIGN ACT

The Senate, continued with the consideration of the bill (S. 9).

Mr. SPECTER addressed the Chair.

The PRAYING OFFICER. The Senator from Pennsylvania continues to have the floor.

Mr. SPECTER. As I was saying in response to Senator Lott, there has been intervention of the prayer, and I think that the prayer just given gives us some insights to Senator Bumpers' questions. The fear of the Lord is an appropriate concern of the minority leader is not. An arrest in the middle of the night has no place in the business of the U.S. Senate under any circumstance that I can conceive. If we were in the middle of a continuing resolution and some vital payments were about to expire, the Senators would be here; nobody would have to be arrested. If there was some emergency and we had to work all night as we have had to do so often, the Senators would be here. But where we have a bill on which there is deep-seated disagreement and established beyond any question through seven cloture votes that defeat is inevitable, and you have a series of motions to compel the attendance of Senators which are meaningless and nonbusiness, there is absolutely no justification for arresting anyone. If you had business before the Senate to be conducted and you had a motion to compel the attendance of Senators during normal business hours and there were 50 Senators who would not appear to constitute a quorum, then I would say under that circumstance, which is inconceivable, the majority leader would be within his rights in arresting Senators to bring them to the floor during business hours. But, as I was saying before the prayer time came, there are special rules governing no-knock provisions, special rules governing procedures of police in the middle of the night. When Senator Packwood rephrased it, to constitute a quorum, then I would say under that circumstance, which is inconceivable, the majority leader would be within his rights in arresting Senators to bring them to the floor during business hours. But, as I was saying before the prayer time came, there are special rules governing no-knock provisions, special rules governing procedures of police in the middle of the night. When Senator Packwood rephrased it, to constitute a quorum, then I would say under that circumstance, which is inconceivable, the majority leader would be within his rights in arresting Senators to bring them to the floor during business hours. But, as I was saying before the prayer time came, there are special rules governing no-knock provisions, special rules governing procedures of police in the middle of the night. When Senator Packwood rephrased it, to constitute a quorum, then I would say under that circumstance, which is inconceivable, the majority leader would be within his rights in arresting Senators to bring them to the floor during business hours.

Mr. KERRY. Will the distinguished Senator please yield for a moment?

Mr. SPECTER. I do. For a question?

Mr. KERRY. For a question. The question is: I have been listening both on the floor and in my office to this debate, and I am troubled—I think all of us are troubled, but I am deeply troubled by the Senator's notion about comity and how this institution works, and my question with the preface of a few remarks is since when does the minority, any minority, by virtue of its judgment that a particular vote is meaningless, stop the process of a majority, from allowing that vote to go forward and the business of the country and of this institution to be carried out?

I would document that question, if I may, by pointing out that at 9:50 p.m. at night, not a late hour by the standards of the U.S. Senate in recent times, there was a vote, vote No. 21, and the vote was 57 to 21. Many of the 57 were Republican votes. Messrs. Boschwitz, Chafee, Cohen, Danforth, Domenici, Durbin, Garn, Grassley, Hatfield, Heinz, Helms, Humphrey, Kassebaum, Kasten, McCain, Moakley, Moskoski, Nickles, Packwood, Quayle, Roth, Semploson, Specter, Stevens, Symms, Thurmond, Wallop, Warner, Weicker, and Wilson all voted.

Mr. SPECTER. Specter is not in that list.

Mr. KERRY. All voted as part of—excuse me, you are absolutely correct. You were underlined but you are on the other column.

Mr. SPECTER. Thank you.

Mr. KERRY. On behalf of the other— as I look through here, Mr. Quayle was not. Other than that, they were Republicans who were here. The point I am making is they were here. They were on the floor. They voted. Republicans were here at 9:50 p.m. A scant 45 minutes later, 10:45 p.m., not again a late hour by the standards of business in the U.S. Senate, within that span of time suddenly the Republican Party had vanished, vanished into thin air. I was here. The Senate Republican faces staring out the door of the cloakroom looking at that vote take place, a conscious decision not to vote. A conscious decision not to vote. A knock on the door, a fact that on the Republican hotline word was going out, "Don't come." That was the message. So when Senator Bumpers says hiding, I think that is accurate. There was a conscious decision; within the span of 45 minutes, the entire Republican Party in the U.S. Senate with the exception of one, the designated leader, vanished into the night, deciding to abdicate responsibility and not participate or choosing perhaps, as the Senator from Pennsylvania rephrased it, to exercise their responsibility differently, to see their responsibility in a different light, a light that somehow said the more responsible minority decision is not to participate. But the majority, which is the way this country is run, made a decision. The majority of the Senators present voted according to the rules of the Senate to say this institution will continue and not have a lot of Senators running off into the corridors and into the night like the headmaster chasing schoolchildren somewhere, trying to get them to come back to the classroom and participate—frankly, a shameful display, a shameful display. This institution has ample ways of working its will—by voting, by doing exactly what the Senator has said, which is coming together, compromising.

Mr. SPECTER. Does the Senator have a question? If not, I am going to—

Mr. KERRY. The question is—

Mr. SPECTER. Mr. President, I ask for regular order and my right to the floor.
Mr. KERRY. The question is—

The PRESIDING OFFICER. The Senator from Pennsylvania has the floor.

Mr. KERRY. The question is—

Mr. SPECTER. I do yield for a question and for a short speech.

Mr. KERRY. The question is how can the Senator assert that the minority has that right and that that is representative of real comity and of the integrity of this institution working properly?

Mr. SPECTER. First, I agree with you about a shameful display, but it comes from your side of the aisle. Second, you are dead wrong when you say that the majority is the way this country is run. That flies in the face of the Bill of Rights to the U.S. Constitution, which guarantees minority rights. When you say this country runs on majority, you are dead wrong. Minority rights distinguished this country from Nazi Germany and from Communist Russia where you have knuckled down on the door in the night and you have forceable entry like that which happened to Senator Packwood.

When you say majority is the way this country is run, referring to the Senate, it runs itself. The rules of the U.S. Senate provide that 41 or more U.S. Senators say that a bill will not be brought up for a substantive vote. That is a fundamental rule of this body. And if you say that a majority is the way the Senate is run, you cannot count. Forty-one Senators can stop debate from coming to an end. There were 45 Senators who have said that seven times. How many times does it have to be said for the majority leader and the majority Members of this body to hear it?

You talk about a conscious decision not to be present. You do not have to draw an inference about that. I started with a conscious decision. We met in the Republican cloakroom and we talked it over. What is the difference between 9:50 and 10:45? Fifty-Five minutes. We had had enough. Perhaps we should have done it earlier. But why wait until 2 a.m. to assert some rationality in the U.S. Senate? The real question you asked, Senator Kerry, and I think it is a good question, is when you say you are troubled by comity, and I think you should be troubled by comity, because when you strip down everything that has been said, I do not place great reliance on the subtleties of the substance of S. 2 and I do not place great reliance upon an interstitial reading of rules of the Senate that you had authority to do what—I think is not a small matter. Senator Packwood's fingers will heal, but I do not know if the U.S. Senate will. That is not the issue. The issue is deep at this time in the life of the Senate as a result of what happened yesterday.

That is the real issue as to how we are going to function. The question you asked that I thought was really on target was your question, when can the minority decide that a particular vote is meaningless? I think that is a real question. I believe that that time came when it is beyond rationality, when it is beyond the range of discretion, when reasonable men cannot differ about it. I submit that if you look at the 54 Democrats about the propriety of a warrant of arrest and the process to which Senator Packwood was subjected, the vote would be 53 to 1, it is that bad, and that is when we drew the line. And I think we are right.

Mr. KERRY. Will the Senator yield?

Mr. SPECTER. I was not hiding, and I was not running, and I was not peer-ing around anywhere.

Mr. KERRY. Will the Senator yield for one quick comment plus a question in respect to his answer? And I respect the Senator's position and approach on this. I think it is known that we were in the minority a short 2 years ago, and there were times when there were filibusters and people had a responsibility to stay here and conduct it. There was never a challenge to the ability of the Senate to continue. I do not question the minority's rights. The Senator is absolutely correct. Of course, there are minority rights. And the minority has the ability until clout is invoked to continued debate. And it could have continued debate last night, which I think would have been the more honorable way of carrying out the designated responsibilities of this institution.

Mr. SPECTER. Why?

Mr. KERRY. I think that is the issue.

Mr. SPECTER. Why?

Mr. KERRY. Because there is a balance, there is a process. This is supposed to be the world's greatest deliberative body. What is this institution deliberating when there is no discord because 40-some people have decided to walk out into the night and go home?

Mr. SPECTER. Senator KERRY, what were we deliberating about?

Mr. KERRY. Had there been debate, we would have perhaps been able to talk about the merits of S. 2, the problems with S. 2, why there is a legitimate opposition on your side to the current proposals, and I think incidentally—

Mr. SPECTER. Senator KERRY, do you think that there was one chance out of 1 million that any mind would have been changed after midnight given the attitudes of the Senators, given the frames of mind, given the hostility, given the anger, given the wrath?

Mr. KERRY. If that is true, and it may be, then this institution as a body, according to this book, and according to years of practice, has the right to make that decision.

Now, the distinguished Senator keeps saying that the majority leader somehow arrested Senator Packwood. That is wrong. The U.S. Senate voted today that Senators be here to conduct the business of the Senate. That was not the majority leader's decision. Those Senators present, under the rules which you have debated with the distinguished Senator from Arkansas, under the process which we have been given by history and by luck and all the rest of the precedent that builds this institution, voted. We voted that it was more important for the institution to be able to continue than to see this extraordinary event brought totally to a stop by a minority that walked out.

Mr. SPECTER. Why? Why was there anything to be done in the U.S. Senate at midnight last night, or at 1 o'clock this morning, when Senator Packwood was arrested and taken into custody, in the context of seven votes against cloture, in the context of a hardening of position, in the context of not one chance in a million that everything would have been accomplished?

Mr. KERRY. Let me tell you why, respectfully. Because the majority of U.S. Senators present and voting so decided. A majority of U.S. Senators present and voting so said. I have never understood when it was that the minority had the ability to decide what the majority present and voting do.

That is essentially what happened— anarchy, a form of anarchy, last night.

Mr. SPECTER. Well, I disagree.

Mr. KERRY. I know the Senator disagrees.

Mr. SPECTER. It was not a form of anarchy. It was a form of extreme perplexity. It was a form of saying that we will not subject ourselves to the kind of embarrassment—

Mr. KERRY. Subject yourself to debate? Is debate embarrassing?

Mr. SPECTER. There was no debate. There were a series of motions that constituted harassment. It was a situation which was demeaning. There are rules beyond which—

The PRESIDING OFFICER. If Senators who wish to question the speaker will address themselves through the Chair and seek the right to yield, I think we will maintain better decorum in the Chamber.

Mr. KERRY. The Chair is correct, and the Senator stands corrected.

Mr. President, I ask my colleague, because I must leave for a moment—

The PRESIDING OFFICER. Has the Senator from Pennsylvania Yielded for a question?

Mr. KERRY. Mr. President, will the Senator yield for a question?

Mr. SPECTER. I do, for a question, not for a speech.
Mr. KERRY. Was it not possible and was it not, in fact, anticipated originally that Members of the minority would speak and had the right to speak and that there could have been a debate, had the minority so decided to stay here and debate? Is that not accurate?

Mr. SPECTER. No.

Mr. KERRY. It is not accurate? There could not have been a debate?

Mr. SPECTER. The Senator's question was, was it anticipated by the minority that we would participate in a debate? The fuller answer is that there was no debate. There was a series of speeches scheduled where the minority was to occupy time; and whenever there was any interruption by a quorum call, that was followed with a vote, and it was apparent to the minority that the Republicans did not act precipitously.

The Republicans met and decided that the rule of the Senate was being flouted, whereby more than 41 Senators had said we would not vote on the matter, that the majority leader had made a series of statements about keeping the Senate in session all night, which we thought went beyond the bounds, and we exercised our rights to be absent, and we have those rights.

If the Senator from Massachusetts is seeking to defend the issuing of warrants of arrest past midnight and taking Senator Packwood into custody under the circumstances which were done, I think that is wrong. I think it is wrong because it goes to the basic way we operate. I am somewhat repetitious, but it is important in terms of comity and courtesy, without which this body cannot run, and this body is not now running.

Mr. KERRY. Mr. President, will the Senator rule the Senate further for a question?

Mr. SPECTER. I yield.

Mr. KERRY. Mr. President, I ask the Senator how it is that he can allude to a process with votes to some extent, and we thought went beyond the bounds, and we exercised our rights to be absent, and we have those rights.

Mr. SPECTER. The majority leader made a motion to compel the attendance of Senators.

Mr. KERRY. Did not the majority leader continually ask for the quorum call to be dispensed with so the debate could continue?

Mr. SPECTER. That is not the issue. The issue is whether the majority sought to engage in debate.

When a Republican speaker had concluded, had there been any real interest in debate—which there was not, and it was not a question of keeping the Senate or the business, or had it been calculated to lead to some result, somebody from your side of the aisle could have stood and debated?

We were here all night, not with Democrats debating. We were here all night with Republicans speaking to an empty Chamber and to no ears. We were here all night in what was essentially a degrading and demeaning process. Why did we not suggest the absence of a quorum is sort of beyond me. I was asked to come in at 8 o'clock. I left this Chamber about 3:30. Do you know what it is like trying to get to sleep at 3:45 in the morning? You cannot do it. There is no sleep. There is time for a shower and to come back. The Democrats were not debating. The Republicans were speaking on a prearranged order. There was no debate. It was a farce.

Mr. KERRY. Mr. President, I ask if my distinguished colleague will yield further for a question?

Mr. SPECTER. Mr. KERRY. Mr. President, I ask my colleague if it is not the rule of the Senate that if debate is exhausted or one side does not wish to debate and the other side has completed debate, it is the responsibility of the Chair to put the question, and the body should vote. Is that not the rule of the Senate?

Mr. SPECTER. It is not the rule of the Senate. What is the rule of the Senate is that when the debate has ended, there is a quorum call, and we wait interminably for some other speaker to come to the floor to offer amendments. Third reading does not commence when there is no activity on the floor of the U.S. Senate.

Mr. KERRY. Mr. President, a parliamentary inquiry: Is not the rule of the Senate—

The PRESIDING OFFICER. Will the Senator from Pennsylvania yield for the purpose of a parliamentary inquiry?

Mr. SPECTER. No.

The PRESIDING OFFICER. The Senator from Pennsylvania retains the floor.

Mr. SPECTER. I yield the floor, and I thank the Chair.

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, let me pick up where we left off.

Last night, the majority was no longer a majority. They had left. They were able to muster 48 votes, not 50. But, more important, the claim of the Senator from Massachusetts, who now left the floor, that we were doing meaningful business is absurd on its face. What we were asked to be voting on was to establish a quorum that the majority, as a majority, could not itself establish.

The Chaplain's prayer was astonishingly moving and appropriate. Father of the Lord proleth days, he said. The trouble is that in the U.S. Senate, the majority leader proleth days—to absolutely no end, except to try to humiliate the opposition. Does the opposition have pride, not principle, as the guiding force of the Senate.

During the course of the last year and a quarter, we have seen the changes in the procedures of the U.S. Senate, based not on any good for the Senate, not on any good for the American people, not on any good for the Commonwealth of Pennsylvania, or other the traditional rule of the Senate.

It is curious in its extreme that the thing which triggers debate now is the arrogance of the majority party last night in demeaningly seeking to arrest Senator Packwood. That is why we are getting some response in debate. It is not about S. 2, under which the Democratic majority seeks to assure authority in the Senate. It is about the rest of this century. It is not about the details of that bill which limit campaign expenditures but do not limit those expenditures in soft money, which is the root cause of dirty campaigning.

It is not an issue as to whether or not those Democratic offices with different names, all having the same address in Chicago, write out scurrilous op-ed pieces and call senior citizens, also in the middle of the night, to try to humiliate the Republicans, as I would not ask them to think that somehow or other a party in search of putting them into eternal penury, such that they die in poverty and shame. Those moneys are not part of this limitation of funds, and they are not sought by the majority party because they are the principal beneficiaries.

There is no debate on the bill because it is closed off. There is no interest in any of the words that are being spoken on this side. I point out again that the amendment tree is full; it is complete. We have nothing to do except to surrender.

There is an assertion that somehow or other the traditional rule of the Senate, spoken of by the Senator from Pennsylvania [Mr. SPECTER], is to be no longer a part of the principles guiding the Senate of the United States.

We cannot even get to a cloture vote. Why? Because the Democratic Party has too many people out campaigning for President and cannot afford to have a vote, because it would show a decline in their position.
So, what was the solution of the majority leader? It was to try to keep some Republicans here all night, starting with Majority Chief Senator from Nevada, one in the State of California, one from Delaware, and others—I cannot remember them all. 

There was no humiliation of Republicans last night. There really was not. There was a humiliation of Americans at this institution, in which they seek to put their trust and hope somehow or another it will serve their interest in a responsible way and this is not it. 

The rights and rules of the Senate, the traditional processes, sense of comity, the ability to try to make this body work, those were shuffled aside in pursuit of pride, shuffled aside in pursuit of an abuse of the whole concept of American politics, as defined by the Senate, which is for the very same reason that the State of Wyoming has two Senators, the State of California has two Senators. It is the very same reason that the public is not being served into the whole process; to avoid the abuse of power by a majority of one.

That abuse of power by a majority of one was not even available to the majority party last night. They were home, gone, campaigning or in bed and could not muster their own majority. And so in order to get their will, they send out arrest warrants for Republicans, and then claim they have the right to serve them.

I am surprised at that, Mr. President. I am surprised the Senate put up with it, and, I hope, somehow or another, out of all of this there is the realization that the public's business is more important than the pride of any single individual who seeks only a victory and is willing to go to any extent to achieve it.

Going to any extent is not the way the Senate was designed. It was not the way it was conceived. It is not the
means by which our rules are written. It is not the procedures which we have always followed, but it is the procedure and purpose and practice, apparently, in this Senate. I regret it, and I am certain you do, too.

Mr. President, I yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I just have a few remarks to make. I ask unanimous consent my remarks not be considered a second speech under the rules.

Mr. BRADLEY, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. HATCH. I will make my remarks anyway.

Mr. President, the Constitution gives many explicit powers to the Congress and the U.S. Senate. It is clear that the Congress has the power to regulate commerce, to raise and support armies, to lay and collect taxes, and to compel the attendance of absent Members. This brings us to events that occurred. Due process prior to the deprivation of liberty entails many standards that were not met when Senator Packwood was taken into custody. For instance, the arrest was issued for that arrest by a detached and impartial magistrate or judicial officer. The need for such detached review of warrants for arrest has always been a hallmark of constitutional protection under due process and the 4th amendment.

Accordingly, I propose today that the Senate repeal the rule permitting the Sergeant at Arms to compel the attendance of Members by arresting them. If the Sergeant at Arms could be sent to request the attendance of members, but no authority to arrest would be permitted.

Mr. President. We need to look closely at the Constitution. Article 1, section 5 says that any penalty imposed on Members with respect to absent members is to be exercised "in such manner, and under such penalties as each house may provide." Thus, the Senate does not need to empower the Sergeant at Arms to arrest Members, but may choose any number of other remedies to ensure Members attend sessions. The Senate may wish to suggest, by a vote after the fact, an ethics investigation for dereliction of duty in the event that a Senator ignores the Sergeant at Arms' request to come to the floor, but if they do that, they better not be playing politics.

Others might be considered by the Senate as necessary, but arresting Senators without due process must never happen again, with an accompanying Senate lecture on constitutional law that is totally wrong, false, and I think offensive.

This Senator provides an example of how the Constitution must operate. If this body allows due process protections to be flaunted, then I shudder to contemplate the example we have set.

Last night, we flaunted the Constitution of the United States in the approach that was taken. Once again, the solution is to eliminate any authority of the Sergeant at Arms to arrest Senators. I introduce such a change in the Senate rules at this time. I send this amendment to the desk.

Let me just read it before I do. This is a resolution which says:

To remove the power to arrest Senators from the Sergeant at Arms.

Resolved, That paragraph 4 of rule VI of the Standing Rules of the Senate is amended by striking ", and, when necessary, to compel".

Mr. President, the Senate operates in full view before the entire Nation. What are the implications of flaunting the Constitution, arresting Senators without valid warrants or due process of law?

I will be happy to suspend for a second.

The PRESIDING OFFICER. Is the Senator offering a resolution for assignment to committee?

Mr. HATCH.

The PRESIDING OFFICER. Without objection, the resolution will be received and referred to the appropriate committee.

Mr. HATCH. I am also putting the Senate on full notice that no Senator will be brought up in a formal amendment if this bill goes any further. Let me make that point again.

The Senate operates in full view before the entire Nation. What are the traips and I do not want the Constitution, arresting Senators without valid warrants or due process of law? What lessons does this teach our children, our courts, and our citizens?

Article I, section 5, says the Senate must compel attendance, but not in an unconstitutional manner.

Nor can article I, section 5's powers be used solely to gain political advantage or to make partisan gains. The Constitution is abused whenever it is twisted to gain partisan advantage. It is a further abuse of the law and of the document, meaning the Constitution, to abuse due process. These points need to be made. I think I have made them. When the time comes, I am going to bring that amendment up at one time or another to make sure that this type of officious action will never occur again.

I do not want it to occur to Democrats as much as I do not want it to occur to Republicans. I want the principle of comity and civility to prevail in this body. If we have a cause to cause Senators to come in, let us make sure it is a good cause and not some claptrap concern. This Senator means by which our rules are written. That is what it amounts to. There is only one reason that all the Republicans voted against this bill and the Democrats voted for it. That is that it is a Democratic bill, to enhance the power of the Democratic Party to the disadvantage of everybody else, but especially the Republican Party. There is not a Republican alive who should not be suspicious of that kind of meddling. It is just that simple. This... bill amounts to that, even though there are some aspects of the bill where you might point to them and say they might be good if the bill were enacted. But on the whole, the bill is a travesty. I think everyone knows it. With that, I yield the floor.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, those of us who were here all night had a very spirited evening. I will not go into it. It is all in the Record. The majority leader was very fair in allowing us to avoid two additional rollcall votes.
which would have been required if anyone were absent on either side of the aisle. We were able to vitiate those. But let me just review where we were as I left the Chamber at 5 a.m. this morning. Our people were here and the bargain was made and the deal was kept. The two votes were vitiated and we did not do any obstructive action. We suggested the presence of a quorum. So for those who may have missed the scenario, let me review it, I think correctly. The majority leader certainly can assist in correcting it if I have missed something.

The bill is still unamendable at this point. The amendment tree is filled.

The leader has wanted to get to a vote on this bill. We have, too. The only difference is that he wanted a vote on the measure; we want a vote on cloture because they would succeed on the former and we will succeed on the latter. So let it be known that indeed the issue is joined.

The majority leader filed cloture on this bill after midnight last night, very correctly, happily, and in perfect order. As I understand, that vote will be on Friday, 1 hour after convening. The convening hour was previously set by unanimous consent at 9 a.m. through the week. That vote on cloture, therefore, would be at 10 a.m. Friday.

At this present point in the proceedings, if we were to allow the bill to proceed, and if the Chair were to move the question or pose the question, then one of us on the floor would seek recognition, and that would have to be given. The Chair would have to give recognition to whoever was on the floor so that the motion to move the question would not go any further to a vote because one of us would be here at all times to assure that that did not take place.

Once a Member of our side is recognized, then they may go forward for an hour or 2 or 3, and probably there would be no votes. But there might be. In any event, if we were to allow the bill to proceed when the convening hour was late last night, we would want to review this, and to try to amend it in that situation, after opposing the ability to go forward, then it is clear that any of our amendments would be defeated on perhaps a mostly party line vote, although there are two Members on that side of the aisle who are assisting us in this cause and three Members on our side of the aisle who assist the proponents of S. 2.

The majority leader has advised us that this is a very vital issue to him and that those who oppose S. 2 remain on the floor in active debate pending the resolution of this matter. We are doing that. That is the majority leadership's option and his right. That was the situation we faced last evening.

After a meeting of the leadership, now I as acting leader in behalf of our fine leader, Senator Doze, and three members of the group of four are negotiating this issue for us and still doing that. The negotiating is going forward and I am very pleased with that.

Senator Boren heads up the four from that side of the aisle with Senator Levin, Senator Mitchell, and Senator Exon, and on our side it is Senator McConnell, Senator Packwood, Senator Boschitz, and Senator Skrives.

They are going to meet again today. So they are working. Let the American people know that a bipartisan group is working and that it is not a bipartisan issue, and that it is not the proponents alone who seek reform of campaign; it is all of us who seek reform of campaigns.

We are coming down to PAC's, independent expenditures and soft money, things of those kinds. They have been debated very well here. We feel strongly and they feel strongly.

Last night after a leadership meeting we decided to proceed with a procedural defense of our position on the bill, and fully within our rights and under the rules we instructed our Members to not seek a quorum on the floor and not to make a quorum in an effort to have the proponents provide the quorum necessary to conduct late-night and early-morning business.

That, of course, took place, and all of us did late night-early morning business, except some of us on this side who we substituted who carried the day from about 3 o'clock or 2:30 until this morning at 10, pursuant to the agreement between the majority leader and myself. That was carried out with comity.

At the time of the vote, the majority leader, with regard to suggesting the absence of a quorum, felt it was very important to do a dramatic thing that has been exercised only twice in his 22 years of leadership, which was to move and second the arrest of the absent Senate Members. That motion was one of only two that could have been made last night, and the other, to adjourn, a motion to arrest or a motion to compel. He chose that one and we went forward.

I do want to commend the Sergeant at Arms, Henry Giugni. It was a terrible task for him. He knows us all. He selected his staff people to go through this building, through the hideaways with passkeys checking on the troops, and he found one. Some fled, apparently. Of course, we know that Senator Packwood came in. That was done in great good humor. The majority retained his humor and Senator Packwood retained his. It was a sight I will never forget. He was lifted into the Chamber at approximately 3 o'clock a.m. At which time, hardly the doors had shut when they said a quorum was present, and indeed it was. We did our business. Of course, the ritual can be repeated again and again and again and will be today, repeated again and again.

I just want to share that.

We wanted to commend the Sergeant at Arms for his patience, his good skills in not letting the situation get to what could have been an absurd situation. I thank him for that. And the staff of the Sergeant at Arms office.

We on our side promised those who wished to go home that we would see that what votes they missed were procedural only, that they might miss votes, that they would be procedural votes and not on the substance of the bill.

The majority leader was perfectly within his rights under the rules to move to go into executive session to consider the nomination of Tom Korologos to the Civilian Advisory Board.

He wanted to confirm the nomination of Tom Korologos. He is a most extraordinary gentleman with a very good reputation. So there would not be very many votes against Tom Korologos at that hour or today.

However, that was a motion to go to the Executive Calendar and that was not debatable. But that was still one more vote. Then going to the nomination itself was debatable. At that point, we determined that we would debate the nomination of Tom Korologos, not all night, which would have been another exercise, but there are not any of us who are unskilled in that.

So we did avoid that by the majority leader's willingness to vitiate that and the other motion to go into executive session.

But I would say that it seemed rather an inappropriate time to go to the Executive Calendar at 2:30 a.m. to consider the nomination of Tom Korologos. It seems to me that might have been done in a more timely fashion at perhaps some other time in the session. All of that was within the rules and rights of the majority.

We indeed have three votes last evening and the night for all Members on procedural matters in relation to a quorum and one vote on proceeding to an executive session. At that point, since the proponents demonstrated that they needed a quorum present, and every single one who was within the 2,000-mile radius of the Capitol with any ability to be here was here, they met the required number of Members to make a quorum. So we made our arrangement to have Members on our side continue the debate without votes until 10 a.m. this morning, not just as an accommodation to this side or the opponents but to all Members who had gone home last night and had missed procedural votes that could have occurred on very short notice.

So that is where we are. I just wanted to kind of review that. We are
now prepared to go forward. It is our duty, apparently, to go forward. We have no choice but to go forward with a long string of voting activity. That is within our right to do.

We have had discussion as to the legalities of the measures that were presented to the Chair last night and whether those were valid. We will discuss that later in the day. That is my hunch.

At this time I do not want to foreclose the majority leader, who is now on the floor, I will cease. I would like to retain the floor for the purpose of further activity. I will certainly let the majority leader comment. I greet him on the morning hour and look forward to perhaps getting some semblance of reality. At least we know that at Friday at 10 o'clock we will reach ultimate reality.

(Mr. WIRTH assumed the chair.)

Mr. BYRD. Mr. President, I thank the distinguished acting leader for yielding to me. Of course, I was not on the floor and I have not heard his statement, but it appears very clearly to me. I understood him to say that we, meaning, I presume, the opposition to the bill, had no choice but to go forward with a number of votes or voting activity, whatever.

I might respectfully suggest that we do have a choice. I would hope that we would follow the choice that I will recommend.

I recommend that we go forward with the debate on this legislation and not pursue the approach that has been taken overnight of having quorum calls, instructions to the Sergeant at Arms, and votes that are not on the substance of this bill. I know that there are Senators who are not only opposed to the bill but who are vehemently opposed, and I do not question for a moment the wisdom of any Senator as he views this legislation. But I hope that this evening, with the assistance of any other legislation being on the floor, we will be able to find some civil equilibrium here and view of things, philosophy of government, or whatever.

But, Mr. President, this is a forum in which we have civil discussions and express our opposition to this or any other measure and express it in persuasive terms, hoping that they will be persuasive, without resorting to tactics that contribute nothing to a meaningful and enlightened debate of the substance of this bill.

One of the purposes of the resolution which I introduced to provide telephone and radio coverage of the Senate was to help the people to better understand the substance of legislation or treaties or nominations that are called up before the Senate.

We can have substantive discussions of this bill. The opponents can defeat this bill. The Democrats are unable in and of themselves to produce 60 votes for cloture. We cannot do it. We only have 54 votes, if we would produce them all. Two last night were very ill, two of our Democratic Members, one was away because of a funeral, a death in the family, and the other one is out campaigning for the Presidency. That leaves the way to go under the old math or under the new that 50 can ever be a majority of 100 Senators. And so the opposition need not resort to tactics such as those that were resorted to last night.

Of course those tactics are within the rules and precedents of the Senate, but the actions that were taken by the majority in attempting to respond to those tactics are also within the rules and precedents of the Senate and within the authority of the United States Constitution, which is the bedrock of our liberties and which is the organic instrument that created this body.

I hope that we will not live over and yawn in yesterday, that we go forward with a reasonable, civil debate on the substance of this bill. And let us hear the arguments that are opposed to it. They, too, have a right to speak their objections to it. They have a right to try to persuade those who are not of their persuasion at the moment. We have the same right and duty, I think, to persuade our colleagues of the rightness of our position.

We certainly owe a duty to the American people to try to enlighten them as to our view of the substance of this bill, our support of the substance, our opposition to the substance. Perhaps there are changes that can come about. We have the amendment process available. We Democrats are ready to vote, and we have had the support of three Members on the other side of the aisle. We are ready to vote on the amendment, the pending amendment that is before the Senate. It can be voted down, thus changing the possibility of amendments. A move at any time can be made to table this bill. Who knows, maybe it can be tabled.

So I urge our friends who are the opponents not to resort to tactics that obstruct working the will of the Senate. I urge them not to resort to quorum calls, which lead to the necessity on the part of the majority of the Senate to instruct the Sergeant at Arms to move the attendance of absent Senators, to compel the attendance of absent Senators, or in the extreme to arrest absent Senators. I hope we do not have to resort to that. We do not need to if Senators will only debate the bill. I for one am willing to enter into a discussion of having a time agreement on the bill, of avoiding a cloture vote, a time agreement for final vote, a time agreement that would include germane amendments that the opposition may want to offer. I certainly have no objection whatsoever to the Senate working its will on amendments that are germane and relative which I may oppose. I have no desire to do that. I may do what I can through debate and through voting to reject amendments that I am opposed to. That is our duty. We all know that. But there is no good reason to continue in the kind of guerilla warfare that is going through which serves no good purpose, which does not help us to change the legislation, modify it, amend it, pass it, or reject it.

So I close by thanking the distinguished acting Republican leader for yielding to me, and I urge with him most respectfully that both of us do what we can to urge our respective constituencies within this Senate and our colleagues to not look backward, if we can possibly avoid it, look ahead and try to deal with this legislation. It will not be before the Senate forever. But the Senate does have a right, if it can do so, to work its will on the legislation.

Mr. SIMPSON. Mr. President, that is a given. I have the deepest respect for the majority leader. I have shared that with him privately and publicly. We are very much alike—sensitive. I know I get too sensitive sometimes. At least that is speaking for me. Sometimes I get defensive, especially in my role as acting minority leader, realizing that it has fallen upon me to do that, realizing I have a task to do to meet the needs and views of my colleagues. And I have just come from a meeting with my colleagues so I know what I have to do and, as Senator Byrd said yesterday in an aside to me, a very cordial aside, he said, "You know, you have to do what your Members instruct you to do when you are in leadership." And I said, "I know, it is tough sometimes because the other side of me is wanting to do something else, perhaps." But we are going to go forward in this way. I hope the American people will understand what is happening. I think they do.
I am one who has always believed the American people are really smarter than their officials and that is why the system works so beautifully. They have a great innate wisdom and a remarkable common sense, and we gain from that when we go home and they say to us, "Hey, what are you doin'? What are you up to?" And you say, "Well, I tell you what we are doing. We were romancing rocks and we were doing this and we were explaining," and they say, "Oh, yes, I take that back. There was a highway under rule so and so." They say, "Well, why don't you do your business?"

There is business to do in the U.S. Senate. That is what the American people know. The crush is on. The American people surely know by now, they know one thing and it must be seared on their minds. We have had civil discussions on this measure several times. The occupant of the Chair last night gave us a very good review of how many times we have used cloture in the last 8 years, or 10, I cannot recall which. The high water mark was yesterday when the other three instances were four each where there had been cloture invoked four times on three separate occasions and cloture invoked one time on five separate occasions. We all have been said in it. There is nothing in the history of this body where we have voted seven times on one issue and not one word of it has been—oh, yes, I take that back. There have been words changed in it as it has been submitted and star printed and it has a checkered history that looks like a helter that has changed hands about 30 times with a brand on every part of the anatomy.

So the slippage is there. No one is going to go over it. No one is going to come from their side to us. They are all locked in. They are batten in. They have the hatches down on them. They could not possibly change.

So we are going to go until Friday, at 10 a.m., doing nothing, absolutely nothing. There is no other way to describe it. I wish I could think of a better word. But nothing times nothing is nothing.

The Senate is going to vote on cloture at 10 a.m. on Friday, and the vote at the high water mark will be 57, and they need 60, and that is it. School is out. Off for the weekend. Come back next week. And the weeks shut down and collapse in on themselves: INF, trade bill, catastrophic health care.

I will tell you, the American people care a lot more about that than this, because they know full well that everyone of us here wants campaign reform. I, personally, am ready to cut PAC's from $5,000 down to $1,000. I will vote on that. But if this bill clips along here without going to cloture, I will not get a chance to put in that amendment. It will be squeezed out.

I am ready to do independent expenditures stopping the abuses of what the occupant of the Chair was talking about last night. Excellent. I am willing to do something with soft money and in-kind contributions and still allow the proponents to have their ability to do that. We are ready to do that.

In the course of the debate today, some stunning figures will be presented. The new quarterly reports are out on all of us. We are public record. It will disclose that some of the proponents of this legislation have taken three-fourths of their money from PAC's—three-fourths of their entire financing coming solely from political action committees, while they then speak of the necessity for reform under S. 2, which does not touch PAC's.

I will tell you, the American people understand that stuff so clearly. We have a word for it in Wyoming, and I am not going to leave it here. My mother has given me a serious charge about that. But that is what we are talking about, and that is going to be presented, because the records just came out this week or last week. We all filled.

It is very difficult to understand why proponents who want to avoid corruption and the bloated system and the whole business of filling their coffers with PAC money would then vote for a bill which the only thing it does to PAC's is to limit the aggregate but does not do anything which they can put in the kitty. That cannot be. That is called fairness.

So let me share with you that the debate that the majority leader would like to take place without disruptive behavior will be from our side only. The American people know that that is not fair. The debate from our side has already demonstrated very clearly the fallacy of calling this reform. We are beginning to hear the American people, and they are saying, "We didn't know that. We didn't realize what was being said. Arch Cox led us astray."

Arch Cox did lead us astray with an ad which would not even be covered under S. 2. I understand that litigation is being prepared against Common Cause. I know that is a hideous thing to do, to bring litigation against such an organization. I used to be a member of Common Cause. I think they do great things—they did—but in this one, they have lost the linkage system somewhere between reality and myth. I am ready to go out there and do anything, any place, with regard to the activities of Common Cause on this one, when the proponents of S. 2 choose to do nothing with PAC's.

So we are not in a position, as opponents, to let it go forward, because we would not prevail. We will prevail on Friday, at 10 o'clock.

So we are ready to go all night, and we will, but we have pushed all our chips in. We have done that.

The debate, if it is to continue without any further activity, is a burden only on us. Any further debate in this Chamber on this bill is just on us, the sleepless ones, and votes on procedural matters are a method of sharing the burden, if you will, among all, including those who are insisting on our side carrying the debate alone. That is a reality of legislative life.

In our arguments, and we will have some good ones—we will not be reading from old Ma Perkins' radio tapes—architects of reform will point to what is happening in this bill, especially since we whacked it to death seven times and are going to whack it to death again the eighth time on Friday. As I say, nothing times nothing is nothing.

We are beginning to get the message out regarding the true nature of this bill and especially its remarkable shortcomings and the hypocrisy couched in it. It says that the group is working. I commend them. I will visit with them. I know that the majority leader feels the same way, and more power to them. But we are no longer willing to shoulder the debate on into the night again. We are going to see some surcease and allow others to participate.

Therefore, I respectfully suggest the absence of a quorum.

Mr. BYRD. Mr. President, will the Senator withhold that?

Mr. SIMPSON. I certainly do.

Mr. BYRD. I thank the distinguished Senator.

Mr. President, I am sure that the distinguished Senator from Wyoming and I could carry on this debate through the long afternoons; and he could carry it on longer than I would. But I am sure. But as long as it is a meaningful debate, perhaps that will be all right. But there are others, I hope, who would participate in such debate.

I believe the distinguished Senator has said a few things to which I should briefly respond.

To begin with, he spoke of the fact that our illustrious colleague, Senator BIDEN, is ill, and he did so, I believe, by way of emphasizing in his view the fallacy of calling this reform. I will use that word—of our continuing to debate this, saying, of course, there is no chance for the
Democrats, about all of whom support cloture and the bill, to invoke cloture.

Mr. President, I cannot be guided by that fact—that one of our distinguished colleagues has been hospitalized and will be recuperating for quite some time.

I indicated last year to the American people, and I indicated again at the beginning of this year to the American people, and to my colleagues that the Senator would try again, that it would be my intent to bring before the Senate again the campaign financing reform bill. I made a commitment to do that, and I am attempting to live up to that commitment.

As to the destiny of the bill, the final destiny of it as being one of its demise, it may be an accurate prediction and it may not. I think the only way we can truly find out is to let the Senate render its judgment; let it vote. So that is what I seek to do.

The distinguished acting Republican leader mentions that there are so many other important issues that the American people, in his viewpoint, feel are more important than this bill. He has mentioned catastrophic illness, and so on.

Mr. President, may I say that catastrophic illness cannot be brought before the Senate today or next week. Even if we were to displace this bill on the calendar within the next 60 seconds, which I can do, catastrophic illness could not be brought up before the Senate. It is in conference. The conference is working on it. Yesterday, I asked Mr. Bennett, who plays a very important part in the conference on that bill, because it is a matter that comes within the jurisdiction of his committee, and he informed me that the conference is working on the trade bill and they would not be ready to bring the catastrophic illness conference report until they have completed their work on the trade conference report. So catastrophic illness cannot be brought before the Senate at this time, no matter what.

The distinguished Republican leader mentioned the INF Treaty as being more important to the American people. That treaty has not been reported from the Foreign Relations Committee. I am not telling the Senators anything they do not know. But in view of the fact that things are said on the record which, to some extent at least, could be inferred as being a wrong judgment on my part in calling up this bill, as to whether or not it is more important or less important than the INF Treaty or more important or less important than something else, I think I have to state for the record—to be read by my grandchil- dren and theirs—that the INF Treaty could not possibly come before the Senate at this time. I have already stated the same with respect to the catastrophic illness legislation. I can say the same with regard to the trade bill, which I have already at least impliedly stated. The same can be said with regard to the budget resolution.

If there is anything I would put ahead of other things, it is this bill. If we got ahead of this bill, it would be the budget resolution, if it were ready to be called up; because until we get that budget resolution right—my distinguished friend from West Virginia, the ranking member on the Budget Committee and he nods his approval—until we get that budget resolution adopted, we cannot call up the appropriations bill.

It is my hope that we send the appropriations bills to the President this year in due time rather than in an omnibus appropriations bill. That was my viewpoint last year.

So, Mr. President, as the majority leader, I have to look at the overall year of activity before the Senate. I have to attempt to crank into the session these various measures when they are ready to be called up. It was my judgment that the second session now to fulfill my commitment to the American people and to the Senate that the campaign financing reform bill would again be called up.

Yes, Mr. President, the distinguished Republican leader has mentioned the reports with respect to contributions, fundraising, and so on, by Members of the Senate, and he mentioned specifically the proponents, the fact that they have taken money from PAC's. Mr. President, we all know that the proponents have taken money from PAC's. I have taken money from PAC's, and it is the rule, it is the system that we now have, and I have to live by the system, as I find it today. It is a bad system, and I have to prepare for my own reelection. I want to continue in public service. I think I have to work for the bill, and I want to have some voice in the disbursement of funds, and he was promised that he would be given funds and be provided with help by way of research. It was reported, it has been said, that President Reagan would go into West Virginia and speak on behalf of my opponent at fundraisers.

And, by the way, I welcome Mr. Reagìn in West Virginia at any time, even speaking to a fundraiser for my opponent. Let him come, let him come to West Virginia.

But I have to be prepared. I, unfortunately, in 1982, did not prepare adequately for a very vigorous campaign against me, not only by a millionaire opponent, who was a Member of the House of Representatives at that time who had a good springboard thereby, but also was the subject and the target of vicious attacks by an outfit from outside the State called NCPAC.

I tried to take protective measures in this instance by raising funds, as other Senators have to do. But I have to do it within the confines of the law. This is the reason why I am seeking support for this legislation, so strongly support it. I want to change the system, and the only way I can change it is to work within it to change it. So I am doing that.

I happen to believe that the legislation before the Senate will change the system. It is not perfect legislation. But I say to my distinguished friend, the assistant Republican leader, let us say it will change the bill. If we get it, perhaps we can work out an agreement whereby we can have votes on the amendments that are being proposed. But we will not be able to get to those amendments if we continue to resort to the tactics that have been resorted to in the last few hours.

We are on an important matter, and it is fundamental to our way of government. It is fundamental to public trust in this institution. We have to get the big money out of politics. We have to clean up our own house. It is not a partisan issue. It is an institutional issue. It is a good government issue. Good government, that is what it is.

Now, the ways are open, the rules are open to changes in this bill. The opposition says that it will kill the bill. I would invite the opposition which says it will kill the bill to help to bring about ways by which the amendments which the opposition would like to offer, if they are germane and relative, would be called up. Let us work out an agreement whereby amendments on campaign financing will be provided, so that we can have a final vote on this bill on a given date. That, seems to me, should be fair, and I welcome, hopefully, an opportunity for us to do that.

We cannot allow this money chase to continue as it is going. It is going ever upward into the stratosphere already, and public trust is going to continue to erode. Mark my words.

So why can we not get the bill up? Why can we not get the bill up and discuss it? The bill is up, but why can we not discuss it in a rational way? The vote will come on cloture. In the meantime, let us debate this bill. Perhaps we can find ways to change it, to modify it, to improve it. What is wrong with that approach? We do not simply have to put our foot down and say, "We're going to kill it," and in the meantime we are going to use obstructionist tactics, we will resort to guerrilla warfare, we will prevent the Senate from acting on amendments or anything else. We will not even have civil debate. We will just put in quorum calls, we may boycott the vote, and we
are just going to stubbornly and obsti-
nately refuse to cooperate in trying to
improve this bill and have a vote on it.
So why are some of the Members so
afraid to discuss it? Why are they
afraid to discuss it? This is vital re-
form legislation, a wealth of talent that
do not know of anything further that I
can say, and I apologize to the Senator
for my verbosity, my circulations
and me.
Mr. SIMPSON. Mr. President, but
not his eloquence. There is no apology
necessary there, and that is an ex-
traordinary part of my friend from
West Virginia.
I know how the majority leader and
I work. We say we are going to be
quite, but we just cannot resist the one
more shot.
That is part of my training.
Mr. BYRD. Will the Senator kindly
yield?
Mr. SIMPSON. Yes.
Mr. BYRD. I am going to listen with
great patience and understanding, en-
gerness and admiration to what the
Senator says. When he finishes, I am
going to remain in my seat no matter
what the urge may or may not be.
Mr. SIMPSON. What an extraordinary
blurb, Mr. President, to have
me then temper my remarks.
Let me say this: I have come to know
you. You enjoy this. You are a chess
player. I do not want to be discourte-
ous and speak directly to the Member.
I would say, Mr. President, the ma-
ajority leader is an extraordinary chess
player. There is no one that I enjoy
watching work through an issue more.
Mr. SIMPSON. It is a
mysterious thing to watch. He is the ul-
timate, the quintessence of a legisla-
tor. There is no one that I enjoy
knowing the majority leader and
his side of the aisle. But Price An-
derson might be one we can deal with.
That is a very important issue. The
leader has indicated that. It is about
reform legislation, a wealth of talent
and reason together and let this
Senate work its will. The majority leader
knows that better than anyone here.
So for us, the majority leader need
to continue the around-the-clock ac-
tivity. It serves no purpose, none, oth-
er than perhaps to, I think, lessen a
little the stature of what we are
trying to do here.
The majority leader is right, we
cannot go to certain things. But we
have a calendar which is very thick.
Here it is. However, there are objec-
tions in there from my side of the aisle
and his side of the aisle. But Price An-
derson might be one we can deal with.
That is a very important issue. The
leader has indicated that. It is about
liability insurance of commercial nu-
clear reactors. I do not know that it is
ready, but that is one.
That book is stuffed full of things,
but you know, everybody has a little
hook in there.
I do not think that this strengthens
the public's attitude toward the
Senate and what we do here. I think it
lowers it a bit and tares us all.
We will now be working out shift
work because we have to go forward
and that is what we are going to do.
I remember the independent cam-
paign against you was scurriulous, but
this bill will not reach that. It will not
reach it the way you would like to get
your vote. I would point out the
man who beat Chuck Percy. It will
not reach him. It will not reach the
person the majority leader had un-
leashed on him.
That is what is important. We can
say we can make the amendments, but
we would not have that opportunity.
Seven times we have had that oppor-
tunity and seven times we have won
the day. It is really a fairness issue.
If we were just to go on and discuss
and debate, then I assure you we have
no illusions about what would happen
if we were to allow the pending ques-
tion to come to a vote, or if we were to
offer amendments to that bill when
those amendments may be cast. Then
They are not in order now. We have
no illusions. We would lose.
But the minority and the opponents
in resisting a bill that it opposes and
the imposition of cloture is also another way that the Senate
works its will. The majority leader
knows that better than anyone here.
Mr. SIMPSON. Mr. President, let us
discuss it. Mr. President, let us
discuss it. I know how the majority leader
and the opponents are going to reject it. Maybe they will.
But there is no surer way to find out
that hand of goodwill in the hopes
that they can contribute to modifying
this bill. I respect his criticism of it,
and I guess I have lived and always
lowered it a bit and tires us all.
Mr. SIMPSON. Mr. President, lives or he would not
be a fiddle player and a story teller.
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Mr. SIMPSON. Mr. President, lives or he would not
be a fiddle player and a story teller.
Mr. SIMPSON. Mr. President, lives or he would not
be a fiddle player and a story teller.
Mr. President, I thank the distinguished Senator for yielding, if he would like now to suggest the absence of a quorum.

Mr. ARMSTRONG. Mr. President, I do suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk resumed the call of the roll.

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of absent Senators.

The bill clerk resumed the call of the roll, and the following Senators entered the Chamber and answered to their name.

[Quorum No. 9]

Mr. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators and for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The yeas and nays are ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. Gore] and the Senator from Massachusetts [Mr. Kennedy] are necessarily absent.

I further announce that the Senator from Delaware [Mr. Biden] is absent due to illness.

I also announce that the Senator from South Carolina [Mr. Hollings] is absent because of death in family.

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. Danforth], the Senator from Kansas [Mr. Dole], the Senator from South Carolina [Mr. Thurmond] and the Senator from California [Mr. Wilson] are necessarily absent.

I also announce that the Senator from Texas [Mr. Gramm] is absent on official business.

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

The result was announced—yeas 55, nays 36, as follows:

[Rollcall Vote No. 26 Leg.]

So the motion was agreed to.

The PRESIDING OFFICER. A quorum is present.

The question is on the amendment No. 1405. The yeas and nays have been ordered.

Mr. SIMPSON addressed the Chair. The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I was wondering if the majority leader was seeking recognition. It seemed to me that he was.

Mr. BYRD. No.

Mr. SIMPSON. He was not. Since the majority leader is not seeking recognition, we are back where we were before, which is an old location. And so we are ready to proceed. A quorum is present. And we have one of our Members who I believe wishes to speak.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Might I say to my friend from Wyoming, the acting minority leader, would he remain on the floor for a moment and on my time with me engage in a series of questions that I would like to ask him since he has been here and we have been having debate. I presume that this bill has been discussed, although I have heard most of it discussed on this side. Could I ask the Senator three or four questions just to see if I am right about what this is?
The Senator from New Mexico.

Mr. DOMENICI. Now, Mr. President, let me preface my few questions to my good friend from Wyoming by saying that the bill which has become very evident here in the Senate to, regardless of the issue, introduce a measure and if it is going to change something, we have a tendency to call it reform. I am not sure that this measure is reform, at least the one that is pending that you cannot amend because procedurally that is the position we are in. You cannot amend it. Because it appears to me that to be reform you ought to be rather sure that it is. The amount, what you have, or if it is a process as important as electing U.S. Senators and Congressmen it is going to help the Democratic process work in America. And I believe on both scores from what I have read, the bill fails. It is not at all sure that other than some changes in the current law, it is reform in the context of making better, improving, whatever the synonyms are.

Now, let me see if a few questions and a few comments on my part for the next 40 minutes or an hour could at least make my point. I say to my friend, "Question No. 1." Is it correct that the limit, current limit of $5,000 per year in PAC contributions is unchanged in the bill pending before us, the majority leader’s version of what has become election reform?

Mr. SIMPSON. Mr. President, that is absolutely correct. That is rather a measure of what PAC contribution limits, $5,000, is absolutely unchanged in this legislation.

Mr. DOMENICI. Now, let me proceed. Some have said, "If you do not like this measure"—I do not even like for all that—"if it is reform,"—the measure, "What do you suggest?" Now, let me ask this: It is accurate that Senate bill 1308, the McConnell-Packwood bill, would eliminate PAC contributions to individual candidates and that Senate Bill 1672, the Donnelly bill, would reduce PAC limits from $5,000 to $3,000?

Mr. SIMPSON. Mr. President, that is correct, with regard to the interpretation of both of those measures. They would limit PACs.

Mr. DOMENICI. I thank my friend. Now, let me use my State as an example. It could be used by anyone, but let me ask the Senator, is this statement correct.

Let me assume that I have to run in a State which has the limit under this amendment that is pending that we cannot amend, which has the limit of $500,000, which is the case for New Mexico. Let me assume that I decided the donor would spend more than the legal limit to get my message effectively to the people, a right I have under the Constitution.

Let us also assume that our opponent for any number of reasons decides to abide by the limit.

I ask my friend from Wyoming: I spend $951,000 instead of $850,000. Is it accurate that my opponent, under section 56 of this bill, will receive a 20 percent check equal to two-thirds of our State total allotment, namely $633,000, raising his or her spending limit to $1,563,000?

Mr. METZENBAUM. Mr. President, regulate it that way.

The PRESIDING OFFICER. Will the Senator state his question?

Mr. METZENBAUM. The rules of the Senate permit a question to be asked of a fellow Senator but do not require it to be made in connection therewith. I have no objection to any question that the Senator from New Mexico may want to ask the acting minority leader, but my understanding is that the questions are being phrased as speeches.

The PRESIDING OFFICER. The Senator from New Mexico was recognized after the Senator from Wyoming had yielded for a question.

Mr. SIMPSON. Mr. President, these are precisely the questions that I will say that I am most appreciative of the rule of the Chair and that the Senator from New Mexico may want to ask the acting minority leader, but my understanding is that the questions are being phrased as speeches.

The PRESIDING OFFICER. The Senator from New Mexico is recognized to ask a question.

Mr. DOMENICI. Mr. President, as a precursor to my next question, I will say that I am most appreciative of the rule of the Chair and that the Senator from New Mexico has a small amount of discretion as to how he asks questions. I thank the Chairman.

The PRESIDING OFFICER. The Chair has ruled that the Senator from New Mexico is recognized to ask a question of the Senator from Wyoming.

Mr. DOMENICI. And now I ask my friend from Wyoming, let me assume that I decide under the same facts I just gave him a moment ago before the Senator from Ohio raised his question, and I now decide to spend one-third more than the $950,000 limit for a total of $1,267,000. Is it accurate that my opponent then receives an additional $315,000 from the Treasury of the United States, giving my opponent a total of $1,580,000 to spend, half of it provided by the taxpayers?

Mr. SIMPSON. Mr. President, that is absolutely correct. Those are the figures under the formula.

Before the inquiry of the Senator from Ohio, I did not fully respond to the previous question. His question previously posed is exactly correct as to what would happen if he received $1 over the $950,000.

Mr. DOMENICI. My fourth question is this, and it refers to the spending by independent groups. Let us talk about spending by an independent group that is supposed to be campaigning for me or against my opponent, because that is described in the bill, I say to my friend from Wyoming.

Even though I have no control over this spending or the content of such a campaign, is it accurate that under the amendment my opponent would receive at the expense from the American taxpayers the value of the outside campaign which could be $1 million? Is that a source of great mischief? Does it concern you? I would ask you, what happens if they do not spend all the money they have obligated to spend, or what happens if they spend it in ways that are really detrimental to my campaign, "Vote for Domenici. He favors taxes communism. He favors taxes." The latter is one that some might use. It is a subject for today, "He favors taxes." That is the line. "Vote for him."

Would that aspect of the bill pending provide my opponent with an added benefit, double-barreled, half of it at the expense of the taxpayer resulting from an alleged favorable independent group?

Mr. SIMPSON. Mr. President, that is absolutely correct. That is rather a multiquestion, but, indeed, yes; on the first part of it, that the opponent would receive in cash $1 million. The answer to the next part of it is yes, it would be great mischief. That is why we are insisting that it is. And as you will note, the campaign supposed to be on your behalf is a sham created by people who really want to help your opponent. That could happen. If they do not spend all the money they are obligated to spend, they could use it in some other form and use it in areas detrimental to your campaign. That is a double-barreled benefit, half of it at the expense of the taxpayer. Indeed, that is true.

Mr. DOMENICI. I have only one question here and then I will use my own time if I am recognized and if it is appropriate.

Is it correct that under the amendment that is pending that a candidate can spend an additional two-thirds of his State limit on a primary campaign? That is a double-barreled benefit, half of it at the expense of the taxpayer. Indeed, that is true.

Mr. DOMENICI. I thank the distinguished acting Republican leader.

The PRESIDING OFFICER. The Senator from Wyoming has the floor.

Mr. SIMPSON. I believe the Senator from New Mexico, Mr. President, may have another question or two. I know he has not dialy questions. I believe he has two or three more. I ask if that is correct.

Mr. DOMENICI. I certainly do. Let me proceed with them.

The PRESIDING OFFICER. The Senator from New Mexico is recog-
nized to further question the Senator from Wyoming.

Mr. DOMENICI. What limits are imposed by this amendment on soft money spending? Let me ask you, since you have been on the floor listening to the debate and you have been concerned with this legislation for a long time, is that not a major failing of this amendment, the fact that there are no limits imposed on soft money spending, if that is the answer?

Mr. SIMPSON. Mr. President, I submit to the Senate from New Mexico that is one of the prime grievances of this legislation. Indeed, that is correct.

Mr. DOMENICI. Is it accurate that the so-called minority party candidates, receive matching grants up to 50 percent of the State total, minor party candidates can receive matching up to 50 percent of the State total?

Mr. SIMPSON. That is exactly correct, Mr. President, without question.

Mr. DOMENICI. Might I ask my friend from Wyoming, does that present any constitutional issues, in your mind, as you think of that, how we are going to determine one set of candidates, because they are Republican or Democrat and thus perceived to be majority, and another group, because we set an arbitrary number of some kind, are minority, and we are only going to let them send half as much money or furnish them with half as much tax dollars support?

Mr. SIMPSON. That is a very troubling aspect of the entire matter. That should trouble us all as part of this debate. It is one of the serious flaws.

Mr. DOMENICI. Mr. President, I thank my friend from Wyoming for his responses and for his generosity in permitting me to ask these questions at this time. It is obvious, without a great deal of explanation, that if there is any doubt out there among anyone that there is a legitimate, bona fide reason to oppose this measure we have just stated at least six or seven, any of which could disturb a Senator, and he need not at all be against campaign reform. He could just conclude that that bill, as it is, unamendable, which is sitting at the desk, does not deserve to be supported in the name of reform. I thank my friend and I yield the floor.

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

The PRESIDING OFFICER. If the Senator will suspend temporarily, no business has been transacted.

Mr. SIMPSON. Mr. President, the Chair ruled on a request of the Senator from Ohio and we transacted business. I insist upon that ruling.

The PRESIDING OFFICER. The Chair stands correct. The Chair did rule on a point of order by the Senator from Ohio that it was business. The Senator from Wyoming is correct.

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

Mr. EVANS. I object.

The PRESIDING OFFICER. Objection is heard from the Senator from Washington. The clerk will continue the call of the roll.

The bill clerk resumed the call of the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that I be permitted to rescind the quorum call for 1 minute for the purpose of making a statement, after which I will yield the floor for any Senator to restore the quorum call.

The PRESIDING OFFICER. Is there objection? The Chair must rule that an additional request to suspend the call is not in order. The quorum call is in order.

Mr. EVANS. There is no request from a Senator.

The PRESIDING OFFICER. The clerk will resumne the call of the roll.

The legislative clerk called the roll and the following Senators answered to their names:

Quorum No. 10

<table>
<thead>
<tr>
<th>Senator</th>
<th>Party</th>
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<tbody>
<tr>
<td>Boren</td>
<td>Republican</td>
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<td>Byrd</td>
<td>Democratic</td>
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<td>Dixon</td>
<td>Republican</td>
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<td>Evens</td>
<td>Democratic</td>
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<tr>
<td>Metzenbaum</td>
<td>Democratic</td>
</tr>
</tbody>
</table>

The PRESIDING OFFICER. A quorum is present.

The clerk will call the names of the absent Senators.

Mr. BYRD. Madam President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators, and I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. Gore] and the Senator from Massachusetts [Mr. Kennedy] are necessarily absent.

I further announce that the Senator from Delaware [Mr. Biden] is absent due to illness.

I also announce that the Senator from South Carolina [Mr. Hollings] is absent because of death in family.

Mr. SIMPSON. I announce that the Senator from Kansas [Mr. Dole] and the Senator from South Carolina [Mr. Thurmond] are necessarily absent.

I also announce that the Senator from Texas [Mr. Gramm] is absent on official business.

The yeas and nays were announced—yea 51, nay 42, as follows:

YEA-51

<table>
<thead>
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NOT VOTING-7

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So the motion was agreed to.

The PRESIDING OFFICER. A quorum is present.

Mr. BOREN addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BOREN. Madam President, we have had a good deal of discussion during the morning, as I have listened to it about 7 a.m. to 1 a.m. It is all about, I think it is important that we return to the purposes for which we began this discussion. This discussion is not about all-night sessions; it is about whether we lose sleep. It is not about the motion to instruct.

Mr. BYRD. Madam President, may we have order in the Senate? A Senator is making an important statement, and I hope he will be listened to.

The PRESIDING OFFICER. The majority leader is correct.

Senators wishing to converse will please retire from the Chamber.

Mr. BOREN. I thank the Chair.

Madam President, as I was saying, the discussion of the last several hours might lead those who happened on to this discussion without hearing what came before to think that we were discussing whether or not we should have all-night sessions, discussing the virtues of getting more sleep, discussing the fine points of parliamentary motions, how motions to instruct the Senator at Arms to compel the attendance of absent Senators should appro-
pristely be carried out or should not be carried out.

Madam President, that is not the issue we are discussing. What we are discussing here is really a very simple question, whether or not we shall have real reform of the way we finance campaigns in this country. That is the issue. And whether or not the Senate of the United States, a majority of whose Members have clearly indicated that they want to have an opportunity to vote for real campaign reform, will have that opportunity. That is what is happening here.

Fifty-two Senators signed on to a proposal, S. 2, to reform the campaign finance laws of this country. Fifty-five Senators, perhaps more, have indicated a desire to vote.

That is what this debate, this prolonged debate, is all about. If I might be more specific when I talk about what we mean by campaign finance reform. We have been negotiating, and as I have said before, negotiating in good faith for several months. We are continuing to talk about, as far as this Senator is concerned, and we will continue to try to negotiate, to see if we can find a way to thread this needle, to find a way out of this impasse.

We have been able to reach agreement on a number of what I would call very important but, nonetheless, minor points when compared to the messages. We had partial agreements on what I would call with the way we finance campaigns in this country. We have had some agreements on the way we finance laws of this country. Fifty-five Senators, perhaps more, have indicated a desire to vote.

Should we put some outer limits in the American people want? Is it good for this country. We have had some agreements on the way we finance laws of this country. Fifty-five Senators, perhaps more, have indicated a desire to vote.

We are continuing to talk about, as far as this Senator is concerned, and we will continue to try to negotiate, to see if we can find a way to thread this needle, to find a way out of this impasse.

We have been able to reach agreement on a number of what I would call very important but, nonetheless, minor points when compared to the overall problem of what is happening with the way we finance campaigns in this country. We have had some agreement of what to do about millionaire candidates, about independent expenditures. We had partial agreements on what to do about the undue influence of special interest groups to finance campaigns.

But there is one single issue now confronting the Senate, and it is an issue that the American people should understand because the American people should be heard from on this issue. The issue is a very simple one, Madam President. The issue is this: Should we put some outer limits in place to cap the rapid escalation of campaign costs that have been going on in this country over the past two or three decades? Is it good for the U.S. Senate and, more important, is it good for the United States of America to have our constitutional system that the cost of running for office in this country continues to go up and up and with no limit in sight? Is it good for this country that the cost of running for the U.S. Senate in a successful race on the average in the last 10 years has gone up 300 percent.

It is good for this country where, on the average, it would take a sitting Senator to raise $2,000 every week of his or her term to raise the amount of money necessary to run for reelection. That was the case 10 years ago. It now requires, on the average, every Member of the U.S. Senate to raise at least $10,000 each and every week for 6 years that that Senator serves in the Senate. Over 300 weeks in a row, $10,000 every week for over 300 weeks just to raise the minimum amount of the money necessary to win a successful race for the U.S. Senate.

Mr. STEVENS, Will the Senator yield?

Mr. BOREN. I will not yield at this time.

That is the issue that confronts the country. Do the American people believe that it is good for this country for that to be happening? Do the American people want their representation in the U.S. Senate to have the burden of raising $10,000 of campaign money each week, spending their time raising that money, going across the country to other States that they do not represent where the constituents do not live in order to raise that money, spending the time, raising the money, talking to contributors in another State, then listening to the people back home? Is that what the American people want?

If the American people want that to continue to happen, if they want that figure to be $10,000 a week, but $50,000, because that is where it is headed if you just use the trend over the last 10 years and project it forward, it is going to be $50,000 a week. It was $2,000 a week 10 years ago. It is $10,000 a week now. It will be $50,000 a week if the current trend continues at the same mathematical rate.

If that is what the people of the United States want, then they should applaud those who are preventing us from having a chance to vote on this bill because that is the one unresolved issue. That is the one thing, the only thing, that the people who are opposing this effort say is not negotiable, it is not on the table, we will not even talk about putting a limit no matter how high the figure. The sky is the limit. We do not want anyone to say we cannot spend as much money, as hundreds of millions of dollars, as we can raise and try to buy an office in this country.

Madam President, that is what this debate is all about, and it is time that the American people across this great country recognize what is happening because of the cancerous presence of too much money being pumped into the political system in this country.

Mr. STEVENS, Madam President, will the Senator yield at this point?

Mr. BOREN. Madam President, I would just like to complete my thought, and then I will be happy to yield.

I do not believe that is what the American people want, and if the American people ever had the opportunity to turn their attention to this issue, if the American people ever stopped to ask themselves, "How do we want this week to be spent by our representatives in the U.S. Senate?" I think they would say we want those Senators to be there grappling with the problems we face, problems of retraining the American people in the problems of getting productivity restored in our economy so we can do something about our trade imbalance, the problems of improving the educational standards and educational system so that our children will be better equipped to live in the complex world in which they are going to have to operate.

Madam President, I think they would say, "We want to have our Members of the U.S. Senate have the opportunity to come home so we can talk with them, so we can share with them the everyday problems that we have on our farm, the everyday problems that we have running small success, the everyday problems we have as a man or woman that works in a factory trying to save the money to buy the house or to educate our children."

That is what is the people of the United States of America want. They want representation in the Congress that will work to grapple with the problems that affect them in their everyday lives. They want representation in the Congress that has time to listen to them and listen to their problems. They do not want the time of their Congressmen and Senators taken up instead raising money from other people and other places. They want to have the right to be heard from themselves.

And so it is extremely important. Public opinion polls have been taken. The Harris survey, for example, in 1983, and there has not been too much update, unfortunately, because we have not had enough attention paid to this in this country, and it is a tragedy, but we had a poll made in 1983. They made this statement:

"Candidates should be elected based upon how good they would be in office, not according to how rich they are or how many commercials they can put on television." Do you know what the American people said to that? Ninety-four percent agreed. Five percent disagreed. One percent were not sure.

And then this statement was made in the same survey: The U.S. Supreme Court has ruled that there is no limit on the amount of money which an independent political committee can spend on behalf of a candidate. This has resulted in large amounts of money being spent on negative TV and radio commercials which attack the opponent of the candidate these groups favor. Do you feel that a strict limit ought to be put on the amount of money independent political commit-
And then they were asked, “Do you feel that excessive campaign spending is a very serious problem, only somewhat serious, or not serious at all?” Sixty-two percent said very serious, Madam President, 29 percent said somewhat serious—that is a combination of 91 percent—and only 8 percent thought it was not a serious problem.

Madam President, if we will listen to our constituents, and it should not surprise us how they feel, they want us to compete in politics on the basis of issues and qualifications, not on the basis of who can raise the most money. They do not think this influx of millions and millions of dollars into campaigns is helpful to their ability to participate. In fact, they are concerned that it might be squeezing out the average person, that it might be depriving them of time with their own family, or who have elsewhere, to other States to raise the money necessary. They are concerned by what is happening. And I am convinced if the attention of the American people could be focused upon this issue, we would find exactly what was found in these polls, that the overwhelming majority of the American people want to see something done about this problem. Madam President, that is what this is about.

Mr. STEVENS. Will the Senator yield at this point now?

Mr. BOREN. Just 1 moment. That is what this debate is about. Because we have talked about the other issues. I think we can find a way to reach some sort of agreements, agreements that would at least satisfy to some degree both sides on political action committees, and I do not underestimate the importance of that. It is important. We could find some ways to reach agreement on advertising rights, and that is important. That is not to be underestimated in terms of its support. We could find some way to reach agreement on a host of other issues, what millionaire candidates can do in terms of loaning money to their own campaigns and then going out to raise money to pay it off. All of these things are available, but, Madam President, we are not going to get the genie back in the bottle, we are not going to address the problem that the American people are concerned about, we are not going to address the problem that is at the heart of our political system, the integrity of the election process itself and the perception of that election process, until we find a way to do something to make rapid changes in the cost of campaigns and campaign spending.

Madam President, I do not know whether we will find a way to thread through this needle right now or not. I do not know if we will find the magic formula in the next 2 or 3 days and nights. I hope we will. I want to say I honestly and sincerely—and I say this to my friends on the other side of the aisle, I say this to my colleagues in the Senate, that I am not interested in any political purpose or any rhetorical purpose or partisan purpose. I believe there are others on the other side of the aisle who are just as passionate and sincere about this problem as I am. I recall the days when Senator Goldwater, whose service in this body I greatly respect, was a Member of this institution. I remember the many hours we talked together on what was happening to campaigns in this country and how the cost of campaigns were absolutely out of control. And I think about our good friend John Stennis, the senior Senator from Mississippi, who served in this body long before me. And I understand the great concern that he has as he has announced his impending retirement to want to see something done to change the system because he loves this institution and he loves the process and he sees the problems that are going on.

Madam President, let me say if we do not deal with this problem, I do not know when it is going to happen. I do not know if it is going to be 1 year from now, 5 years from now, we are going to rue the day that we missed the opportunity, and the American people are going to call us to account, and when something happens that creates a scandal in this country—and I doubt that many people get to the heart of our political system at this point in time and say, ‘Where were you? Why were you delinquent in your duty? Why were you asleep at the switch? What did you do to try to stop the corrupting influence of this tidal wave of money that is pouring into the political system? What did you do about it? And when the next generation comes along and—'

Mr. STEVENS. Will the Senator yield there?

Mr. BOREN. I will be happy to in a moment. I have to say to my good friend from Alaska—

Mr. STEVENS. I might say to my friend I have tried five times. I will speak later. I think the problem with this debate, Madam President, is the series of monologs and no willingness to really debate the problem. The PRESIDING OFFICER. The Senator from Oklahoma has the floor.
sation regarding an ability to run for office unless they are persons of im-
mense personal wealth.

It affects every one of us in this country who are concerned about public confi-
dence in their own government. It af-
facts everybody in this country who is
concerned about why people are drop-
pling out of the political process and
not voting in elections.

It affects all of us. It affects every
person in this country. The American
people need to begin to understand
what it is doing to them, what it is
doing to them. The farmer in the rural area
of Oklahoma or in Michigan, what it is
doing to that auto worker in In-
dianapolis, MI, what it is doing to that
cotton planter in the Delta of Missis-
sippi, what it is doing to the businessman in
the State of Arizona, what it is
doing to that person who works in Silicon
Valley in California, what it is doing to
that retiree who has now gone to live in
Arizona. It affects every single
member of our own elected representatives to
decide who will speak for us.

What was the cry of the colonists
when they began the revolution which
changed the world? It was “No taxation
without representation.” We want a system of
government. We want an election process that allows us to pick
our own elected representatives to
speak for us, people who know how we feel
about fundamentals. The issue is very
important to this country.

On the Senate floor, I asked the
 Majority Leader for talking their time.
If we do not do it, mark my words, the next
billionaire will come forward and compete on an equi-

We just say join us in this
noble cause to put some outer con-
straints on this runaway cost of cam-
paigns before it absolutely cripples
and destroys our political system.

Now, I am again with this, Madam
President, and I apologize to my col-
leagues for talking their time. If we do not do it, mark my words, the next
generation of Americans and the next
generations to follow will say, “Were you
there when you had an opportunity to
remove this cancer that is eating away at
the political heart of this country? What
did you do about this?” All I can
say, Madam President, is I will say, “I
tried to give us an opportunity to get a
vote, to get this matter under consid-
eration so we could not only vote on it
but move to amend it and improve it,
change it, have the conversations with
those on the other side who did not agree with us on this particular bill
and improve it.”

Mr. RIEGLE. Will the Senator yield
at this point?

Mr. BOREN. I will be happy to yield for
a question.

Mr. RIEGLE. I thank the Senator for
yielding. Let me, before posing the
question to the Senator from Oklahoma for his leadership on
this issue. Clearly this is a major issue that
confronts the country. As the
Senator has said so well, if there are
limits at all we get into a situation
where the whole process starts to
break down. It breaks down in a way
that is sometimes hard to understand,
but it takes it further and further out of
the reach of the citizens every
day. Let me, Senator, raise this ques-
tion. In my own race in Michigan—we
are the eighth largest State, and I
have been through that race twice
before and am in the process of run-
ning again. In the Governor's race,
with a population of about 9.5 million people, the cost
of television and everything else is
now in the range of about $4 million.

That figure has raised pretty close to that figure in the late Statewide
races, and certainly they have a right to run. But the
thing I am concerned about is that
the pattern seems to be that unless a
person has enormous personal wealth,
particularly in the larger States, by the
number of people finding it very diffi-
cult to run. On the other hand, those
with great personal financial re-
sources, who face no spending limits
today, can spend as much of their own
money as they wish. They are in a po-

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Mr. BOREN. I thank the Senator from Michigan for his comments. I certainly agree. I would express my agreement with him. That is the case. We are simply going to foreclose people from the political process. That is why I have been saying what I have been saying. I know that we have had these sessions that have gone into the night, that I have been pointing, scoring back and forth, and there is the parliamentary process.

We have had heated debates. People can begin to say, "Well, let us forget it. Let us not try to work together any more. Let us not try to work out solutions."

That is why I appeal to those who have been opposing this bill. I appeal to them in all sincerity, as I did a while ago. It is not to try to score any political gain for myself or my party or anybody else out of this process. I appeal to them one more time to try to work out a solution so that we can work out an agreement.

This is a time of conflict, yes. It is a time when the strong and opposing views have been expressed. Yes.

But it is also a time, Madame President, when we have brought this issue to a boil. It is my experience, and I am sure the experience of my colleagues around here, when that is a time, when the issue has been brought to a boiling point, when it has become the focus of national debate, when it is on the agenda for national discussion and discussion in the Senate, that is also a time of opportunity, a time for us to try to find a way to make some real progress.

I think it would be a shame and a tragedy, indeed, if we missed this opportunity now to make some real progress. I think it is close at hand. I think it is time to put everything on the table. That is all I would ask, that the other side say, "We are willing to put on the table the questions we want to discuss," some kind of limit that would restrain this runaway growth of campaign spending in the future.

I would ask the other side again, and I would appeal to them, to come to us with a proposal that they favor, and we will make absolutely sure that they are not put in any kind of partisan disadvantage. Come to us with a proposal that raises the limits in the States where they think it should be raised, in order to ensure their ability to compete on a fair and equal basis.

I think they will find great willingness on this side of the aisle to not only look at it and fairly consider it but probably agree to it. I do not think we should have partisan advantage in this issue. It is so important. Amidst all of this heated debate, the one thing that everyone has agreed on is the desirability of finding a way to put this issue in the Senate. For year after year I have looked on with frustration while this issue was not part of the national agenda, while it was not considered important enough to take to the floor. And when it was said to people something is wrong in the way we finance campaigns, people would say, "We are political realists. Do not tilt at windmills. You will not change it. It will stay the way it is. There is nothing you can do about it. It is the way it is."

We have come to that point, Madame President, after this matter has been placed on the national agenda and viewed by everybody, recognized by everybody on both sides of the aisle as a problem. There is something wrong with that that needs to be fixed. There is something badly wrong and gravely wrong, with which we have to deal. That is progress, Madame President.

We cannot begin to think about solving the problem until we realize the problem exists. We have indeed progressed, or at least in the course of that discussion of this matter in the body politic.

So progress has already occurred. We are much closer to the solution than we were when Senator Goldwater and I first introduced our bill and were greeted with a resounding chorus of light laughter by those who thought we were embarked upon something that never would come to fruition.

It was an idealistic cause that no realistic person thought we would ever really try to do anything about. So we have come a long way already. We are on the brink of doing something of exceeding importance to this country and making a great contribution to the next generation concerning the integrity of our electoral system.

We are launching our lives together under the Constitution for the second 200 years in a way that will ensure the same vitality that guaranteed the first 200 years of our life for people under that great document. That is important.

Some people have said, "Well, with all important bills that come through here, why take the time on this?"

There are a lot of important bills—budget bills, farm bills, trade bills. But, Madame President, I think very few things are more important to our life as people than the preserving of the constitutional system itself. It enables us to continue under the framework by which we write the policies in all the other areas that affect us.

If we do not have confidence in our political system, confidence in this institution, the ability for this institution to work, we are not going to write the right energy policy, defense policy, foreign policies, farm policies, trade policies, tax policies.

So, Madame President, I again indicate our willingness, our willingness to continue to work with, to continue to talk to, to continue to share thoughts with, to continue to try to deal in a creative way with those who have different views and different interests and that is why I appeal to them in all sincerity, as I did a while ago.

That is why I have been saying what I have been saying. I know that we have had these sessions that have gone into the night, that I have been pointing, scoring back and forth, and there is the parliamentary process. We have had heated debates. People can begin to say, "Well, let us forget it. Let us not try to work together any more. Let us not try to work out solutions."

That is why I appeal to those who have been opposing this bill. I appeal to them in all sincerity, as I did a while ago. It is not to try to score any political gain for myself or my party or anybody else out of this process. I appeal to them one more time to try to work out a solution so that we can work out an agreement.

This is a time of conflict, yes. It is a time when the strong and opposing views have been expressed. Yes.

But it is also a time, Madame President, when we have brought this issue to a boil. It is my experience, and I am sure the experience of my colleagues around here, when that is a time, when the issue has been brought to a boiling point, when it has become the focus of national debate, when it is on the agenda for national discussion and discussion in the Senate, that is also a time of opportunity, a time for us to try to find a way to make some real progress.

I think it would be a shame and a tragedy, indeed, if we missed this opportunity now to make some real progress. I think it is close at hand. I think it is time to put everything on the table. That is all I would ask, that the other side say, "We are willing to put on the table the questions we want to discuss," some kind of limit that would restrain this runaway growth of campaign spending in the future.

I would ask the other side again, and I would appeal to them, to come to us with a proposal that they favor, and we will make absolutely sure that they are not put in any kind of partisan disadvantage. Come to us with a proposal that raises the limits in the States where they think it should be raised, in order to ensure their ability to compete on a fair and equal basis.

I think they will find great willingness on this side of the aisle to not only look at it and fairly consider it but probably agree to it. I do not think we should have partisan advantage in this issue. It is so important. Amidst all of this heated debate, the one thing that everyone has agreed on is the desirability of finding a way to put this issue in the Senate. For year after year I have looked on with frustration while this issue was not part of the national agenda, while it was not considered important enough to take to the floor. And when it was said to people something is wrong in the way we finance campaigns, people would say, "We are political realists. Do not tilt at windmills. You will not change it. It will stay the way it is. There is nothing you can do about it. It is the way it is."

We have come to that point, Madame President, after this matter has been placed on the national agenda and viewed by everybody, recognized by everybody on both sides of the aisle as a problem. There is something wrong with that that needs to be fixed. There is something badly wrong and gravely wrong, with which we have to deal. That is progress, Madame President.

We cannot begin to think about solving the problem until we realize the problem exists. We have indeed progressed, or at least in the course of that discussion of this matter in the body politic.

So progress has already occurred. We are much closer to the solution than we were when Senator Goldwater and I first introduced our bill and were greeted with a resounding chorus of light laughter by those who thought we were embarked upon something that never would come to fruition.

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was on the floor of the Senate for dis­
cussion. I received a letter, and I think other Senators on this side of the aisle received the same letter, dated June 23, 1987, from Frank Fahrenkopf, chairman of the Republican National Committee.

I quote from that letter: "I strongly urge the Republican Members of the Senate to reject any compromise that includes expenditure limitations on the use of the words "expenditure limitations." That is what S. 2 contains.

Mr. Fahrenkopf also warned, "Such limitations could be lethal for the Re­

I am not pretending to know wheth­
er that statement is true or false. I am not gifted enough to predict that as an outcome of the passage of S. 2. It is very clear, however, that the kinds of expenditures that are not limited and restricted in S. 2 benefit Democratic Party nominees in senatorial elections and in the Federal election campaign process generally.

(At this point Mr. DASCHLE as­
sumed the chair.)

Mr. COCHRAN. The reason that is true is that there is no limit in S. 2 on the amount of money that can be spent in a campaign by organized labor unions who are spending money on behalf of a candidate in the elec­tion.

The bill restricts only the amount that can be spent by the principal election committee of the candidate himself.

Most Republican candidates raise money from private voluntary contri­
butions of individual citizens. Most of the money for the senatorial cam­
paigns for Republican candidates are in that form and they are financed by contributions in that form. Many candidates on the other side of the aisle benefit from direct ex­
penditures by organizations who are involved in the process but who are not covered by S. 2 as far as the amount of money they can spend is concerned; there are no limits on what those organizations can spend.

In the letter I just referred to, for instance, there is this sentence: "The 1984 Presidential election was publicly financed with an expenditure limita­tion." the same general kind of ex­
penditure limitation that is contained in S. 2 for Senate races.

And the letter goes on to say, "But in 1984 labor unions spent $10 million in the primary campaign and $20 mil­lion in the general election for Mr. Mondale, expenditures which do not require disclosure under present law. Equal funding and equal expenditure limits were not equal."

That is the point, Mr. President, that is confounding the process here in the Senate today as we debate and discuss the issues involved in S. 2. We are being asked on the Republican side to cave in to the pressures of the ma­

ory, when to do so would legislate perpetual control of the Senate by the party that is now in power in the Senate.

I am convinced that is true and I think the evidence is very clear that is true.

So to hear the arguments advanced by some of the proponents of S. 2 that to adopt the bill presented to the Senate is not really hitting the nail on the head, Mr. Presi­
dent. It is true that it is change. It would be different under S. 2 than it is today. There would be sharp limita­tions and restrictions on expenditures since those insure and calls for reduction voluntary contributions from ordinary citizens. But there would be no restric­tions whatsoever on the individual contribution limits of political action committees. There would be no restric­tions on the amount that could be ex­
pended by independent organizations such as labor unions and others inter­
ested in the same cause as those push­ing for the adoption of S. 2, that is, control of the U.S. Senate by the party that is now in the majority.

If we are going to have reform, Mr. President, it ought to be equitable to the extent that all contributions given and all expenditures made are dis­
closed as to both the source and the candidate benefited.

Now, that does not seem to be unreas­onable, does it?

But that is not in S. 2. That is in the Republican alternative which empha­sizes an equal funding committee of the U.S. Senate by a political action committees.

It would be very difficult, however, to learn this by reading newspaper re­
ports of the Senate on this issue. Some of the editorials around the country have given the clear impression that the Democrats are in favor of reform because they want to reduce the influ­
ence in Federal elections of political action committees. That has been the central theme of much of the writing about this issue.

But there is not one word in S. 2 that restricts by as much as a dollar the amount a political action commit­
te can contribute to a campaign of a U.S. Senator.

On the other hand, the alternative legis­
lislation proposed by Senator Ste­
vens and others—Senator Stevens is the ranking Republican member of the Rules Committee which has juris­
diction over the legislation—cuts in half the legal allowable amount that a political action committee can contrib­
ute to the election of a Senator. Under current law the limit is $5,000 per elec­tion. Under the Republican alternative reported in the Rules Committee the limit would be $2,500. There is no simi­lar change offered by S. 2.

There is another Republican alter­
native that is being urged by the Sena­
tor from Kentucky [Mr. McCONNELL], and the Senator from Oregon [Mr. PACKWOOD], which completely elimi­
nates political action committee con­
tributions. That is a Republican alter­
native. If you relied on only the news­
papers, however, you would not know that the alternative has been intro­
duced, even though it is one of the principal vehicles for true reform before this body.

Instead, what do you read about?

Last year as we were engaged in this debate the majority leader came to the floor one day and put in the Con­
gressional Record a stack of newspa­
paper editorials from all over the coun­
try urging citizens in effect to put pressure on Senators urging them to support S. 2, because it would control political action committee contribu­tions.

At that time, there was no provision in S. 2 that would deal with restricting those contributions.

It is interesting to look at the Record, Mr. President. I think the date was June 9, 1987. The majority leader presented for inclusion in the Racosn a number of editorials, and it was said by some who spoke that day and later that this indicated spontaneous­
support was developing around the country for the proposal before the Senate—public financing of Senate campaigns. That was the other theme of the legislation at that time.

Let us not let individuals choose whom they may support. Let us have the Federal Government parceling out money to candidates from the Treas­
ury. It was the theme then that this would be a more wholesome and more equitable way to conduct the Federal election campaigns of U.S. Senators.

I looked through the Racosn to see what the newspaper writers were saying, and it was really interesting to see that so many of the editorials were just alike. Some even had the same title. Now I know there are newspaper chains, and it is not unusual for an editorial in one town to appear in a newspaper in that same chain in an­
other city. And there are many chains like that around the country today.

But I doubt that all of these newspa­
pers are in the same chain. Maybe they are.

Here is one of the first ones. It is on page S7765. It is entitled "Hedging Their Bets", and it was published in the Aiken, SC, Standard, dated March 30, 1987. The editorial starts off this way, Mr. President:

Political action committees as fickle as fortune itself, know how to back a winner. According to a study released recently by the public-interest lobby Common Cause, dozens of PAC's involved in last year's U.S. Senate elections covered both sides.
And then the writer goes on to discuss that in more detail.

Looking on that same page, here is another editorial from the Anderson, IN, Daily Bulletin, dated March 30, 1987. I have entitled it "Hedging Bets." It starts off:

Political action committees, as fickle as fortune itself, know how to back a winner. And then on and on virtually the same editorial.

I thought that was an interesting coincidence.

Here are papers published on the same day, one in South Carolina, one in Indiana, with almost exactly the same editorials except one has the title "Hedging Bets," the other "Hedging Their Bets."

And then I kept going and I thought I came across a new editorial. Here was one published in Athens, GA, in the Messenger, dated March 17, 1987. The title of this editorial is "Rein in The PAC's—Reform Bill Offers Way to Curb Fundraising Abuses." It starts off this way:

Fifteen Senators elected in 1986 raised more than $1 million each in political action committee, or PAC, contributions for their Senate campaigns. That's more than doubled the number of PAC millionaires in the Senate from 10 to 24. PAC candidates in 1985-86 totaled $45.7 million.

Then I happen to notice on the same page in the Record are two other editorials. One from the Anderson, IN, Star Pressler, dated March 19, 1987. It begins in basically the same way as the editorial that just preceded it from the State of Georgia.

The next editorial is from the Alpena, MI, News, dated March 31, 1987. It, like the editorials that I first read is talking about PAC's hedging their bets.

As you turn through here you come across others that are just exactly alike or very similar to the previous editorials.

Here is one from the Illinois Star Daily of Beardstown, IL, talking about political committees being fickle as fortune itself. Here is another one entitled "Rein In The PAC's," from the Courier News of Bridgewater, NJ.

What we see through here are basically two editorials, obviously not written by the same editorial writer working every day for each of those papers.

The Southside Idaho Press of Burley, ID: "Fourteen Senators elected in 1986 raised more than $1 million each in political action committee."

Well, you go through the editorials, and many of them are just like that, and you get to the end and it says "What we have now is a mess. The Boren-Byrd measure could be a way out."

Well, you know the tragedy of all this is that these editorials were suggesting that the Byrd-Boren bill had provisions that would restrict the contributions made by these political action committees described in the editorials as being the root of the evil in the process. The fact then as now, however, is that S. 2 does not reduce the level of individual political action contribution in a Senate race. Republicans have that in their bill, but that fact is not found anywhere in their entire stack of editorials, supposedly written by folks who have looked at the subject and are competent to explain to readers of their newspapers the issues of campaign reform.

I am not pretending to know how these editorials came to be published by these papers, who wrote them, or who continues to push on to the public inaccurate statements about this issue. Did you hear the distinguished Senator from Oklahoma talking about how Barry Goldwater and he had developed this legislation and had introduced it? And did you see in the newspapers in Arizona the ads purchasing newspaper space by those political committees that discussed Senator Goldwater's support for the Byrd-Boren bill and criticized John McCain, the Senator from Arizona, who is urging that a Republican alternative be adopted? Did you know about that? Everybody pretty well knows about that here in the Senate now. Some people around the country are being told that Senator Goldwater supports S. 2. I happen to have had the privilege of being with him out in Colorado soon after the debate got going last year.

Larry Pressler and I, the Senator from South Dakota, served together on the board of the U.S. Air Force Academy. We were talking about that at lunch. He said he did not realize that S. 2 had been converted into a public financing bill. And at that time the central theme being pushed by the proponents was that we were going to go into the Federal Treasury and allocate money to candidates. Well, Senator Goldwater wrote a letter to Larry Pressler. I have a copy here. He sent a copy to Ted Stevens clarifying his position.

Mr. President, I ask unanimous consent to put in the Record a copy of the letter from Senator Larry Pressler to me enclosing a copy of former Senator Barry Goldwater's letter on this subject.

There being no objection, the letter was ordered to be printed in the Record, as follows:


HON. THAD COCHRAN, U.S. Senate, Washington, DC.

DEAR THAD: Recently I had the opportunity to visit with our distinguished former colleague, Barry Goldwater, while I was attending the U.S. Air Force Academy Board of Visitors meeting in Colorado Springs.

During our visit we discussed campaign reform legislation. You will recall that during prior debate on this issue some confusion evolved regarding Senator Goldwater's support of S. 2. Following up on my visit with Senator Goldwater, I enclosed a letter from him, in which he states his position on this proposal. As you will see, Senator Goldwater states in his letter that he has never abandoned strong support for federal government financing in part, or all, of campaigns. As he requested, I did insert his letter into the Congressional Record on August 2nd.

In order to clarify Senator Goldwater's position on S. 2, I wanted to share his letter with you.

Sincerely,

LARRY PRESSLER.
U.S. Senator.

BARRY GOLDFWATER.

HON. LARRY PRESSLER,
U.S. Senate, Washington, DC.

DEAR LARRY: At the Air Force Academy, this last weekend, you told me you had not received a letter from me relative to my position on what was once the Boren-Goldwater Bill.

This letter will explain my position. I was very happy to co-sponsor Senator Boren's Legislative proposal, but when he introduced federal support at any level, or any amount, I just could not go along with it. One of the surest ways that I know of to raise havoc with our election system, federal or local, would be to have the federal government finance part, or all, of campaigns.

I would appreciate your putting my position in the Record, so that my friends, who think I still support the Boren-Byrd approach, can be properly informed, and act accordingly.

It was great seeing you at the meeting the other day. That was a good turnout, and I think we did a lot of good.

With best wishes,

BARRY GOLDFWATER.

Mr. COCHRAN. What is clear from this correspondence, Mr. President, is that Senator Goldwater is his word says:

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In spite of Senator Goldwater's very clear statement disavowing support for the measure before the Senate, we continue to hear that he supports S. 2. It was just stated. It is being promulgated in newspaper ads around the country, at least in the State of Arizona, creating the impression that the sitting Republican Senator from Arizona is in conflict with his predecessor, the former Senator Barry Goldwater, on this issue.

I think it is instructive, Mr. President, in trying to determine where the emphasis is for real reform, to look at the views that were published in the
committee report attributed to most of the minority members who sit on the Committee on Rules and Administration.

They looked at the comparison of the legal limits of individual contributions to presidential candidates and reported to the committee that over the intervening 13 years. Political action committees on the other hand have been allowed to contribute up to $5,000 per election to a congressional candidate. This figure was also set in 1974, and has never been raised despite the pressure caused by inflation over the intervening 13 years. Political action committees on the other hand have been allowed to contribute up to $5,000 per election to a congressional candidate. This figure was also set in 1974, and has never been raised. We propose that these specific limits be amended to the individual limit being raised from $1,000 to $1,500 per election and the PAC limit being lowered from $5,000 to $5,250 per election. Changing these contribution limits will result in congressional candidates becoming more inclined to rely on individuals and less inclined to rely on PACs for support. I believe that altering the mix is not as to increase the value of an individual's contribution and decrease the value of a political action committee contribution because candidates for Congress to return to the historic source of their funding and will curtail to some degree the influence of political action committees. Reorienting congressional campaigns back to individual contributors is a goal shared by all Senators.

Well, obviously those who signed and subscribed to those views were wrong about one thing; that is, that reorienting congressional campaigns back to individual contributors is a goal shared by all Senators. We have found out in debate on this bill that the other side was not wrong in anything about reducing the amount a political action committee can contribute to a campaign, the proponents of S. 2 are arguing against making any change there. They are instead urging us to change the law to impose a limit on the expenditure of those funds as well as individual contributions so that we have a cap on overall spending.

Now, that cap on overall spending is of course the PAC limit for a congressional candidate. This is where the problem comes with that expenditure limit. It would not apply to any organization or other committee that expends money in behalf of that same candidate. If that bill had been included in the report, let's say that the Democratic National Committee, for instance, that has picked up several races around the country and they have decided to use the resources by hiring telephone bank operators, people who are going to make phone calls to citizens to help get them to go to the polls that day to vote for a specific candidate, if they want to spend in a Senate campaign $100,000 or $500,000 in a State for that purpose, under current law, as I understand it, those efforts not even have to be reported. And under S. 2 there will be no expenditure limit for that contribution. For instance, that expenditure to the election campaign for that Senate candidate.

Now, that is the problem, because in Senate campaign after campaign we have seen more and more organizations outside the control and outside the structure of the candidate campaign committees become involved to the extent that they are hiring telephone bank operators, recruiting people to go door-to-door, handing out campaign literature, working at the polls, buying time at the local radio station to advertise against one candidate or on behalf of another. These expenditures would not be restricted under S. 2.

If S. 2 were to pass, I believe that we would see even more of these independent groups not answerable to a candidate's campaign committees. If we change the mix of limit the amount of time in which our campaigns were conducted?

And I thought about the debate that was then going on in the Senate about capping expenditures, turning to the Federal Treasury for campaign money, other changes that were being urged by those who were supporting Byrd-Boren. I thought that shortening campaigns might be an answer.

I do not know how we would do it. When I asked the Congressional Research Service of the Library of Congress to look into the constitutionality of such a statutory change, I was told it would probably require more than a statute, maybe a constitutional amendment. But I think we ought to look at that and think about it. Do we spend as much money as we do in the campaigns because we want to or do we like to? Who decides really when to start? Every year campaigns are beginning earlier and earlier.

Look at this year. Candidates for the Presidency were conducting their campaigns on radio and television in 1987 in Iowa and in New Hampshire, maybe South Dakota, for an election that is really going to be held in November 1988. And just look here in our own body. I know of Senators who are up for reelection this year with an election date in November who have already begun advertising their campaigns for reelection on television in their home States. I am not criticizing that.

I am just wondering: Would it not save an awful lot of money if we had a rule or a law that prohibited the advertising of one's candidacy until 90 days before the election or some other period of time before a primary election or a convention or a caucus or a general election? I would suppose, without having any proof of it, that that would save a lot of money. And I am talking about restricting all advertising. But the Congressional Research Service, as I point out, says that we
might have to ask that the Constitution be amended to get that change made. In the meantime, I just want to say that when we were debating the matter last summer, we were required, if we had an amendment to S. 2, to file it, have it printed in the Record, or we would not be able to consider it. We had been foreclosed under the rules of the Senate from offering an amendment unless our amendments were printed in the Record on a certain day. Do you remember that? And so, I filed my amendment and it was printed in the Record.

Another reason why we are resisting cloture, Mr. President, is that other potentially good amendments cannot be offered on S. 2 if cloture is invoked. Under the rules as I understand them, an amendment that I might offer to change the legal limit of a contribution to a Senate campaign by a political action committee would be out of order. I read from the committee report the minority suggestion of Senator Stevens and others that the individual contribution limit be increased to $1,500 and that the political action committee limit be reduced to $2,500.

I personally think they ought to be the same. Now that is just my personal view. I urged that when some were exchanging ideas about what ought to be in this bill and my view was not included. But I still have that opinion. If you are concerned about the extraordinary amount of influence in the process by political action committees, why not just make the contributions the same, limiting both PAC's and individuals to the same amount in an election? That would certainly increase the value to a candidate of individual contributions as compared with PAC contributions.

Now, as I pointed out a moment ago reading from the report, the legal limit is $1,500, so that campaign is $5,000 from PACs. A PAC can give $5,000 in a primary election and then, if you win the primary and you are in the general, they can give you another $5,000, bringing the total legal contribution from that PAC in that election cycle up to $10,000. For individuals, under the current law, you can get only $2,000. If I wanted to offer that amendment after cloture is invoked, it would be out of order.

Now I am asking you: Is that fair? Is that the way the Senate should conduct its business, shutting off the right of Senators to offer certain kinds of amendments?

And they wonder why the Republicans are resisting the cloture effort by the majority leader. They wonder why we are trying to explain that there are two sides to this story and that the other side is getting out. One side is being told by the editorial writers, one side is being advertised in paid advertisements in newspapers, albeit inaccurately, and the other side is not being advertised. We should think about the responsibility that some organization ought to advertise the other side. I do not know if that is the answer.

I think one answer, though, is simply to continue to try to tell the story and to give the full facts to the American people on the floor of the Senate by discussing why we would like to have some amendments to S. 2 considered; why we would like to have an alternative at least considered. But, no, the vote will be on S. 2 and on amendments to S. 2 that are considered appropriate and in order by the majority under the rules of the Senate that restrict some amendments from being considered or offered.

We also have to recognize that the Republicans are outnumbered in this body right now. If it is not interesting to you that since 1880 we have had the Senate tied up on this issue only now, only in 1987, when those in the majority now want to perpetuate the majority by the adoption of this bill?

Now, it has been urged as an alternative in various forms for a good while—everybody has their own ideas about how to change this process and improve it. I think it is in need of reform. I think it ought to be changed.

I just mentioned one of the suggestions that this Senator has personally. Let us make the PAC contributions and the individual contributions the same in terms of the legal amount that can be contributed in each campaign. I think that would de-emphasize PACs and it would increase the value of the individual activity and support in a Senate campaign. I think that has value.

I think we ought to consider figuring out a way to shorten the time in which campaigns can be conducted. If you think about it from this standpoint, I think the American people get tired of this process. I really think that they enjoy the drumbeat of advertisements, of campaign speeches, of media events all over the country in either the Presidential election campaigns or Senate and House campaigns. I do not see why we cannot turn our attention to focusing on that means of reform and see if we can work out a way to change the laws in that respect. I think that would be an important change that we should consider.

The Senator from Oklahoma, in his discussion, talked about how wealthy candidates are benefited under the current system. And they are. If you happen to be a very wealthy person, you have a clear advantage over someone who is not.

Do you know that the Republican alternative is designed to deal with that imbalance to try to make it a more level playing field—to use a worn-out cliche, for which I apologize—but the Democratic alternative, S. 2, does not? And that is my argument. We cannot be doing this if some organization ought to advertise the other side. I do not know if that is the answer.

I hope, Mr. President, as we continue to discuss the issue, that we explain to the American people that there are two sides to the story and that it is time that the other side be told.

THE PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KASTEN. Mr. President, a number of us feel that this whole process has gone on long enough. Periodically, for the last 8 or 10 months, we have been debating or debating around S. 2, the bill providing for public financing of campaigns and making other changes in the Federal election law. And, as was pointed out I think very ably by my colleague from Wisconsin, that is not a narrow part of this overall process. There are alternatives. There is more than just S. 2. There are Republican positive, constructive alternatives, and yet we have been debating a very narrow set of issues, simply around one particular bill, and we are in the process of debating, now, all sorts of different sides of this bill.

Actually, through this all, one thing has become clear. Mr. President, the Senate is not going to pass this bill, S. 2. The body is not the House of Representatives. It is not governed by a simple majority rule. Controversial legislation in this body, in the Senate, can be customarily debated and shouted through as it can in the other body. The minority in the Senate cannot be treated as if it did not exist or as if its views deserve no consideration, as is sometimes the case in the House of Representatives. And I do not think the legislative procedures of the other body, especially the
treatment of the minority, is anything that we ought to be trying to copy in the Senate, and I am, frankly, shocked and concerned that the leadership on the other side of the aisle appears to disagree with that basic premise and, instead, through a process of trying to force votes through cloture and through other efforts, are forcing something through rather than debating all of the sides of this issue and getting the balance and the deliberation that, in general, distinguishes this body, the United States Senate.

This business of sending out the Sergeant at Arms to break into Senators' offices in the middle of the night and physically dragging them to the floor to force them to vote against their will does more than subject this body to public ridicule; it does more than take the Senate's time in a year where we have many vital pieces of legislation to act on. It really amounts, Mr. President, to a kind of childish and futile display of impatience with the President, to a kind of impatient and capricious and often foolish piece of legislation favored by the majority that will not lieve, to stay in compliance with even the existing regulations, with the law–too much time raising money. They do pass this body. That is the nature of spending serving in active constructive and time that Senators could be here for.

How we ought to be deliberating and rules and realities of the publican or a Democratic majority, representatives. Any majority—could be railroaded or any legislation like the civil rights bill of 1968 through this body just as it sometimes does more than subject this body to public ridicule; it does more than take the Senate's time in a year where we have many vital pieces of legislation to act on. It really amounts, Mr. President, to a kind of childish and futile display of impatience with the President, to a kind of impatient and capricious and often foolish piece of legislation favored by the majority that will not lieve, to stay in compliance with even the existing regulations, with the law–too much time raising money. They do pass this body. That is the nature of spending serving in active constructive and time that Senators could be here for.

There are some pieces of legislation favored by the majority that will not pass this body. That is the nature of the Senate. That is what the Senate is here for.

I want to make it clear that I am no fan of the current system of campaign financing. Senators have to spend far too much time raising money. They do have to make too great an effort, I believe, to stay in compliance with even the existing regulations, with the lawyers and the accountants and all the kinds of work that we must go through and that whole process of raising and spending and accounting for oneself and from time to time when Senators could spend on legislation and time that Senators could be spending serving in active constructive roles in a campaign.

If it were not that way, every unfair or foolish piece of legislation favored by any majority—not necessarily a Republican or a Democratic majority, any majority—could be railroaded through this body just as it sometimes is, as I said, in the House of Representatives.

To rail against this reality, against this fundamental aspect of the Senate's nature, just to make a partisan political point, because this bill is not going to pass, I think does discredit to the entire body. It is a discredit and it is an embarrassment.

Turning to the content of the legislation, the bill itself, we have to ask ourselves: Why are we doing all of this? It is not on behalf of historic legislation like the civil rights bill of 20 years ago. We are not standing up here deliberating and spending this time on issues like the Panama Canal Treaty or on arms control or the INF agreement which is coming before us. So what is the key issue? Why are we finding ourselves doing this? Why go through all this?

Well, one way of looking at it is that proponents of this bill, the majority in this body, are trying to establish another spending program and, in effect, that is what public financing is right now.

I can justify spending more money on some things to my constituents in Wisconsin. We may have to cut spending elsewhere to pay for spending increases, like for the spending increases that would be included in this legislation, and we might end up by cutting money for very, very important programs. It could be AIDS research, it could be the women's and children's programs, it could be targeted export assistance, it could be research on ways to protect our ground water; these are issues that the people of the United States and the people of this country want us to be spending money on and, because of Gramm-Rudman and because of other restrictions and restraints, we do not have the money that we really would like to be spending on these important issues and yet at the same time we have people who are trying to come here and pass a program that is going to be spending millions of dollars. And who will be the recipients of those millions of dollars? Us; the United States Senate; politicians, instead of AIDS research; target, export assistance, ground water help and the other kinds of issues.

I cannot justify spending millions of dollars of my constituents' money to pay for my reelection campaign or the reelection campaigns of my fellow Senators. I cannot justify it because it violates a fundamental principle of Government or the U.S. Senate; politicians, instead of AIDS research, targeted export assistance, ground water help and the other kinds of issues.

I cannot justify spending millions of dollars of my constituents' money to pay for my reelection campaign or the reelection campaigns of my fellow Senators. I cannot justify it because it violates a fundamental principle of the responsibilities of a candidate for public office.

People should not be taxed in order to contribute to a candidate whose views and positions they might not support. People should not be required, through this system, to contribute to political candidates of either side, if they were to choose not to spend their money supporting the political process through contributions.

There are a large number of people who would prefer to just, simply vote and not be contributing money. This bill means that everyone through the tax system would be contributing money to politicians and Senators for their own reelections.

I had a lot of independents and Democrats in Wisconsin who contributed money to my last campaign and I voted for me and supported me. They did it because they liked me and thought I was doing a good job and their help meant a lot to me but what is important is they contributed money to me out of their own free will. They were not forced, they were not taxed, they did not have their arms twisted, they were not conned to having that tax dollar used paying for someone that they did not see reelected they made that decision that their money would be used for political purposes.

There is nothing wrong with candidates for public office rising or falling on their own merits. That idea, I think, is central to our democracy. There is no reason that candidates who cannot generate support for their campaigns should be assisted in support by the taxpayers. One of the responsibilities of a candidate for public office, whether it is this Senate or the House or the Governor or the Governor, or the council or the assembly or any public office, one of the responsibilities for any candidate for any office is to be able to generate financial as well as voter support for their campaign. That is a job of the campaign and those candidates should not be taxed, they did not have their arms twisted, they were not conned to having that tax dollar used paying for someone that they did not see reelected they made that decision that their money would be used for political purposes.

There is no reason that candidates who can generate support should have their task made easier by the taxpay--and if we have got a group of people who have demonstrated over the past years that they can generate financial support, from individual people, it is the people who have gone through the last several election cycles, because they have become more and more expensive and more and more difficult and the people who have made it here have been able to generate that kind of support.

We are in the process now, of taking the group of candidates and incumbents who have already demonstrated the ability to raise money and asked the taxpayer, now, to come in and supplement even those amounts. I want to emphasize the point. Which candidates for public office have the greatest capacity to raise funds? Is it the unknown person who has never run for public office before? Obviously the candidates who occupy public offices already, the incumbents, are the candidates that have the greatest capacity to raise funds. In other words, S. 2 as it is written right now does not help the outsiders. What it does isatten up the war chests, the already fat war chests which incumbent Senators have been able to build up.

Which candidates get the greatest share of special interest contributions? Look at the facts. Especially in the House of Representatives but in our body as well, which candidates get the greatest share of special interest contributions? It is the incumbents in the House and in the Senate. That is one of the reasons why most incumbents are re-elected.

Which candidates already have the advantage of free publicity? Which candidates already have the advantage of Government-financed travel? Which candidates already have the advantage of...
vantage of the franking privilege? Again, it is the incumbents. This bill is saying: take all of those advantages and then tax the people of the United States of America in order to put more money into those advantages which incumbents already have.

Public financing simply gives incumbents one more advantage, an extra leg up. The incumbents would not have to work as hard at finding the minimal support for their campaigns because the Government matches the money they raise with a check from the taxpayer.

Under S. 2, if a candidate accepted public money for his campaign, he would have to abide by the spending limits. Leave aside for the moment the question of whether too much money is spent on political campaigns; all I would note in passing is that a substantial amount of the money that is spent by the political parties in our campaigns is spent on an activity which does absolutely nothing to match the incumbent's already built-in advantages, those challengers would have a chance to raise more money than that incumbent raises. The point is that that franking privilege, that free mail is worth a certain amount of money and in order to match it, the challenger has to raise money to match the public funds. In order to match the travel back and forth to the district which an incumbent has, the challenger has to raise money to pay for that travel. The Government is financing that travel. Just to be even, the incumbent has to raise more money than the incumbent U.S. Senator in every single one of the races in order to match off the benefits that are already. They have that right under S. 2.

Yet, here we are in the process of adding still more to that advantage. I think, under S. 2 it will become nearly impossible for most challengers. People talk about it as an incumbent's bill, and it clearly is. Challengers that declined to abide by the spending limit, that is challengers who decided they had to raise more money in order to match the incumbent's already built-in advantages, those challengers who went over the spending limit specified in S. 2 would find their opponents given, first of all, the public funds that they were denied. So this is money on top of money, taxpayer dollars on top of taxpayer dollars. The incumbent opponent would also be guaranteed the lowest unit rate for television and radio advertising and special first- and third-class mail rates, guaranteed by law.

There are two exceptions to the rule that S. 2 would block challengers from outsending incumbents, and they are very, I think, interesting exceptions. The Senator from Mississippi alluded, I think, to one. This whole issue of wealthy candidates and how much money individual wealthy candidates can spend on their own campaigns, this issue involves the exception that I was referring to a moment ago. It involves candidates who can raise truly staggering amounts of money relative to the size of that State and with the limits on individual and PAC contributions that we now have, this really means candidates who are themselves very wealthy. A Republican alternative is trying to deal with that issue.

The second exception to S. 2 involves cases where a challenger has available to him large numbers of people willing to work on his or her campaign. This can happen if a challenger is able to generate some kind of spontaneous enthusiasm among large numbers of people who decide for one reason or another to go to work for him or her on their own, and this does sometimes happen.

But much more common is the case of a challenger supported by outside groups and particularly by labor unions. Labor unions have a ready-made organization. They can organize their members. They are already organized and they can organize their members for volunteer work on a particular candidate's campaign. They can poll their members as to which candidate those members intend to vote for and then make sure that those members intending, vote for their union leadership's choice, get organized and get to the polls.

Labor unions, in fact, can make many so-called soft money contributions in many ways difficult to monitor.

Again, here is an issue that we are trying to deal with in our alternative and especially to congressional campaigns. This is not just an incumbent supported by a labor union. The second exception to the so-called soft money contributions that are presently dealt with individual contributions and with PAC's but also with the so-called soft money, and our alternative discusses and addresses the problem of the soft money but labor unions can make the so-called soft money contributions many different ways and right now under present law most are difficult to monitor. They have that right under our system. There is nothing wrong with what they do, so long as union members are not coerced in supporting candidates they do not wish to support.

But the fact is labor unions, generally speaking, support Democratic candidates most of the time. And it is no coincidence that these kinds of contributions by labor unions are not effectively regulated by S. 2 and no approach is made to regulatory those contributions.

Our alternative does not deal with labor unions but with this local soft money group that is trying to address that problem and address it in a thoughtful and I believe a helpful way.

(At this point Mr. Rockefeller assumed the chair.)

Mr. KASTEN. The bottom line is that a system already weighted heavily toward incumbents—and that is what we have got today—would be tilted still further in that direction by legislation which would mandate taxpayer financing of political campaigns. And the biggest exception to the spending limits that go along with these taxpayer-financed campaigns would be major interest groups that work primarily for Democratic incumbents in most cases.

This is not just an incumbent protection bill. It is a bill that I believe would drastically shift the neutrality right through between the two parties that the present system has heavily in favor of the Democratic Party. I think it is wrong.

There are a number of important differences when people talk about S. 2 and Presidential election funding. Some have said on the floor that, "Heck, it works, it is wonderful and it works very, very well for the President," and especially to congressional campaigns. Why don't we simply put the same system in place for the Senate campaigns? S. 2 proponents argue that the so-called success at the Presidential election funding means congressional public financing and spending limits will be successful.

This, Mr. President, is fallacious. As section 4 points out, the assumption that Presidential public funding and spending limits have been successful is arguable at best. Even if it were a success, I do not think it follows that a similar scheme would be successful for a Senate campaign. Presidential and Senate races are fundamentally different. The eligibility of Presidential candidates is very, very high and clearly we have all seen that over the past few weeks as the primary season has begun. The campaigns of major Presidential candidates during the general election period had nearly 100 percent name identification and we are seeing close to that in some of the key public primary States already. Such statistics are a dream for most challengers to the U.S. Senate campaigns and especially to congressional campaigns. They simply do not have that kind of recognition. You simply cannot get that kind of name identification. You do not have that kind of visibility, whether it be in newspapers, the television, or on the radio.

Presidential campaigns receive extensive news coverage in the print and broadcast media daily. This is not true for Senate campaigns. This is not true for House campaigns. Senate campaigns must achieve visibility through...
personal campaigning by the candidates and importantly through paid advertising.

Paid communications are a principal informational mechanism in congressional campaigns to a much greater degree than they are in any Presidential campaigns.

Section 4 also points out the quagmire of enforcement problems creating in the public violation in enforcement has actually increased the public system about the election process.

In fact, Presidential public financing has served to destroy direct public participation in campaigns, reducing the citizen's role to a kind of a passive watcher of the TV advertisements.

David Broder, a senior political analyst for the Washington Post, recently observed and I quote:

There is a cost to public financing. Public financing of Presidential campaigns has meant a virtual shutdown of local headquarters financed by small contributions.

There is another argument that is being worked through here having to do with undisclosed expenditures.

Spending limits are premised on the fallacy that by limiting spending, they will reduce the money spent on campaigns. This also is wrong. This same amount of Senate and House spending will just be spent on projects that will not count against the spending limits and in certain cases will not be reportable.

Another argument that has been raised talks about the political process and how I believe the discussion has been twisted.

Those quotes are from a study entitled "Financing Presidential Campaigns, The Recommendations Of The Campaign Study Group" by a gentleman named Christopher Alderton.

Another argument that has been raised talks about the political process and how I believe the discussion has been twisted. S. 2 alone I think would hurt the political process, not help it. The reforms there being proposed I think would block true reforms that could come out of either this eight Senator committee that is supposed to be working even this afternoon they may be meeting, if we were to pass S. 2, I think we would block or hinder efforts for true reforms.

Spending limits damage the American political process as much as public financing. Money allows candidates to present their views to the voters. That should not be restricted by either spending limits or by public financing. It is especially important I believe that challenger candidates have enough money to become available to the public so they get their message across. Spending limits make that difficult. Spending limits in general would benefit the Democratic party.

The Republicans can raise more money through Democrats through small grassroots contributions. This has been discussed last night, discussed again. Smaller contributions and a greater number at least so far is something that the Republican candidates in general have been able to do well at. The fact is that the Democrats, you might now have some small donors among the American public they do have more larger donors and particularly in the House overrepresents significantly more special interest or PAC contributors than do the Republicans.

Spending limits are therefore the Democrats' way of overcoming their inability to raise money from average people who would like to contribute to campaigns. Spending limits would eliminate from the American political system the role of the small donors and help the other political party by not hurting their PAC groups and their special interest groups.

I said that if we were to pass S. 2 and we were certain that we will not, that we would block true reform. I believe that this bill would hurt our ability to look at the entire package. In other words, I believe that this would be difficult once we passed S. 2 for us to go back and to look at a comprehensive...
DEMOCRATS OUTSTRIP REPUBLICANS IN PAC FUNDS AS INCUMBENTS HOARD $94 MILLION IN WAR CHESTS

Democratic House and Senate members have raised $12.5 million from political-action committees, nearly twice as much as the $6.4 million raised by Republican lawmakers, latest campaign-finance reports showed.

The reports show that incumbents have hoarded a record total of $94 million with which to scare off or defeat potential challenges. Democratic lawmakers hold 51% more campaign cash than Republicans.

The reports, filed by candidates with the Federal Election Commission, cover the first total amount among Senators and more computer-aided tabulation. Figures are preliminary; tardy and amended reports will be trickling in for weeks. But they provide the first complete look at how incumbents are financing their 1988 re-election campaigns.

The money chase is accelerating even as the Senate continues a partisan debate over revising the campaign-finance laws. Democrats favor and Republicans so far refuse to support a bill to limit spending by congressional candidates, and to restrict the totals that candidates may accept from PACs.

Such a bill, applying to Senate candidates, is being pushed strongly by Senate Majority Leader Robert Byrd (D. W. Va.). Despite weeks of debate and behind-the-scenes maneuvering, Sen. Byrd was unable to muster the 60 votes needed to break a Republican filibuster against the PAC-limit measure.

The Senate will take it up again after Labor Day.

Meanwhile, Sen. Byrd has reported getting $410,529 from PACs, the fourth-highest total of any Senate candidate. Other political challenges fueled by individual contributions. Sen. Byrd's main money raiser is the fourth-highest total of any House candidate. "a doozy" of a mistake and refunded the money. But many of the same donors had given again by June 30, the last day covered by the latest reports.

"Who's who" on the leading PAC money men:

**BENTSEN LEAD ALL OTHERS**

In fact, a Democratic senator easily outdistanced all others in PAC receipts for the period. Sen. Lloyd Bentsen of Texas, chairman of the Finance Committee where both tax and trade bills are written, reaped $11.1 million from PACs.

Sen. Bentsen suffered earlier this year from publicity about a "breakfast club" of lobbyists with whom he agreed to meet regularly over eggs and bacon, in return for $10,000 PAC donations. Sen. Bentsen admitted to "a doozy" of a mistake and refunded the money.

His presidential exploratory committee got $164,959 and another Senate committee, Campaign America, got $186,454 from other PACs. Meanwhile, just to be sure, Dole set up a "Faith '92" committee, which took in $5,570 from PACs.

Republican Sen. Orrin Hatch of Utah got $129,211 from PACs. Of them sponsored by corporations or trade groups, the third-highest total of any senator. And House Republican Leader Robert Michel of Illinois raised $149,80 from PACs, placing third among House members.

Incumbents of both parties often raise money long before they have any real need for it, openly hoping to frighten away challengers. As of June 30, more than 17 months before election day, 10 House members reported more than $500,000 each, and 11 Senators reported $1 million or more.

**DREIER LEADS IN CASH ON HAND**

Republican Rep. David Dreier of California reported the highest total of cash on hand of any House member: $964,376. He reported raising $429,059 this year, bringing his total to more than 70% of the vote, and Congressional Quarterly's "Politics in America" yearbook says he's about as safe as he can be from any political challenge. Yet Rep. Dreier says he's planning another of his yearly California fund-raising events in September.

I think it's important to build and maintain a strong base of support, said Representative Dreier. "As a Boy Scout, I was always prepared."

But the point here is what we are seeing is a large number of incumbents and a large number of people who are already piling in the money, and frankly we are also seeing some real problems in terms of the direction we want to go.

What are we going to do about these PACs? What are we going to do about articles such as the one that I just read from, and what does S. 2 do about PACs? What does S. 2 do to address the problems that I just outlined here citing examples from both sides of the
aisle? S. 2 fails to reduce the amount a PAC can contribute to a candidate for the Senate. Some people think that is not the case.

There is a paper in my home State of Wisconsin which thought we were in the process of limiting PAC contributions. They are wrong. S. 2 fails to reduce the amount of money a PAC can contribute to a candidate for the Senate. It simply limits the amount a candidate can receive in the aggregate from all political action committees.

S. 2 in no way reduces the perceived problem that a Member of Congress may be unduly influenced for a $5,000 fee. S. 2 would allow an individual PAC to give the same amount of money as under current law and therefore the same amount of influence under the logic of those who say we should be the main PAC’s.

Republican proposals which limit the size of the contribution from a special interest to a candidate is a more direct way to deal with actual or apparent undue influence by a political action committee. The proponents of S. 2, the opponents of our Republican alternative, have projected this approach because, I believe, they recognize their candidates are more dependent upon large contributions from special interests than our Republican candidates.

In 1986 elections, Democratic Senate and House candidates received 55 percent of all contributions made by PAC’s, compared to 45 percent for the Republican candidates. In addition, PAC contributions accounted for an average of 37 percent of the money raised by Democratic Senate and House candidates, 28 percent for Republican candidates.

So far in 1987, Democrats are raising nearly twice as much PAC money as Republican Senate candidates, as I pointed out in my article, and are making special interest money the centerpiece of a large number of their fundraising efforts.

Furthermore, S. 2 has to some degree the opposite effect from that which is desired. A PAC is a collection of individuals, political action committees, a collection of individuals with common goals and concerns who band together to better participate in our electoral process. More people now give through PAC’s than through direct contributions.

In the 1984 cycle, almost 5 million people were estimated to have gotten involved through PAC’s. We should encourage this involvement which is fully reportable and a matter of public record. S. 2 would limit this public participation by only allowing some PAC’s to contribute to candidates. This would work to the advantage of some of the large powerful political action committees, PAC’s, based in Washington. The grassroots PAC’s without a Washington presence are the likely probable losers.

If the candidate is limited to what they can accept, those PAC’s which have to spend the time and money to do it quickly would be the ones that would get to contribute and those would be the big power PAC’s right here in Washington. It might not be S. 2’s intent but it is a likely result.

For example, if the Senator knew he could raise only a limited amount of money from PAC’s, total aggregate, he might do things a little bit differently. He would not have to bother with meeting with a whole number of PAC’s across the country, going out into the grassroots where the smaller political action committees are and familiarizing himself with those issues, Mondale campaign. Few miles away, he would simply hold one big PAC event, one big night in Washington, and contribute to his campaign that night, the big ones would be there on a first come, first serve basis, and he would be up to his legal limit and his efforts of fundraising would be ended.

I think it is important to recognize that we simply are not doing what we say we intend to do. Complying with the provisions of S. 2 could be as difficult as complying with the Presidential campaign law. As I pointed out before, this has been very, very difficult.

Listen to this account from the 1984 Mondale campaign.

The date is January 3, 1987. It is four years from the day that the Mondale for President Committee registered with the Federal Election Commission (FEC) and 26 months since the campaign was over.

Inside a small office, piled high with files and boxes, sit two deputy counsel of the Mondale campaign. A few miles away in another office the committee’s treasurer periodically meets with his lawyers and reviews documents passing to and from the Federal Election Commission.

Remember, this is 4 years after the day the Mondale campaign registered the first time with the Federal Election Commission, 26 months, over 2 years, after the campaign.

These three people (the authors of this article) plus a part-time controller and part-time counsel are left of the Mondale for President campaign, a campaign which for most people has been long since over.

In the past, we have all been reasonably confident that the Federal Election Commission Act (FEC) is a workable solution to the admitted and potential problems which plague the area of the campaign financing. Now we are troubled by a campaign finance law which is used as a campaign weapon; spawns “creative” efforts to comply with—really evade—its limits; has made presidential campaign fundraising increasingly burdensome; and has led to rules which in our view sometimes make no sense and inhibit healthy campaign activity.

For those of us responsible for the campaign’s compliance with the Federal Election Campaign Act of 1971, as amended, the path from registration of the committee in 1983 until today has been a long and frustrating one. It is our hope that by sharing some of our experiences and highlighting some of the unresolved questions, the trail will be easier for future campaign committees.

A BROAD RANGE OF ISSUES

A broad range of legal issues arises throughout the course of a presidential campaign. While the primary emphasis is on campaign laws, there is a host of legal matters that also require attention; for example, tort liability, contracts, equal employment opportunity laws, corporate law, constitutional questions and state election laws. These problems range from weighty legal questions to those that sound more like the script of a television sitcom.

For example, during 1984, Mondale staff and volunteers backed a rented truck into a cathedral in San Francisco, damaging both; clipped a wing off an airplane with another truck; broadsided a cow with a rental car (the cow was held liable); and drove another rental car the wrong way down a one-way street into an oncoming fire engine with its siren on and lights flashing. A routine day also included a request for permission to market a “Gerry” wig.

With such a range of legal problems, it is important for a campaign treasurer and the campaign’s counsel to find as much volunteer legal help as possible. There is a need for those who may be able to spend large amounts of time and those with critical expertise, but who are only available for telephone consultations and an occasional meeting.

When the campaign is in full swing, in-house lawyers and campaign managers can no longer see the forest for the trees. It were were two seasoned practitioners who were there to reason with or pitch in during the crisis.

Mr. President, I would like to at this point ask unanimous consent to have this article by Lyn Oliphant, Pat Fiori, and Michael Berman, which appeared in the Federal Bar News & Journal entitled “Counseling a Presidential Campaign” appear in the Record at this point.

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

(From the Federal Bar News & Journal, February 1987)

COUNSELING A PRESIDENTIAL CAMPAIGN

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In the past, we have all been reasonably confident that the Federal Election Commission Act (FEC) is a workable solution to the admitted and potential problems which plague the area of the campaign financing. Now we are troubled by a campaign finance law which is used as a campaign weapon; spawns “creative” efforts to comply with—really evade—its limits; has made presidential campaign fundraising increasingly burdensome; and has led to rules which in our view sometimes make no sense and inhibit healthy campaign activity.

For those of us responsible for the campaign’s compliance with the Federal Election Campaign Act of 1971, as amended, the path from registration of the committee in 1983 until today has been a long and frustrating one. It is our hope that by sharing some of our experiences and highlighting some of the unresolved questions, the trail will be easier for future campaign committees.

A BROAD RANGE OF ISSUES

A broad range of legal issues arises throughout the course of a presidential campaign. While the primary emphasis is on campaign laws, there is a host of legal matters that also require attention; for example, tort liability, contracts, equal employment opportunity laws, corporate law, constitutional questions and state election laws. These problems range from weighty legal questions to those that sound more like the script of a television sitcom.
nancing. Now we are troubled by a campaign finance law which is used as a campaign weapon; it is more "creative" than essential. It is hard to comply with—really evade—its limits; has made presidential campaign fundraising increasingly burdensome; and has led to rules which may make sense and inhibit healthy campaign activity.

For those of us responsible for the campaign compliance program of the Federal Election Campaign Act of 1971, as amended, the path from registration of the candidate to the path from registration of the committee was two seasoned practitioners who were never to be filled by the same person. There is a need for those who may be able to spend large amounts of time and those with critical expertise, but who are only available for phone consultations and an occasional meeting.

A BROAD RANGE OF ISSUES

A broad range of legal issues arises throughout the core of a presidential campaign. While the primary emphasis is on election law, there are a number of other legal matters that also require attention; for example, tort liability, contracts, equal employment opportunity laws, corporate law, copyright questions, and communications law. These problems range from weighty legal questions to those that sound more like the script of a television sitcom.

For example, during 1984, Mondale staffers reported that a rented truck had rammed a cow with a rented truck; broadsided a cow with a rental truck; and inhibit healthy campaign activity. For example, during 1984, Mondale staffers reported that a rented truck had rammed a cow with a rental truck; and broadsided a cow with a rental truck in the script of a television sitcom. With such a range of legal problems, it is important for a campaign treasurer and the campaign's counsel to find as much time as possible. There is a need for those who may be able to spend large amounts of time and those with critical expertise, but who are only available for telephone consultations and an occasional meeting.

When the campaign is in full swing, in-house lawyers and campaign management can easily lose perspective. Invaluable to us were those problem situations which were there to reason with or pitch in during times of crises.

One of the key questions confronting the treasurer is how to structure the internal campaign organization in order to facilitate compliance with the law. From a legal standpoint, the treasurer is the key person in the campaign because that person is responsible for FEC compliance. The treasurer is, in essence, the client and, for this reason, the jobs of treasurer and counsel should never be filled by the same person.

A second key element in fostering compliance is the internal system. It should be in place before any financial activity occurs. Whether to maximize matching funds or to stay within expenditure limits is a day-to-day issue of essential.

UNRESOLVED QUESTIONS

Campaign organizations tend to push the limits of permissible election finance activity. For a good example, legal interpretations adopted in one presidential cycle become the new jumping off point for the next cycle, raising new questions concerning the reach of the federal election laws.

Footnotes at end of article.

1.—Delegate committee

Frequently these new frontiers of campaign activity are the subject of FEC compliance actions. One of the FEC's most desirable courses of action is to permit redesignation with notice by the candidate. There is some evidence that this course of action is being considered by the FEC in at least one case.

Whether to maximize matching funds or to stay within expenditure limits is a day-to-day issue of essential.

3.—Sources of funds for repayments and penalties

Neither the FECA nor the regulations make clear how the Federal Election Commission -- which makes clear from what funds repayment may be made, candidates in 1988 will not know whether they are seeking repayments from their regular campaign accounts, which include a mix of private and public funds.

The Commission has taken a clear position that civil penalties can only be paid publicly-funded campaigns from sources which do not include public funds. Similarly, the Commission should take a position on the repayment question.

4.—Draft committees

Through no fault of the FEC, the status of draft committees remains unresolved. Persons involved in the Draft Kennedy movement prior to the 1980 presidential campaign refused to comply with subpoena or the FEC's order that the activity of the draft committees was beyond the purview of the FECA. Meanwhile, the Congress made a minor change in the FECA reporting requirements. The federal appellate courts confirmed the lower court decisions and interpreted the change in the FECA as subjecting draft committees to the reporting requirements but not the contribution limits.

Congress, despite the FEC's repeated recommendations, has not chosen to take further action, leaving the FEC essentially powerless to extend its control over draft committees.

CURRENT STATUTORY AND REGULATORY DELEMMA

In certain respects the FECA was not designed nor has it been modified to deal with the passage of time. Certain of the regulations adopted by the FEC seem to deny the realities of modern-day campaigns, while others beset for a rationale. The net results is that the law has become substantially more burdensome than it needs to be to meet its overriding goals.

1.—Contributions limits

The FECA limits contributions by individuals to $1,000 per election. Had the contribution limits been indexed in the same manner as the expenditure limits, the individual limit in 1984 would have been more than $2,000. Fund raising is no longer a test of viability, it is a test of stamina. Candidates are forced to divert attention from issues and campaigning to raising money.

The reason for the limits, potential candidates for president have turned to vehicles other than campaign committees to finance activity at the very early stages. First, it was the creation of independent multi-candidate political action committees (PAC's), which may accept $5,000 per year from individuals. PAC expenditures do not count against any limit. Now, it is the organization of think tanks, which are tax-exempt, tax-deductible foundations.

The FEC can no longer achieve its goals, and the real public interest does not benefit, when unrealistically low limits cause candidates to wear themselves out with fund raising and finding new vehicles to attract and
spend money. Respect for the law and confidence in the integrity of campaigns is in no way enhanced by having people underwrite activities if they are not careful, over time the FECA will go the route of all those campaign finance laws which preceded it.

2.-Primary matching funds

Under the Presidential Primary Matching Payment Account Act, a candidate seeking nomination by a political party may opt to accept public funding to match contributions which the candidate raises privately. After canvassing a certain threshold required contributions, private contributions are matched with public funds up to the first $250 received from each individual, up to an aggregate amount of $1 million during the primary season in debt. The period between the end of the primary season, and the general election is limited in the amount he or she can raise, in a small, early state on the theory that a win there will carry him or her much farther than a war of attrition, that should be his or her choice. These limits spawn the most creative efforts to evade the spirit, if not the letter, of the Act.

The Presidential Primary Matching Payment Account Act and the FECA limit the amount that a candidate can raise, in states which he or she has met the eligibility threshold for matching funds should be allowed to engage in traditional party volunteer activities without the expenditures for those activities counting against the candidate’s limits.

Some have suggested that the current grassroots provisions are being exploited as a loophole by state and local party organizations. The requirements of this law are so difficult to follow that they curb healthy campaign activities. Add to this the fact that state laws and federal laws usually differ. It is easy to see why well-meaning volunteers get frustrated, and much spontaneous participation, so important to the process, is lost.

6.-Use of private aircraft

The FEC’s regulations controlling the use of private, nonscheduled aircraft by federal candidates are something to behold. By careful choice of airports and selection of aircraft based on who owns the plane (regardless of charter company or other corporation), the amount which a candidate pays for a trip may vary by tens of thousands of dollars.

REVISION OF PUBLIC FINANCING REGULATIONS

The Commission is considering significant changes to the requirements for all candidates and committees. The Commission and its staff acted to have the last-in-first-out method for determining the ultimate financial position of the candidate, itself, has considered matters and, at least, shouldn’t be brought to even a preliminarily close to the end of the financial activity has been completed. In no case should the audit of a successful primary candidate begin until after the general election. Third, third-party candidates should have their treasurers will be found by the General Counsel’s office and Audit Commission AND, in each instance in which the Commission to have violated the Act, that the results were reasonable in the circumstances.

Throughout the campaign, our lawyers, talking with the General Counsel’s office, say that we like the outcome of every encounter with the Commission. It is to say that the results were reasonable in the circumstances.

There are several changes that would likely speed up the process. First, the FEC should adopt regulations and require adherence to strict time deadlines for the compilation of audit work and the staff review. Second, the audit should not be commenced and, at least, shouldn’t be brought to even a preliminary close until the bulk of the financial activity has been completed. No case should the audit of a successful primary candidate begin until after the general election. Third, third-party candidates should have their treasurers will be found by the General Counsel’s office and Audit Commission AND, in each instance in which the Commission to have violated the Act, that the results were reasonable in the circumstances.

Because presidential campaigns are a unique animal in the election law firmament, perhaps the Commission and the campaigns would be well served by using major accounting firms to handle this audit under the supervision of the Audit Division.

SERVING AS TREASURER

The FEC requires that a campaign have at least one officer, a treasurer. No contribution can be received or expenditure made when that post is vacant. Otherwise the title of treasurer rests on any candidate as a prominent supporter. However, in our view, treating the job of treasurer as an honorific rather than as an operating position is a mistake for the entity, and for the individual seeking or accepting the “honor.”

Treasurers will be found by the Commission to have violated the Act, in their offi-
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lating presidential campaigns, or one day we may come to the conclusion that so many of you didn't bother to watch. You're also paying a large share of the costs of the Democratic and Republican conventions which are included in the act of being a candidate and convention subsidies cost you about $75 million; this year, with a postal subsidy added and the price of nearly everything going up, that will cost you at least $105 million, probably more.

If that may not be much by government standards, but I bet it seems like a lot of lay to you. Especially when you consider what you are getting for your money?

Perhaps you're among the roughly 76 percent of taxpayers who do not check off a dollar on their tax returns for the Presidential Election Campaign Fund. So you may think that you're not paying the bills of the candidate and convention fund. In other words, the 36 percent of taxpayers who do check off appropriate money for the 70 percent who do not. If this doesn't sound generous to you, you just add the problem of separation of powers at Common Cause. They say it's a reform.

Anyway, back to the main point: What are you getting for your money? First, you might consider the quality of candidates this year. Are they worth $100 million? (Are they worth $100, you might ask.) Perhaps we judge contemporary leaders too harshly; maybe we should look to history as a comparative guide. But sometimes history is even tougher.

During the 1980 primary season, historian Barbara Tuchman said of the various presidential candidates: "Look what we've offered you. The people of the United States will not select George Washington has got this collection of crumb-bums!" Mort Sahl offered similar views a few years ago. Sahl noted that during the American Revolution, when our population was far smaller than it is today, we had leaders such as Thomas Jefferson, Samuel Adams and Thomas Paine. Now, he said, we have leaders such as Gerald Ford, Ronald Reagan, Jimmy Carter. His conclusion? "Darwin was wrong."

Eventually, every campaign completes its responsibilities under the Act, the last report is filed. The last box of records is dry on the document proposing it. The fact of the matter is that no campaign treasurer can maintain sufficient day-to-day control over the operation of a large campaign spread over 50 states, so as to assure that no provision of federal law is violated. Anyone who accepts the position of treasurer should assume that there is a better chance of his being的是 to be the subject of a regulatory complaint than of his ever being the subject of a criminal prosecution. The treasurer should assume that there is a better chance of his being的是 to be the subject of a regulatory complaint than of his ever being the subject of a criminal prosecution.

The following is an overview of the material presented in the text:

CONCLUSION

- The current system of public financing of presidential campaigns is not working as intended.
- It is time for the Congress to take a closer look at the financial requirements of presidential campaigns.
Anne Cox Chambers and her husband contributed $51,000 to Democratic candidates and committees from 1973 through 1976. Warner and his family donated nearly $50,000 to Democratic candidates from 1974 through 1976; Carter made $57,000. The two major parties slipped the postal subsidy through Congress in 1978, by passing a bill, paying for the party's non-profit bulk rate. Then last year, after realizing that several of the minority parties were taking advantage of it, they voted to end the subsidy for themselves. This year the minority parties struck back with a lawsuit in federal court, charging discrimination. (John Anderson's independent campaign joined the suit late in the game.) The minority parties and Anderson won their case, though they are still excluded from the subsidy.

Now there's an effort in the House to cut off the postal subsidy altogether. The subsidy is a sweat-offer for each letter in a bulk mailing; so it's worth bushels of money to the Republicans, who send out huge volumes of direct mail. You can expect to hear moans of pain and grief if the effort to end the subsidy is successful; the party fund-raisers will sound like banshees.

But I think the opponents of the subsidy have a point: It's bad enough to have junk mail overflowing from your mailbox when the sender pays for it, but it really hurts when you have to pay for it (nobody knows the trouble you've seen; nobody knows the sorrow.)

You should also know about the waste of political subsidies. Some of them are more political than others, but as a general rule, the political parties are more interested in private funding than the interest groups are. Perhaps we should write into the law a guarantee that you may attend any political party you helped finance. If that were to come about, I fear we would offer you less than the political parties think you're worth, but at least the principle of fair play would be established.

I don't know what the Carter-Mondale ticket might receive a bonus for the Great Ford Flirtation at its convention, if the Democrats stage a spectacular family fight, with broken dishes and blood all over the floor; they could win a third of the spoils. On the other hand, negative points would be as

The Republican committees have paid out $15,000 to the American Film Institute for a program script for the convention. In the good old days, conventions didn't have scripts. But that was just the beginning. The GOP paid $20,000 to Water Mill for a more, Inc. of New York City for a design and development contract having to do with "podium design." Water Mill received another $85,000 of your tax money in the spring for construction supervision, a large-screen projection system, and other items. But Syd Vinede Productions Inc. of Los Angeles has received a lot more of your money. By June 30th they had been paid $200,000—and were owed another $50,000— for the "Auxiliaries Film;" and they still owed Palisades another $20,000. They sent $37,000 to A.B. Productions, Inc. of Los Angeles for a convention. I don't know about you, but I'm beginning to think that the GOP should have held its convention in Hollywood instead of Detroit.

There's more, much more, about the Repub- lican convention that might dismay you. It's $200,000, for example, for a "timer, etc. for hearings." That was either a mighty expensive timer or a mighty big "etc."

But enough of that. The question now is how the Republicans will be able to cover all of the costs. Perhaps we should write into the law a guarantee that you may attend any political party you helped finance. If that were to come about, I fear we would offer you less than the political parties think you're worth, but at least the principle of fair play would be established.
received nearly $7.3 million in matching funds—far more than any other primary candidate after the Republican convention, he applied for and received $29.4 million for the fall campaign. That compares to a total of $41 million in campaign subsidies for a man who does not believe in them. Cramps is no dummy.

Mr. KASTEN. Mr. President, this legislation would mean that the taxpayers would be financing campaigns. I think on that basis alone it deserves to be defeated.

The quorum call is not in order since a quorum is not present. The clerk will proceed with the roll.

The legislative clerk resumed the call of the roll.

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

The PRESIDING OFFICER. Is there objection?

Mr. SIMPSON. Mr. President, I object.

The PRESIDING OFFICER. Objection has been heard. The clerk will continue calling the roll.

The legislative clerk resumed the call of the roll.

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

The PRESIDING OFFICER. Is there objection?

Mr. SIMPSON. I object.

The PRESIDING OFFICER. Objection has been heard. The clerk will proceed with the roll.

The legislative clerk resumed the call of the roll.

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

The PRESIDING OFFICER. Is there objection?

Mr. SIMPSON. Mr. President, I object.

The PRESIDING OFFICER. Objection has been heard.

The legislative clerk resumed the call of the roll, and the following Senators answered to their names:

[Quorum No. 11]

Burdick
Byrd
Cooper
Coehran
Exon
Ford

Payne
Johnson
Simpson
Kasten
Leahy
Stennis

Rockefeller
Simpson
Sasser
Sanford

Powder
Johnson
Rodgers

Mikulski
Rischer
Moynihan
Nunn

Bingaman
Glaum
Poli
Bradley
Harkin
Riegle
Bumpers
Hollings
Reid
Burkert
Hefley

Proxmire
Proxmire
Scowcroft
Reid
Riegle
Reid
Reid

Chiles
Kerry
Sanford
Chadsey
Levin
Simpson
Dace
Kean
Smith

Stennis
Stennis
Brown
Stabenow

Domenici
McCain
Stevens
Durenberger
McCure
Tumbull
D'Amato
McGovern
Weicker

Torricelli
Murkowski
Wilson

Not Voting—8

Biden
Dole
Gore

Grumm
Hatch
Thurmond

Simon

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. GORE], the Senator from Massachusetts [Mr. KENNEDY], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

I further announce that the Senator from Delaware [Mr. BIDEN] is absent due to illness.

Mr. SIMPSON. I announce that the Senator from Kansas [Mr. Dole], the Senator from Utah [Mr. HATCH], and the Senator from South Carolina [Mr. THURMOND] are necessarily absent.

I also announce that the Senator from Texas [Mr. GRAMM] is absent on official business.

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

The result was announced—yeas 51, nays 41, as follows:

[Rollcall Vote No. 28 Leg.]

YEAS—51

Adams
Baucus
Bentsen
Bingaman
Boren
Bradley
Breaux
Bumpers
Burkert
Burdick
Byrd
Chiles
Conrad
Cooper
Daschle
DeConcini
Dixon
Dodd

Exon
Powder
Power
Glanm
Glanm
Harkin
Hefley
Hollings
Inouye
Johnson
Kerry
Lautenberg
Leahy
Levin
Cranston
Lautenberg
Matsunaga
McKeehan
Metsenbaun

Mikulski
Rischer
Moynihan
Nunn

Bingaman
Glaum
Poli
Bradley
Harkin
Riegle
Bumpers
Hollings
Reid
Burkert
Hefley

Proxmire
Proxmire
Scowcroft
Reid
Riegle
Reid
Reid

Chiles
Kerry
Sanford
Chadsey
Levin
Simpson
Dace
Kean
Smith

Stennis
Stennis
Brown
Stabenow

Domenici
McCain
Stevens
Durenberger
McCure
Tumbull
D'Amato
McGovern
Weicker

Torricelli
Murkowski
Wilson

Not Voting—8

Biden
Dole
Gore

Grumm
Hatch
Thurmond

Simon

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

AMENDMENT NO. 1405, AS MODIFIED

The PRESIDING OFFICER. The pending question is amendment No. 1405, as modified, offered by the Senator from Oklahoma.

The yeas and nays have been ordered.

Is there additional debate?

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

Mr. LEAHY. Regular order. Mr. President.

The PRESIDING OFFICER. A quorum call is not in order since a quorum has been established. No business has been transacted.

The Senator from Wyoming, Mr. Specter, when the Senator from Wyoming, Mr. Specter, I would inquire what is the status? You have now reported on an amendment before the body. What amendment was that, under previous unanimous-consent agreement?

The PRESIDING OFFICER. The pending amendment is amendment No. 1405, as modified.

Mr. SIMPSON. Mr. President, the majority leader is not present upon the floor. We are working on various thoughts about how to proceed in a rather civil manner tonight and tomorrow night but at this point since I have the floor, I would yield to Senator SPECTER. He is on the floor seeking recognition. He was on the floor seeking recognition. I cannot yield to him.

The PRESIDING OFFICER. Is this a unanimous-consent request?

Mr. SIMPSON. No, it is not.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized if he is seeking recognition.

Mr. SPECTER, Mr. President, a parliamentary inquiry.

The Senator will state it.

Mr. SPECTER. In the circumstance where a warrant of arrest has been issued and according to the appendixes of Senate procedure, there is an entry on a form for return of service by the Sergeant at Arms, what is the Senate rule with respect to that return of service in cases where the warrants of arrest were served?

The PRESIDING OFFICER. The Chair has not had a chance to study this matter and will require some time before we can respond to that parliamentary inquiry.

Mr. SPECTER. While the Chair is studying that parliamentary inquiry, let me put another parliamentary inquiry. What is the obligation of the Sergeant at Arms for warrants of arrest which are not served to maintain those warrants of arrest?

Now, I would expect the Chair to need similar time to study.

And let me give some of the background for the purpose of my parliamentary inquiry. There were many Senators who were absent last night at a time when the motion was made to instruct the Sergeant at Arms to arrest the absent Senators. There were some 45 Republican Senators and there were some six Democratic Senators who were absent at that time.

According to a press report today from the Associated Press, warrants of arrest were issued for the 46 Republican Senators. I have made an inquiry of the Sergeant at Arms and have been advised that there were warrants of arrest issued for Democratic Senators, but I have not gotten a full answer as to
which Senators, and I have been further advised by the Sergeant at Arms that the warrants of arrest were declared void.

Now, this Senator is considering a number of procedural moves on the issue of the procedure taken in the issuance of a warrant of arrest. So that Senators may be on notice as to what may eventuate and the purpose of the request for a ruling on the appropriate procedure for the return of service and the appropriate handling of the records, I may raise the issue that the warrants were defective in three important particulars.

When the majority leader made his motion last night it was in this language, "Madam President, I move that the Sergeant at Arms be instructed to arrest the absent Senators and bring them to the Chamber, and I ask for the yeas and nays on the motion."

Mr. President, the Sergeant at Arms does not have the authority under the Interpretation of Senate rules to arrest absent Senators and bring them to the Chamber in the absence of a warrant of arrest.

It simply is not fathomable that this motion would be sufficient under the rules without a warrant of arrest and this language of the majority leader does not ask for the issuance of a warrant of arrest.

The second obvious problem with these warrants. The Presiding Officer was not authorized under the Senate rules which are explicit in that they call for the President pro tempore to handle a variety of matters, authorize his designee who was Senator Proxmire, and authorize that designee to make a further designation which was not made.

According to factual information which I have discussed at length today, discussions with Senator Arlen, who I believe is on the floor and can make any disagreement that he sees fit on the fact there was no designation to him and also Senator Proxmire, it appears to me that there is a mandatory requirement that when a warrant is served that there be an execution by the Sergeant at Arms. This is a form which appears on page 1175 of Senate Procedure, which reads: Washington, DC, to be dated, "I made service of the within warrant through my deputy", with their name, time and place, and signed by the Sergeant at Arms.

So that at least as to the warrant for Senator Packwood and the warrant for Senator Weicker there ought to be a return of service.

That is the purpose of my inquiry there which I stand is pending. And the issue about the other warrants, they are Senate records. It would seem to this Senator that they would have to be maintained as warrants. But the Sergeant at Arms has carried out the inquiry as well so that there may be an appropriate pursuit of the important issues which I have discussed here which resulted in the arrest last night or early this morning of Senator Packwood.

I thank the Chair. I yield the floor.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, last night I was peering out of the window of our Republican cloakroom at the beginning of the fifth rollcall of the day. At the moment, for some reason, the famings words from T.S. Elliot's "Murder in the Cathedral," came to my mind for in a sense I did not know whether I was being prevented from coming out or from going in.

T.S. Elliot said these words:

Unbar the doors throw open the doors. I will not have the House of Prayer, the Church of Christ, the Sanctuary, turned into a fortress. The church shall protect her own, in her own way, not as oak and stone; stone and oak decay, give no stay, but the church shall be open even to our enemies. Open the door.

While we can argue about the symbolism of this quotation, and whether last night the Senate was turned into a fortress denying entry to enemies either to a bill or to the Chamber or to the hallways or to the private offices, or whether quite the contrary was the case, I do not believe now is a suitable time to reflect on the play as much as it is important to reflect upon what is happening to the U.S. Senate as an institution and to each of us as individual Senators.

Mr. President, I have served in the Senate now going on my 22d year. My term in office here has constituted the majority of my political life. I have served with this great body of great statesmen such as Senator Dirksen, Senator Mansfield, Senator Fulbright, and Senator Javits have delivered unforgettable speeches on war and peace, on civil rights, and upon domestic needs. It would only be a modest exaggeration to say that there have been moments of paralyzing drama in this Chamber.

I recall 3 years ago when Senator Wilson was wheeled through these doors just hours removed from major surgery to cast the decisive vote on the budget. I remember, Mr. President, when Senator Hubert Humphrey returned from cancer surgery and therapy, a man greatly reshaped in physical form, but not changed at all in spirit. He came through those doors, Mr. President, slowly, here to the well of the Senate. I can remember Senators standing in great ovation, and Senator Barry Goldwater, from over on this side of the aisle, began to move toward the well with his hands clasped in the well. The symbolism war of a member of the left and the right of political thinking, or of the liberal and conservative of political thinking, these two old warriors as they saw each other, embrace each other with open arms here in the center of the well. And the warmth and love and the affection that has been so historically typical of the great ones of the Senate shown forth.

Mr. President, the legislative process, with its intricacies and its intrigue, is still a source of fascination to the relatively few of us who remember the old days when bills were handwritten in time, debates were spirited and staffs were not a roaming army of junior Senators.

In my opinion, this Chamber has provided moments that present all of the mystery and the majesty of Grand Kabuki.
So it is with sadness that I stand here this evening to reflect upon the last 24 hours' activities, events which had all of the majesty and mystery of a professional wrestling match between two heavyweights, Teddy and Hogan. What took place last night was not guerrilla warfare as has been referred to. It was a simple gorilla theater.

We want to convince ourselves that what took place last night was a partisan dispute between zealous advocates from the Democratic and Republican Parties. We want to believe that there is a perception among the public that the Senate is so concerned about the issue of campaign finance reform that it will resort to any and every tactic to preserve the Republic from cash-and-carry campaigning. However, it is my sense from the conversations with my constituency today, telephone conversations from many sources, that the public sees it differently.

Mr. President, in the history of the Senate, last night's confrontation was not just another example of raw emotion. Our leader, Senator Dole, on February 3, of this year, placed in the Record a very interesting vignette that took place on our Senate floor: February 28, 1902. Senator Dox placed in the Record the story of Senator Benjamin Tillman, who accused Senator John McLaurin, both of South Carolina, of allowing his vote on the Philippine Treaty to be "improperly influenced." Senator McLaurin called the accusation a "willful, malicious, and deliberate lie." The two gentlemen engaged in fistfights, with some heavy punches received. The Senate considered that it was worthy to suspend both Senators for a week from the floor.

Mr. President, in 1856 a great speech was made by an abolitionist-minded Senator, a Senator from Massachusetts. Robert C. Winfield Scott Sumner. He made this in such a powerful manner that the Senator from South Carolina, Senator Butler, Andrew Butler, was very offended.

Butler had a cousin sitting over in the House of Representatives by the name of Preston Brooks. Congressman Brooks decided that there had to be a revenge for this rather personalized speech by Senator Charles Sumner. He selected a cane that he considered to be light enough not to kill Senator Sumner but sufficient to bring him some discipline.

He came over to wait for Senator Sumner to leave the Senate floor. And whether Senator Sumner knew this or not no one is quite sure, but he did not exit the Senate Chamber and, therefore, Congressman Brooks came to the floor and attacked Senator Sumner.

He caned him down, and got so enthused with his discipline that he went a little bit beyond his expectations or plans, whereupon Senator Sumner was taken to the hospital for care, and did not return to the floor of the Senate for 3 years. The exile was not one in which he was spending full time recovering. In fact, he was traveling in Europe.

When John McLaurin did decide to return to the Senate floor it seemed as though he got a headache each time he left Massachusetts. Some thought perhaps there was a psychological fear in coming to the Senate, and this was piled up by the southern gentleman who reminded not only their Senate colleagues but the people of the world that Senator Charles Sumner was, in effect, a chicken not to come back to the Senate. Now they did not use that word, I am sure, in that day, but that was the message that was conveyed.

Mr. President, going back even a few years prior to 1856, we have a year, 1856, in which to see again raw emotion explode here on the Senate floor. Senator Thomas Hart Benton of the State of Missouri, who also was a man of great stature, over 6 feet, weighing a couple hundred pounds and more, had engaged in a very spirited debate with Senator Henry Foote of Mississippi who happened to be a man of very small stature. In the middle of this rather spirited debate, the Senator from Missouri, Senator Benton, bowing heavy into the horizon in a gesture of attack upon the little Senator from Mississippi, who fell to the floor. But reaching into his pocket he immediately produced a pistol and in a rather defensive manner indicated he was willing to use the pistol, whereupon when his colleagues rushed to intervene, Senator Benton, out of his great lung capacity, shouted "Stand aside. Let the assassin fire."

Well, they not only were separated without the pistol, but apparently the Senate had a rather interesting debate about whether this kind of action should produce certain discipline. And they decided that no, they would not take action on Senator Benton.

So the issue was unresolved as to any kind of recrimination.

Mr. President, I only use history to say that we have survived, and we will survive even now, those moments that may not be the finest hours of the Senate. But certainly I do not in any way want to indicate we should not seek ways to avert this kind of outbreaks.

In talking to my constituents, both this morning and this afternoon, I think it is very important to note that at least from my area and from other States of the West that I talked to, the procedural instrument of the filibuster is often we see as the catalyst for some more heated exchanges that take place on the floor of the Senate. And in fact, these people I think in general like so many of us who come here as a freshman are anxious to see reform in the filibuster rule.

I have resorted to the filibuster procedure twice. They were very obviously most worthy causes to draw me to this course of action. The first was in 1979 when President Carter sought to reinstitute the draft. I am a bitter opponent of the draft.

The second time was when the line-item veto allitered its way to the floor with its familiar appeal to eat of the forbidden fruit of unconstitutional budget reform. By the way, that snake is still loose in our midst and we may have to kill it again with the filibuster. I hope not.

But it was with a great deal of reservation and reluctance that I chose the course of the filibuster, and it was with a great deal of respect for the institution of the Senate that I exercised it.

Mr. President, I do not want to rehash the details of last night's events and talk about who was chased where; who carried whom; or who hid and who did not; and what Senate rules have to say about all of this. My colleagues Senator Simpson from Wyoming, Kerry, Wallop, and others have spoken at some length about this, and I listened intently to their comments.

Instead, I want to address the politics of the matter. I define the term "politics" as an exercise in human relations. Last night and this morning we had a breakdown in human relations—as perceived by many of my constituents—or put more colorfully, a breakdown in civility and basic courtesy.

What happened in this Chamber is happening all over the United States as our country becomes increasingly confrontational and combative. More marriages are ending in divorce, and this is the preferred method to right a wrong. Last year about 15 million lawsuits were filed in America, which works out to about one for every 16 Americans. Every year 2 million Americans settle their marital differences with a divorce decree. Statisticians tell couples standing at the altar that they have about a 50-50 chance of ending up in divorce court.

But the question of conflict resolution between individuals is merely a reflection of the question of conflict resolution within individuals and, therefore, within institutions. Adult suicide is up, and nearly 2 million high school seniors attempted suicide at some time during their schooling. My home State of Oregon last year was cited as the "suicide capital of the United States"—not a very pleasant title, but an indication, again, of the growing inability of people to resolve conflict from within.

A Gallup poll last April told us that the number of American families affected by alcohol-related problems has
doubled since 1974, and so every fourth house in every neighborhood has someone drinking to escape life's problems. And this escapism spills over into predictable places. For example, since 1981, reports of child abuse have almost doubled. We are a people who often resolve conflicts within ourselves and between our neighbors with forceful, fearful means.

Mr. President, the world is also resorting to forceful, fearful means to resolve disputes. The world spends in 2 days for weapons what the UN spends in 1 year to alleviate human suffering. The world spends in 2 weeks for arms an amount more than the annual cost to provide clear water, adequate food, housing and clothing for every poor person on the face of the Earth.

And we are teaching our children to do what our Nation does. The most successful application of this administration's peace through strength philosophy is in the toy industry, and in the way our young citizens learn to resolve conflicts. Sales of war toys have skyrocketed 600 percent since 1983. In 1986 alone, action and fantasy figures—the terms the toy industry uses to skirt accountability for selling violence to impressionable children—in 1986 war toy sales crossed the billion dollar mark for the first time ever.

And so our children, our Nation, and our world are becoming increasingly more confrontational, increasingly more fearful of others and the future, and increasingly more dependent upon the tools of strength and force to defend ourselves and resolve our disputes.

Mr. President, there is another way to resolve conflict, but first we must redefine what constitutes strength. There is a weapon far more powerful, far more effective and far more worthy of the human being, and that weapon is forgiveness. There are wrongs committed and there must be accountability for these wrongs—we all agree—but there can be no healing, no reconciling differences, no moving forward together, until the balm of forgiveness is applied. And right now the wounds of conflict in the Senate are in need of understanding and forgiveness and mutual agreement to try not to wound each other again.

Mr. President, in my capacity as a member of the Appropriations Committee, I have witnessed during the frenzied, hectic hours of negotiation and debate, times when the drive to get even, the urge to strike back, the desire to correct with anger, and the passion to punish when you have the strength and authority to do so—I have seen how paralyzing these forces can be on the body politic. And I think most all of us have seen those examples. But as Senators we must exercise leadership, model leadership, moral leadership, and we fail in this task when "eye for an eye" conflict resolution takes hold.

My friend LAYTON CHILES is leaving the Senate, and that is a true shame for this institution. He is leaving, in part, because the quality of life in the Senate is so deteriorated where he will end up doing more harm to himself than he can do good for the country, by continuing his distinguished public life in Washington. His premia­ment, and the exit of other able legislators who left the Senate because the institution was no longer an appealing place to work, are signs of the time which we must heed if we are to do the people's business in a fashion that brings credit to our form of government and to our constituencies.

So I am presenting to my colleagues my hope that a spirit of forgiveness and reconciliation will replace what viewers through television have said to me they view as recrimination and parliamentary brute force as the spirit of the Senate.

Mr. President, we are faced with a very serious problem—the cost of political campaigns. And I do not think any one of us in this Senate on either side of the aisle denies the importance of this issue and the need to address it. I believe also that most everyone in this Senate agrees that the skyrocketing cost of campaigns now threatens the integrity of our democracy. In the not-too-distant future it is very possible that public office could be for sale to the highest bidder. I think we all agree that something must be done before that happens. But instead of sitting down together like statesmen to craft a solution to the problem, there has been a perceptible partisan drift to the debate and now we are facing a legislative gridlock.

Now, I want to suggest again a vignette of history. I am not suggesting it as a total parallel to the current situation. I think there are lessons that we can learn from the period of 1905 and the Great General Strike that took Czar Nicholas II by surprise. A weak leader wholly unprepared to address the needs of the 20th century, Nicholas was suddenly faced with a very serious problem that demanded a response—his country was falling apart around him. So he tried a bold move, a move which could have laid the groundwork for a bright future in Russia. On October 30, he issued the October Manifesto, granting Russia a constitution and creating the duma, a legislature with real power. This was the first duma. It was exciting times, and according to historians of years of Czarist rule, total autocracy—cruel, inhumane—and certainly one that had been condemned by Western culture and Western values, it seemed that Russia was at last growing. But then Nicholas got scared, and retreated back into the partisan, and once-powerful, world he knew. Even before the first duma was convened, he declared that no law could be changed without his consent. Autocracy still, but to be tempered now by a little constitutionalism.

The result was chaos. When the duma met, the radicals had decided to boycott the assembly. For those who were there—524 elected members in all—it was hardly a time for historic change: it took 3 weeks before the government submitted its first bill—to establish a laundry at the University of Dorput. Within a year, the duma had been dissolved. But the time the second duma convened, the radicals had decided to participate—but this time the reactionaries who flooded on a return to the simple autocracy czarist Russia had known for so long. Eventually, it too was dissolved. There were two other dumas in the years to follow—the third duma even served for its 12 years of existence in 1917—little different than those of the first two, and so it went for 12 years—12 long years of provisional government under the guise of constitutionalism, infighting and grandstanding. Leaders, no leaders, no reconciliations. Nicholas had failed to provide the leadership and no one was willing or able to fill the void.

We know what happened. Mr. President, because the Union of Soviet Socialist Republics sprang forth from the infighting and grandstanding and favoritism of those years. The 70-year history of the Soviet Union is full of repression and aggression and real human tragedy. That history is, in large part, a result of the inability of the government—Nicholas, his ministers, the duma—between 1905 and 1917 to address any but the least significant issues and, more importantly, the inability of the leaders to come together to craft a vision of the future. Whether it could have been avoided—whether statesmen and leaders could have worked together in those years to craft a viable vision and a government—is a question we can never answer. But it is beyond a doubt that the infighting and pettiness of those years contributed directly to the 70 years of suffering which followed.

Of course even more immediate suffering came as a result of those years, too. The famine which gripped Russia in 1921—just 4 years after the Bolsheviks had come to power—might well have been avoided if previous leaders, genuine leaders, had had a little less ambition and a little more vision. Had it not been for Herbert Hoover, the Secretary of Commerce who went on to become our 31st President, the tragedy would have been even worse. For almost 2 years, and 180 other Americans supervised the feeding of some 30 million men, women, and children in 25 Russian provinces. Some
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540,000 tons of food and desperately needed medical supplies were distributed out of the generosity, the hearts of American citizens and Western countries.

Mr. President, still hundreds of thousands of people died. In fact, later the head of the Communist regime in the Soviet Union, the Great Comin- tern passed a resolution thanking Secre­ tary of Commerce Hoover for saving the lives of 18 million Russian citizens. I might digress for just a moment because, having been a history buff of this particular period, it was a very in­ teresting political situation that took place within my party. Mr. Harding, who was the President, later followed by Mr. Coolidge, were both very con­ servative Republicans and, therefore, they were very unhappy with the advent of the influence that the Secre­ tary of Commerce exercised in the country. The prevailing attitude among the Republicans of the Congress, I think it was America was: This is God’s judgment visited upon the Soviet Union for its devilish, evil system of government. Let them die. Let them die of starvation.

Well, that public opinion was turned around by the Secretary of Commerce who said: We cannot let political ideol­ ogy nor national boundaries determine our response to people who are hungry and people who have needs in the world.

Hoover’s establishing that particular position, as well as having been a member of the Wilson wartime Cab­ inet, and having campaigned for a Democratic Congress in the congress­ ional elections of 1918, all trailed the Secretary of Commerce into the White House. And they were the foundation points of the difficulty, not with the Democrats of the Congress so much as with the Republicans of the Congress, in getting his programs through the Congress. For they even had to com­promise with that wing of the party in the Senate opposing Hoover, by nominating a rightwinger, the Senator from Kansas, Charles Curtis, to pla­cate that wing of my party because they had nominated the liberal pro­gressive Secretary of Commerce, Mr. Hoover.

This is one of our less understood periods of American history, a period of American history which has been most communicated by bias and parti­san smears over the years. I am very hopeful that the New Left historians will accomplish their tasks in reevalu­ating this period of American history and particularly the Hoover role in that period of American history.

Mr. President, I have digressed, but I want to say that it takes a bit of talent and...
with increasing military spending for this quest for new weapons, not only in quantity but in quality and technical sophistication of weaponry, finally a light at the end of that tunnel opened as we reached these particular new weapon systems it will take a better and more solidly educated person than we are able to attract now, through the failure to meet the unmet needs of Alzheimer's disease, is probably only one manner in which our problems confront us on this matter of education.

I could go on with many other areas in which we need to develop solutions and address the realities of their day to day problems. While I do not want to suggest that these particular new weapon systems will make for some relief from this increasing enemy of our aging people.

We cannot redistribute the medical research money from cancer, from neurological disorders, from all these other areas where we have reached levels of breakthrough in order to meet the unmet needs of Alzheimer's and to crank that research up to a level of adequacy.

Mr. President, these problems are going to come home one of these days in such dramatic fashion, and we are going to regret the wasted hours, the wasted time that we did not address them as a priority issue.

Mr. President, I would be willing to bet that no one in any of those Russian Dumas between 1905 and 1917 wanted what happened in subsequent years. I really do not think they did. Even those who followed after them, who were so much wiser, they did not foresee that they would be betrayed. But their refusal to sit down and address the realities of their day all but handed their country over to the Bolsheviks.

While I do not want to suggest that the Bolsheviks are outside these doors, I want to say that there are hungry, hurting, wounded, desperate people outside of these doors, our American citizens, who are hoping for some relief from this increasing enemy of their economic, their physical, their mental, or their spiritual problems.

At a time when our economy and our foreign policy and our system of democracy must realign to the demands of this newer era, I do not believe that the United States Senate can afford to be bogged down in battles that separate us, that squander our precious time, and that create wounds that will be difficult to heal.

Now, Mr. President, I wish I had a simple answer, and although I do not have to give him a simple answer, I do know that the goodwill in this Senate exists. I see people who have been toe-to-toe in strong, perhaps loud debate, go out through these doors arm and arm and join each other in a soothing cup of coffee.

We have that glue in the Senate. Let us not squander it. Let us not waste it. There is that wonderful glue that transcends our differences.

Let not this incident or this particular issue continue to the point where it becomes more difficult for that glue to operate, for that healing balm or that sense of transcending friendship to overcome differences of political opinion.

The PRESIDING OFFICER [Mr. Adams]. Has the Senator from Oregon ceased? I do not wish to take the floor from him in his absence. Mr. HATFIELD. Would the Chair repeat the question?

The PRESIDING OFFICER. Has the Senator from Oregon completed, and is he yielding the floor? I will not take the floor from him if he has not completed.

Mr. HATFIELD. I yield the floor, Mr. President.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. QUAYLE. I thank the Chair. I want to congratulate my friend from Oregon on a very fine statement and one that only he can make from time to time, talking about healing, and about this institution.

I have noted in my brief tenure here very important times during critical debates that the senior Senator from Oregon rises to the occasion to show us where we ought to be going, and I think he did again here last night and particularly in his conclusion because if you want to look at civility and you want to look at how this institution ought to work last night is certainly an example where I mean that was an act of absurdity. I mean the very idea of moving to arrest Senators. I just had a conversation with my 11-year-old son who is the second son of three children that I am blessed with. I phoned to tell him to tell his mother, my wife, that I would once again not be coming home for dinner. It was not any great shock to them. They were watching television and knew that the Senate was bogged down in another filibuster, simple panaceas. I know that was one of the things that I am blessed with. I knew that was one of the things that I am blessed with.

But what was on his mind was he asked me about this arrest warrant that his mother had told him about and he had found out through the news section. He wanted to know how it affected me, and I tried to tell him that it did not affect me, inasmuch as they did not find me. He thought that was OK, too. He did not really appreciate his father's or thinking of his father getting arrested, but then he is a very sensitive and compassionate person, particularly for a young age of 11. I do want to know what happened in an inquiry about Senator Packwood, whether he was all right, and I told him he was and we got on to another subject that I would not be home and to make sure to relay that information.

But, Mr. President, I believe that you cannot just let bygones be bygones. We can forgive, as the Senator from Oregon has said, but actions do speak very loudly and that type of action last night of having to resort to an arresting of Senators which had not been used for a considerable period of time and used on an issue that everybody knows has no chance of becoming law—I mean if this were a Civil Rights Act, where the President was involved, or this was a major piece of legislation that there was any hope at all of becoming law perhaps, perhaps draconian and drastic measures ought to be implemented, but I really think that this is an act and we talk about something of trying to instill some semblance of a quality of life in this U.S. Senate. We can always speak of quality of life and we do that a lot around here.

But this legislation that is before us that we stayed up all night last night and will be up all night tonight people will be here speaking and they will be instructing the Sergeant at Arms and it is the majority's responsibility to produce the majority in the quorum. It is not the minority's responsibility.

The minority is engaging in what is proper responsibility in conducting this unlimited amount of debate, but having not one iota of a chance of passing, and yet we go through all these shenanigans that certainly appear to be an act of a lameduck.

People say I know a lameduck when I see it. It acts like one, it talks like one, does things like one, and I certainly think this is probably very fitting.

Mr. President, I think what I do is to concentrate on the issue before us for a while and then I may get into some other matters that I think are, quite frankly, more pressing than the issue before us.

I have a great deal of interest in the INF Treaty and where we are going and the whole area of armed services and foreign policy.

I see the Senator from Ohio is on the floor, and he and I heard a very good testimony this afternoon from Dr. Kissinger.

Unfortunately, I did not have the chance to read the testimony. I was there to ask questions. Since I did not
have that opportunity, I may get the chance and just read it later on tonight and explain it to everybody because I thought it was brilliant. I think that the American people who have not produced that reform means progress.

Well, we have the situation where this authorization bill has been put into one bill and we do not have time to do our job. The authorizations, except for the defense authorization bill, are basically nonexistent. They are always tacked onto a continuing resolution.

But in the name of reform, we created the Budget Committee and in the name of reform after Vietnam and Watergate, by golly, we are going to open up the process—Freedom of Information Act, sunshine laws, let the public know what the public representatives are doing.

We took that reform and we went on and on and on and we campaigned for it. We took it to the people. We took votes on it. Sure enough, sure enough, we reformed the situation back in 1974 and 1975, but we reformed the situation now where we have more of the secret government today than we certainly did in 1974 and 1975 and more secret government than what we had in modern-day history.

The reason we have a secret government is that we do not debate what is in those bills. You get that continuing resolution here and a Senator may know about what 3 or 4 percent is in that bill. That is about the extent of it.

But we do not debate it anymore. We do not debate the issues. We do not debate the issues that we are going to act upon. We are not debating foreign policy today. We are not debating, for the taxpayers to pay for our elections, set limits on how much candidates can spend, and restrict the roles that organized groups can play in our campaigns.

I daresay how the Congress reformed itself with the budget process in creating a Government that is more secret today than has ever been in modern contemporary times, is a kind of reform that we can do without; the kind of reform that we can in fact do without.

This year the new scheme that is outlined in the Boren-Byrd bill is to force the taxpayers to pay for our elections, set limits on how much candidates can spend, and restrict the roles that organized groups can play in our campaigns.

Let me state that again. The Boren-Byrd bill is to force the taxpayers to pay for our elections, set limits on how many candidates can spend and restrict the roles that organized groups can play in our campaigns.

So as we continue to talk about reforming the political process which I am not convinced that we ought to be doing just now, I am not convinced that it needs reform and reform is either taking us forward or taking us backward.

Do you think that the taxpayers ought to foot the bill for my campaign or my candidate for Congress election? Unless you have everybody that is a member of a special interest group that happens to be pushing this for perhaps their own agenda and own reason, you will probably have a total unanimity that nobody is interested in it. Nobody is interested in it. They are not interested in a new entitlement program. People I talk to are interested in balancing the budget, reducing the budget deficit. There is a lot of cynicism going out there. A lot of cynicism going on out there and I cannot blame them.
But as we talk about reforming the political process, there are some important questions that we need to ask. I do not want to get too provocative in asking questions about this legislation or what it is all about. But I will try to proceed with as much restraint as I can.

Why, for instance, is the Senate deliberately trying to limit access to the political system? This political system of ours is the greatest in the world, and it is great and this country is great for one very important reason: And that is that we are free. You ask people around the country, and you ask Americans and what sets them apart from any other country in the world and what makes this country to be able to generate the wealth and productivity and have the standard of living that we do, and time and time again the answer that will come back is that the reason we are able to do that is because our political system is the freest nation in the world, and yet the political system that is responsible for preserving that freedom, the political system is open. But I suggest that we ought to think about that. We always are interested in looking at polls on how many people in America really support tax-payers financing of Senate congressional campaigns. I do not think you will find too many people. As a matter of fact, in this day of reform, and we reform things, post-Vietnam, post-Watergate, we created political action committees. And if the problem is political action committees, we will find a lot of support on this side of the aisle. Political action committees, if you want to vote to limit it, or if you want to vote to eliminate political action committee contributions, you will have a lot of support on this side of the aisle if you want to limit PAC's involvement in the campaigns. And if that is the desire, if that is the desire, then we ought to talk about it. I doubt if that is the desire.

One of the sponsors of this bill I am told gets about 70 percent of his money from political action committees. Obviously, one who is going to get 70 percent of their money from political action committees does not have a whole lot of incentive to limit political committees. But if that is the problem, if you want to cut off money and if what you really are going to cut off is the root cause of why we are here, strike a deal. We will go and look at the problem with political action committees, and if we want to have limits we will limit it. We will make it $2,000 instead of $5,000, or we will make it $1,000, if you want to limit it to the overall amount the person can get from political action committees. Do you want to get rid of political action committees? That is not the issue in this bill.

Many people think that is the problem. Many people think it is just the money. I do not think that there is anything nefarious political action committees. I do not think we should do away with political action committees. No. It is something else. How can we build in a political advantage? How can we figure out a way to, and what this bill really does is help out incumbents. Why has the spotlight been so tightly fixed on PAC's of any kind and Congressmen. He does not have a lot of support on this side of the aisle. Political action committees does not have a lot of support on this side of the aisle if you want to limit it. I wonder why we are creating yet another costly government entitlement program, one exclusively dedicated for a handful of men and women in this country when our budget deficit is to put it mildly out of control. The budget deficit is out of control, and here we are in Congress arguing about a bill to create another entitlement program, one more entitlement program, one more time. This is reform. So this entitlement program is OK as long as we put the word "reform" on it. It does not matter if it costs taxpayers more.

We ought to ask the taxpayers if they like reform if they are going to be paying more. And I would say that they do not and would not. Why has the spotlight been so tightly fixed on PAC's supported by busi-
ness groups? Should there be an equal spotlight on the massive use of labor union resources and other self-styled independent groups on behalf of political candidates if we are going to talk about expenditures in campaigns, let us talk about expenditures in campaigns. This is a very self-serv- ing, selective piece of legislation that is devised to gain political brown-

But I think the longer that we talk and the more that the American people find out what is in this bill, that they will be writing letters, they will be hollering at Senators when they are home, they will be making comments at town meetings. They will be doing various things when we are back here debating this taxpayers subsidy bill.

And I would imagine that when we go home this weekend—if we do; we may still be here. We will go home in a week or so. When you go back to your respective States, it is going to be a good opportunity for you to go to the rural part of the State. Ask those folks what they think about picking up the tab for our next election. Ask the American people what they think about a new entitlement program, a new entitlement program that has the label "reform" on it. Well, this little reform bill has a little catch and that catch is that you, John Q. Citizen, are going to be picking up the tab.

Mr. President, the fact that public financing of Senate and House races could cost us $500 million every 2 years is all by itself enough to oppose the Boren-Byrd amendment.

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nancing would distort elections by im-
posing the same system on 50 differ-
cent and significantly different degrees of competitiveness in individual races.

The problem of getting elected is a personal one in each State with each candidate's constituents. It is not a na-
tional problem. What works in Califor-
nia does not mean that it would work in Indiana. What is accepted practice in New York might be an inappropriate prac-
tice in Indiana.

When Senators go from Washing-
ton, DC to Virginia to campaign, or go to Maryland, there are not that many costs involved. Going back and forth from here to Indiana could cost in a campaign year as much as $50,000. Going to California would be much more; going to Alaska would be more; going to Hawaii would be more.

Public financing would also sever a violent link—a voter's right to finan-
cially support a Senate candidate in his or her own State.

By instituting a national checkoff on IRS forms for Senate races, tens of thousands of voters from one State would be donating money for Senate races clear across the country in other

States. In effect, this would remove one of the direct links between a re-
presentative and the constituent he

serves.

But I guess that does not bother the proponents of this legislation that that link may be taken away; that what we are doing is in essence nation-
alizing these elections, letting the tax-
payers pick up the bill.

You know there are always schemes on how we can nationalize and centralize things. Most of those schemes have never seen the light of day because this system of ours is a representative democracy that is very pluralistic. We are decentralized. We really believe that the power is not vested in the Government or in Washington, DC but the power is vested in our people; that we do not govern because we are the Congress and the Government of Washington DC, we are governing be-
cause we have consent from the people to govern—the people of this country. And we are going to stick to our own business at home in my State—and my State is no dif-
ferent than Ohio or Arkansas or any other State; it is just a small Mideast-
ern State filled with a lot of good people, a lot of good folks. And when I say my State, I mean the portion of the State that is on my minds, I guarantee you some-
thing that is not on their minds, and that is creating a new entitlement pro-
gram to pay for Senators' and Con-
gressmen's elections. I can guarantee you that is not on their minds. I will tell you what is on their minds is this bud-
et deficit. That would be the first thing that would come up. And if they thought for one moment that this bill had a chance at all to see the light of day in passing legislation, they would be on my back telling me to vote against this bill. If they really thought and knew that this bill had a chance, they would not be doing it. And they should be. They would say, "Have you lost your senses? Have you absolutely come unco姬ed?"

I am not supporting this bill. I am going to talk about it and other things with them. But I will go away. It will fly away. We have had seven, I think seven, votes on cloture. And I predict that probably this one, because civility and things of that sort have broken down a bit, I imagine this time around the vote will probably be worse; that the proponents will be going in the other direction as far as picking up support; that the arresting of Senators does not get more votes.

While the Boren-Byrd bill does set a minimum threshold of individual con-
tributions that Senate candidates must receive before becoming eligible for public funds, it would discourage any candidate from raising any more than he needs to meet his threshold.

Perhaps it is no coincidence that the threshold fundraising requirements favor those who raise money from large donors—not the little guy, but

the big fat cat that we hear so much about. Large donors, not small donors.

Let us rely upon large donors, fewer of them. Let us not get too many people involved in this political process, but fewer of them. But make sure that the big boys and the big girls are heard from. The guy that works, the guy that gets up, the guy that asks the legitimate question, the guy who is a family, tries to raise his children, do not let us get him involved. Let us just leave it to the large donors.

Senator Packwood yesterday ex-
plained, in what I thought was fright-
ening detail, why it is easier to raise money in large donations under the Byrd-Boren bill. The simple fact is that it takes more money to raise money in small donations than it does to get a fat cat involved. The Wash-
ington Post has pointed out that the majority party in the Congress gets the vast majority of PAC donations and that over one-half of all Demo-
cratic campaign donors make more than $100,000 a year.

Let me repeat that. Someone might have missed it. It is an important point.

The Washington Post has pointed out that the majority party in the Congress gets the vast majority of PAC donations and that over one-half of all the Democratic campaign donors make more than $100,000 a year.

I suppose that we might describe this legislation as "The Fat Cat Protection Act of 1988." Make sure the big boys and girls are taken care of.

I do not want to hear again about this country club business. I think we know who the country clubbers are and who the fat cats are and who the large donors are.

Some of us just want to raise money from the people, from the folks back home.

Financial support can be as impor-
tant as votes. It is part of the political process, a way for individuals who feel strongly about a candidate to become personally and directly involved.

So why are we even thinking about discouraging voters' rights to finan-
cially support Senate candidates from their own States? And why would we want to give even more power to PAC's and large donor fat cats in the fundraising process? Why do we not do something to encourage small donors?

Why do you not think about, in the name of reform, perhaps the elimina-
tion of PAC's or reintroduce a tax credit for small donors? Ha. We do not want small donors. It takes time.

If we are going to have small donors contribute, by golly, I might have to have a breakfast fundraiser, I might have to have a lunch fundraiser and a dinner fundraiser when I could sit down at the table with some of my few selected rich friends and raise that money in an evening; have wine, have steak, have a nice, great big dinner,
raise a lot of money with a few people there. But, by golly, do not go back home; do not be forced to go back to your constituents for a break of $10 and try to get 100 people there so you might raise $1,000 because you can get $1,000 just sitting out there making a phone call. Heaven forbid if we did that kind of a burden on Senators and Congressmen that they would have to go home and raise money in their home State.

Think of that. Think of how prepos terous it would be, to have Senators and Congressmen raise money in their home States.

If we are interested in reform why do we not talk about reform and make Senators and Congressmen raise money in their home States and make them do it from $100 or less and put a limit on that. Limit it to contributions of $100 and you have to raise it in your home State or, if you want, say just raise 80 percent in your home State. That would be reform. I do not see that in this piece of legislation.

I mean, holy mackerel, do not ask me. I mean, I am a Senator. By golly, I want to figure out a way where I can, you know, not spend as much time with the folks to raise money. I mean I am too important. By golly, I mean I am a U.S. Senator, 1 out of 100. This is the businessmen, the body and, boy, we are deliberating. We are deliberating on taxpayer subsidies of elections, deliberating, arresting Senators. Boy, this is a great club.

But I mean to tell you: Please, please, I do not want to think that Senators would have to go home and raise money from small donors in their State. I mean, gee, some might not get reelected if we would have to do that. Raise money from their home States? No, I am going to have to set up a few political fat cats on the phone, long time because this is really a nifty way of getting on taxpayer subsidies of elections, and to have a breakfast for the folks to raise money. I mean I want to figure out a way where I can, without my opponents to be able to raise $100,000 a dollar for Presidential elections, so why do we suppose they would support funding congressional elections as well?

Mr. President, during this debate we have heard the amount of money we spend on congressional campaigns called a national embarrassment, a national disgrace, a corrupting influence. As a matter of fact, we have even heard worse. But, is there something inherently wrong about spending money in campaigns? The point has been made before but it bears repeating: The amount of money spent to elect the President and Congress in 1984 was less than the amount spent by the Nation's leading advertiser, Procter & Gamble for its products that same year.

Surely educating the electorate about who makes critical political decisions is at least as important as one company's annual advertising budget for soap and toothpaste. We ought to remember that it was James Madison who warned against the "tyranny of factions" and suggested that the best way to avoid such tyranny would be to let them multiply and flourish.

In age of centralization it is important to remember Madison's celebration of pluralism. The tyranny of factions Madison warned us of; and how to make sure that did not happen was to go ahead and to let them multiply. What he was talking about was a few factions that would clearly be unconstitutional. It gave rise to and encouraged spending unlimited amounts of money through candidates other than candidate committees.

To make matters worse, the Harvard study concluded, most of the means through which money is now being poured into the Presidential politics are inherently less accountable to the electorate and should not be encouraged by campaign laws.

Mr. President, before we go off on yet another campaign reform adventure we really ought to take a closer look at some of the reasons why our campaigns become expensive. Perhaps the greatest reason for the high cost of elections is something the Senate simply cannot control, the rapid growth of the two media that are inherently expensive. Trying to limit that.

A second reason for expensive Senate campaigns, ironically, is in the high cost of fundraising, a development that clearly can be traced right back to the stringent limits on contributions set out by our earlier efforts to reform the Federal election process. Because Senate incumbents and candidates alike are forced to raise smaller amounts of money from more people, the fundraising process has
become both expensive and time consuming. As we pointed out earlier, putting limits on overall spending will simply discourage the solicitation of small donors because of the high costs involved.

Washington Post political writer David Broder concluded that spending limits and taxpayer financing have shut down local campaigning. "Grassroots democracy has died."

I think it also ought to be pointed out that any attempt in Congress to limit PAC spending, directly or indirectly, is likely to backfire by encouraging those groups to simply switch gears and make independent expenditures in races.

I do not know how often I have heard about the complaints about independent expenditures. Republicans complain, and Democrats complain about all these independent expenditures.

The problem is that we have a free country and yet what we are trying to do is to limit the political process, limit the political process, rely on major donors rather than small donors, have the taxpayers pick up the tab, and yet there is nothing we can do about independent expenditures.

If a millionaire wants to come into my State and spend millions of dollars in an attempt to defeat me, he or she can do it. We cannot do a damn thing about it.

So what we would be doing by this bill is taking away a possibility for me to respond to that independent expenditure and the outcome would be that independent expenditure would have far more clout than it has today. That is the situation.

I do not think I have to remind anyone in this body that the Supreme Court has quite clearly stated that it cannot restrict independent expenditures.

Finally, I would note that the Byrd-Boren bill clearly advances large donations with a reform flush flow because the bill would put a premium on early and large donations. So the first PAC's to contribute would be given more prominence in terms of total contributions merely by virtue of getting there first. Clearly, this is not the desire of those self-styled public interest groups that are pushing the Congress to reform its campaign finance procedure. Nor is it my idea of how to encourage broad political participation.

Senators everywhere have heard that, as David Broder concluded, "Spending limits and taxpayers financing have shut down local campaigning. Grassroots democracy has died."

Grassroots democracy has died. We do not want to have to pay attention to the grassroots. We do not want to have to go back to our origins. We do not want to have to go back to our States to raise money from small contributors. We do not want to have to go back and to have to spend time on small contributors.

But we want a big, fat check from the taxpayers, take money from political action committees, rely on the big givers, the easy money.

Well, I suppose that you could say from some of you, not me, some must think that it is far more entertaining, far more exciting, conversation is probably more stimulating, that you learn more at a Washington restaurant at which the hostess expects a tip and all the trimmings in Washington, DC, than it is to go back and to eat at the local restaurant in your respective State and have a chill dinner at $10 apiece and to sit down with the people that sent you here.

Grassroots democracy is dead. Grassroots democracy, the folks that sent us here—let us not forget where we came from. And maybe for some I would concede that fancy dinner in Washington is more fun than the chill dinner at home. Not for me. As a matter of fact, I sort of enjoy going home. I enjoy sitting down with people that can afford to give $10 to me and they will be honest with you. I learn a lot more about life and their problems and the problems and the challenges and the confrontations of life from somebody that can give me $10 than some millionaire that gives me $1,000. I can learn a lot more about the things that are important in life like families, religion, business, neighborhoods, from people back...
home at a chili dinner than I can sipping champagne at some big reception in Washington, DC. And yet what we want to do apparently is to make life easy for Senators in the area of fundraising. Do not go to those chili dinners. Do not go to those $10 breakfasts. They are a pain.

They are not a pain. They are an enjoyment. As we try to legislate away grassroots democracy, before we get carried away with too much, we ought to really think about what we are doing.

I know it is perhaps difficult after being up all night, going on another being up all night. It might be difficult. It might be almost out of the question to ask someone to think. Everybody is tired. People's minds are made up. We know how the vote is going to come out. We also know that we can continue to talk and probably hopefully be able to persuade the American public by explaining to the American public what is in this bill.

The American public is probably wondering what is going on besides Senators' being arrested. The public is probably wondering what this great deliberative body is deliberating on tonight in the great tradition of Daniel Webster and all the other great Senators before him and after him.

And the American public is listening to a debate on how the Congress is going to create another entitlement program for themselves. This day and age of megadefficits, one more entitlement program, and as you pass the envelope, let us make this entitlement program for the Congress.

I suppose that this would be somewhat indicative as generations go by. I suppose that this is somewhat indicative of "take care of me first, and we will take care of you next."

This is somewhat indicative that, yes, I better make sure that I get re-elected. That is important and how you get re-elected and particularly if you have a way to do it easily because what we do not want to do is we do not really want to have a lot of small fundraisers. We do not want to get a lot of that participation. We want easy street and we want the easy road.

Maybe we ought to put forth a bill that would force a Senator or Congressman to raise 80 percent of his moneys or her moneys from their home State or home district. That would be reform. Only 20 percent would come from outside of the State. But heaven forbid, we might have to go to those chili dinners. We might have to go to those $10 breakfasts.

I tell you as I examine the priorities of this Senate today it would do us well to go back home and to ask the folks what are the problems confronting this Nation, ask the folks back home the major challenges that confront the Congress.

And I daresay that we would ask the major issues of the day, the taxpayers' opinions of elections, would be a long, long way down the list.

Finally, Mr. President, there are some very serious first amendment questions that ought to be uppermost in our minds as both sides work toward this issue.

Since 1976, the Supreme Court has clearly said that both contributions and expenditures are political speech and protected by the first amendment.

Restricting such activities is constitutional only when it is needed to prevent corruption or the appearance of corruption.

The most significant Court case, Buckley versus Valeo, said that limits on expenditures are unconstitutional because they impose direct restraints on the quality of political speech.

But there have been other cases as well where the Court has carefully preserved the rights of political speech when money is involved.

The Court, for instance, has said that while corporate contributions to individual candidates can be restricted, corporate expenditures on referenda cannot.

And, in the FEC versus Massachusetts Citizens for Life, the Supreme Court ruled that nonprofit corporations with ideological agendas can't be barred from contributing to campaigns.

Because special interest groups that incorporate are created to disseminate political ideas—not to make money—their expenditures don't pose a danger to the integrity of the system, the Court said.

Finally, Mr. President, we should all remember what Thomas Jefferson had to say at the founding of our Republic: "To compel a man to furnish contributions of money for the propagation of opinions which he disbelieves and abhors, is sinful and tyrannical."

And that is exactly what we would be doing through this legislation, require people to use taxpayer money to finance our own campaigns.

Mr. President, campaign reform isn't a new idea. The Senate rejected the idea of public financing in the 95th Congress. And the House has rejected the same idea on three separate occasions—in the 93d, the 94th and the 95th Congresses.

So the talk about an "imminent threat" to our system rings just a little hollow. We've been here before. And we've rejected public financing before, and we will reject taxpayer financing again.

The only way to preserve the democratic process and avoid the tyranny that Madison foresaw is to let the factions of society have their say in the process. We should encourage the broadest possible dissemination of political ideas—not repress them.

Mr. President, I have not even addressed the questions raised by the clear advantages given to incumbents by the Byrd-Boren bill. These provisions have been eloquently explored by Senator Packwood and Senator Mitchell. I touched on them, but I did not get into them in any detail.

But we should all pay attention to the problems presented to a democratic society whose leadership strives to protect itself. Soon it begins to lose all perspective and become arrogant in its disregard of the needs and desires of the electorate. I would submit that this is one of the great challenges of modern democracy. We should do everything we can to encourage the renewal in our ranks lest we sink into the complacency and myopia which leads to a slow erosion of our freedom.

The issue here isn't about who can raise the most money during Senate campaigns and how much is "too much."

The issue is about limiting participation. It's about a fair competition of ideas in a free marketplace.

Let's let the people of this country make their own decision about political ideas based on the best possible information. I trust them to make the right judgments—just as they have for the last 200 years.

My dear friend and colleague from Kentucky is on the floor. Before I yield the floor, I want to first pay my deep admiration for the job that he has done over these months in bringing this issue to the attention of not only his Senator but all of us, and the entire Senate. He has performed a very valuable service here in the Senate, and I daresay around the Nation, of telling the American people what is in this bill, what this means for them, what it means for our political system. He has really in fact done a truly remarkable job in this and other areas, but particularly this area. And he has been in the forefront and knows probably more about this legislation than perhaps anybody in the Senate. He is perhaps our most articulate spokesman on why the taxpayers should not have to pay for our elections.

I had intended to, but I am ready to speak, and I want to yield the floor so he can get the floor. I had intended to read a statement of the Honorable Henry Kissinger that he made before the Armed Services Committee today. I really wanted to talk about something far more important than the entitlement programs of Senators and something far more important that confronts this country; that is, where this Nation ought to go in a post-INF environment.

Dr. Kissinger talks about NATO strategy; he talks about INF and NATO modernization; he talks about the future of the Atlantic Alliance; he talks about an arms control policy; he talks about the East-West relations,
and conflicts outside of the NATO area. I believe it would be important that at least this be inserted in the RECORD. I had intended to read it into the RECORD and to talk about it.

I am far more knowledgeable about the intricacies of the INF Treaty and would not wish to be caught being wrong about it than I am about the details of taxpayer financing of congressional elections.

I ask unanimous consent, Mr. President, that a statement of Henry A. Kissinger, Chairman of the Armed Services Committee of the U.S. Senate, Wednesday, February 24, 1988, be inserted in the RECORD.

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

STATEMENT OF HENRY A. KISSINGER

Mr. Chairman, I would like to take this opportunity to sketch briefly the main tasks facing the Atlantic Alliance.

Any discussion of the state of NATO must begin with the recognition that it represents one of the great success stories of the postwar period. NATO was formed in the wake of a war that had killed more people than forty years of the existence of Europe has known. But the period of peace in Europe since the creation of the Atlantic Alliance has been one that has never been possible to prove conclusively why something has not happened, the Western democracies have every reason to take pride in their collective accomplishment.

Success breeds two contradictory dangers however: on the one hand, complacency and on the other, a temptation to tinker that taints to grant status quo.

The Atlantic Alliance faces two dangers: complacency in the reluctance to come to grips with the major political and technological changes that have occurred; tinker- ing in the restless quest for negotiation formulas that are often heavily influenced by domestic considerations that will in the long run undermine the cohesive character of the Western democracies.

Part of the cause of this state of affairs lies in the failure to resolve contradictions that have been before us for forty years. These contradictions were tolerable so long as the democracies possessed a vast military superiority. But the growth of conventional forces often heavily influenced by domestic politics. History teaches them that that anything less than the threat of nuclear war and any successful conventional attack would trigger an American counterattack from European installations that could exceed the capabilities of the Soviets.

NATO's strategic forces altered the balance of military power in the Atlantic area, thereby ending the nuclear stalemate that had existed since the mid-1960s. The situation is made more complex by the fact that the INF agreement ended the proliferation of strategic forces in Europe. The INF agreement weakens the balance of power in the Atlantic area.

NATO's conventional forces are a substantial deterrent, but they are not invulnerable. The threat to European countries would force the withdrawal of these missiles in any event. The current choice is between unilateral withdrawal or the quid pro quo envisaged in the agreement.

To understand the impact of this state of affairs some discussion of the background of INF is important. The formal justification for INF as a counterbalance to the Soviet SS-20's was always a mistake and led directly to the so-called zero option. The INF weapons were never aimed at the SS-20's. Their ultimate justification was to prevent the nuclear blackmail of Europe by linking the strategic defense of Europe with that of the United States. With intermediate range American weapons in Europe the Soviets could not threaten Europe selectively; any nuclear attack and any successful conventional attack would trigger an American counterattack from European installations that could exceed the capabilities of the Soviets.

A strategy that could sustain itself for even the thirty days envisaged in some scenarios. And the elaboration of a doctrine for the use of nuclear weapons runs into two obstacles: Some anti-nuclear groups insist that nuclear war must necessarily be all-out extermination of civilians lest they be tempted to use nuclear weapons in the absence of nuclear war.

Different trends have been magnified by the INF agreement to the point where it is impossible to set a strategy aside the political spectrum but reach the same conclusions on defense and foreign policy has broken down. As a result, national security policies have been foisted on governments by domestic politics. The result has been an unhealthy debate in which for example the recent American proposals on modernization are likely to be adopted by Congress and risk the imposition of a strategy that distributes risks equitably but effectiveness must be the ultimate outcome. This is why the issue of modernization should become the occasion for a careful and bipartisan reappraisal of NATO strategy and arms control policy. Otherwise the Alliance will be left with a precarious combination of the formal NATO doctrine of flexible response which, however, now has to be applied under conditions of nuclear stalemate, growing nuclear tensions, a subtle Soviet strategy to separate the US and Europe—especially in the nuclear field—and continued inadequacies in conventional forces.

INF AND NATO MODERNIZATION

Division trends have been magnified by the INF agreement to the point where it is impossible to set a strategy aside the political spectrum but reach the same conclusions on defense and foreign policy has broken down. As a result, national security policies have been foisted on governments by domestic politics. The result has been an unhealthy debate in which for example the recent American proposals on modernization are likely to be adopted by Congress and risk the imposition of a strategy that distributes risks equitably but effectiveness must be the ultimate outcome. This is why the issue of modernization should become the occasion for a careful and bipartisan reappraisal of NATO strategy and arms control policy. Otherwise the Alliance will be left with a precarious combination of the formal NATO doctrine of flexible response which, however, now has to be applied under conditions of nuclear stalemate, growing nuclear tensions, a subtle Soviet strategy to separate the US and Europe—especially in the nuclear field—and continued inadequacies in conventional forces.
The INF agreement and the pressures it generates against the remaining nuclear systems places the predominant burden of nuclear defense on weapons based in the United States. In the process, many Europeans are convinced a gap is being created that in time will enable the Soviet Union to threaten Europe without sparing the United States. In technical terms, the defenses of the two sides of the Atlantic may be "decoupled." The fact that the nuclear armed members of the Soviet conventional superiority has not been reduced. The threat that generated NATO in the first place remains intact.

The modernization of NATO's short-range nuclear weapons must be seen in this context. The Atlanticists in the Federal Republic have been traumatized by the removal of intermediate range weapons. They fear another change in American position while the critics of U.S. policy feel confirmed in their view. Both now tend to unite against a scheme that can be represented as making Germany a nuclear battlefield. Sentiment is therefore being generated for the removal of these missiles—the third zero option. And modernization of short-range weapons is likely to face the same domestic opposition as the intermediate range weapons a decade ago.

On the other hand, the denuclearization of the Federal Republic—the nearly inevitable consequence of the third zero option—would create profound splits in the Alliance. A nuclear free zone logically implies the adoption of a "no first use" concept, because otherwise the zone would still be under nuclear threat from weapons outside. And once the Alliance has proclaimed that it was committed to accepting defeat with conventional weapons rather than escalating to nuclear war, once the principle of defeat is accepted the neutralization of Contra Europe, the goal of Soviet policy for 40 years, will be nearly complete. The nuclear armed members of NATO would be asked to assume responsibility for defending the nation which their country is not prepared to run for itself—an impossible state of affairs.

The Future of the Atlantic Alliance

A single statement can do no more than outline the complex policy issues that emerge out of a detailed debate within the United States as well as within the Alliance. But restoration of the unity of the Atlantic Alliance is objectively an integral part of American foreign policy; without it a continuation of current East-West negotiations will lead to no unified solution to all that has been achieved by forty years of bipartisan foreign policy.

A Coherent NATO Strategy

The ambiguities that have beset NATO for forty years—some of which have been outlined above—must be overcome. On the part of the United States it requires an end to the rhetoric that America's goal in East-West relations is the objective of American foreign policy; without it a continuation of current East-West negotiations will lead to no unified solution to all that has been achieved by forty years of bipartisan foreign policy.

The ambiguity of the arms control control theory which included many valuable and indispensable insights. However, arms control, to be effective, requires an unusually delicate understanding of the elements of strategy. Nations had often suffered catastrophe in the past when they fanned themselves superior; negotiating equality with an adversary calls for an unprecedentedly sophisticated analysis. The measure of equality has been maddeningly complicated by the novelty of the weapons, by the asymmetry in the design of the weapons systems of the two sides, in their geostategic positions and in the unpredictability of technological developments. Thus even the Soviets ready for a serious effort, negotiations would be difficult. A single set of rules for two sides are designed by different criteria and serve different strategic ends.

Since its early days, arms control theory has developed a life of its own. It used to be argued that arms negotiations should be an essential complement to broader strategies for foreign policy. The all consuming need to avoid war was now close to waving the dog. Care must be taken lest esoteric arms control schemes become an end in themselves thereby eliminating any relationship to defense strategy.

The issue of NATO modernization illustrates the point. Before the INF agreement modernization was the goal of Soviet policy in the Federal Republic was considered an internal NATO matter not subject to international discussion. The INF agreement has turned NATO into an issue of arms control, where the argument is opposed by the Soviets with the argument that it violates the non-circumvention clause of the INF agreement. And it is looming by the counterargument that conventional modernization is opposed by the West because it allegedly singles out the Federal Republic for nuclear risk. The so-called "compromises"—linking modernization to some new arms control measure—nevertheless accept the principle of denuclearization of the Federal Republic: the controversy concerns the price.

This all repeats the INF experience. None of the schemes account for the fact that the Soviet Union as a nation state will retain the ultimate ability to launch a nuclear first strike. While NATO as an alliance in need of 16 regions necessarily loses that capacity as nuclear weapons are being delinked with the conventional forces, while the other nations—-Clinton's views, the critics of the INF agreement will always retain categories of weapons under Soviet control that part of its national territory outside the agreement from which it can launch a threat to Europe. But the removal of categories weapons from nuclear forces in the United States or at sea. In short, arms control policy and alliance strategy must be brought into harmony. They partly create the rules that arms control becomes a device by which the Soviet Union gains a veto over Western defense policy without meaningful reciprocity.

A Larger Role for Europe

In the early days of NATO the United States had first an atomic monopoly and later a huge nuclear superiority coupled with economic predominance. It was inevitable in these circumstances that the Alliance structure came to be dominated by America. But since then Europe has recovered economically and restored some of its military strength. Britain and France have developed nuclear forces of their own. In the process, existing arrangements have become unbalanced. When one country dominates the Alliance on all scores, the other, which country chooses weapons and decides deployments, conducts the arms-control negotiations, sets the tone for East-West diplomacy, and creates international relations with the Third World—little incentive remains for a serious European effort to redefine the requirements of security or to coordinate foreign policies. In all of these areas, leaders are not likely to make the sacrifice
or incur the cost unless they feel responsible for the results.

An imbalance such as the one now existing cannot be corrected by ‘consultation,’ however. The long running process of integration works only when those being consulted have a capacity for independent action. There is no other way. Once each side knows that the other’s consent has to be won. Otherwise consultation becomes ‘bribing.’ Agreement reflects not compromise but acquiescence for want of an alternative.

Moreover, military dependence on another nation has a cumulative impact. When dependence no longer results from wartime destruction but from a policy choice, made under conditions of relative prosperity, it can no longer be defended in an assertion to display independence of the senior partner wherever doing so is safe, especially with regard to some Third World issues, the Middle East and certain aspects of East-West relations.

For all these reasons the United States has a positive interest in encouraging the evolution of an autonomous European voice in security matters. During the entire postwar period it has been an axiom of American policy that all the answers to irritation it might cause us, a strong, united Europe was an essential component of the Atlantic partnership. We have applied that principle, insofar as it depended on American actions, in all areas except security. With respect to defense, the US has been indifferent at best—at least since the failure of the European Defense Community in 1954—to any sort of Europeanization. Many seem to fear that a militarily unified Europe might give less emphasis to transatlantic relations and thus weaken the common security.

The opposite is almost certainly the case. In the economy field, integration was bound to lead to transatlantic competition, even to some discrimination. What defines a Common Market, after all, is that its external barriers are higher than its internal ones. In the field of defense, by contrast, increased European responsibility and unity would almost certainly promote closer cooperation with the US. A Europe analyzing its security needs in a responsible manner would be bound to find association with the US, or a partnership of equals would also enable the Federal Republic to escape the fear of isolation and enable the Atlantic Alliance to resist nationalism.

Greater unity in defense would also help to overcome the logistical nightmare caused by the attempt of every European nation to stretch already inadequate defense efforts across the whole panoply of weapons. For example, there are at least five kinds of battle tanks within NATO, different types of artillery, and different standards for calculating the rate of consuming ammunition. In a major conflict, it would be a herculean task to keep this hodgepodge of forces supplied.

Thus the paradox: the vitality of the Atlantic Alliance requires Europe to develop greater identity and coherence in its conduct of defense. I am not talking about传统上 ‘burden sharing,’ paying more for the existing effort. I have in mind something more: a reallocation of responsibilities. The present allocation of responsibilities falls to bring the allies to reflect a different security political objectives. Everyone has been afraid to take the initiative in changing the present arrangement, lest doing so unravel the whole enterprise or antagonize the United States. There is no foreseeable East-West conflict in which Europe will not be better off with American support. This is why traditionalists agree that only the coordination of their nuclear forces, the United States should encourage it as an important part of the European role in the joint nuclear defense. Above all the United States should make clear that European union on defense matters will be viewed as strengthening not weakening Atlantic ties.

EAST-WEST RELATIONS

Too many in the West seek to escape their dilemmas by taking refuge in the personality of Gorbachev. Without entering into the debate as to the long range purposes of the Soviet leader, the democracies cannot make themselves dependent on a single personality, especially as every Soviet leader except Lenin has been disavowed by his successor. Gorbachev’s personality is no doubt striking. But it is unwise to think of him as the deus ex machina to solve all the West’s dilemmas—a communist leader who will bring peace and tranquility without any real effort on the part of the free countries? Of these attitudes do justice to the actual choices facing the Soviet leadership? It is easy to say no to American efforts to accommodate at the top of what must be the toughest competition in the world—one in which losers are rarely heard from again. He has never wanted to be a major player on the world stage, theعرب طاغية، والمسيحي. And how could he, never having held any position other than as a member of the communist hierarchy. Reality no doubt imposes at least a respite on Soviet foreign adventurism, perhaps even an end to it no matter who governs in Moscow. But Gorbachev, as any prudent leader, is unlikely to court unnecessary domestic problems. He will not volunteer changes in political and strategic arrangements that powerful factions within his bureaucracy would find unpalatable. Obviously, he will push those programs most advantageous to his own country.

More fundamental issues must be addressed. What exactly is it that the West wants the Soviet Union to stop doing? What is the American view of cooperation or competition? In the contemporary situation is glasnost or human rights progress enough, or are other changes necessary? Can four superpowers coexist? And will new leaders be due to personalities, or do they reflect more permanent geopolitical and strategic elements? The absence of criteria causes doubt about the future. The reluctance to endorse peaceful coexistence with political content produces an overemphasis on numerical nostrums and threats to open a gap between strategy and arms-control policy in which each checkmates the other. I do not know how Gorbachev would react if presented with a comprehensive program that would reduce nuclear and conventional weapons simultaneously. Or how he would respond to a serious attempt to discuss the US-Soviet relationship a decade or so ahead of us. I am convinced that he has the intelligence and imagination to make a significant and constructive response. And if he refused, we would at least understand the nature of the challenge better than we do now.

CONFLICTS OUTSIDE THE NATO AREA

The North Atlantic Treaty Organization was a response to the fear of Soviet aggression against Europe. At that time, 40 years ago, the United States had a huge nuclear superiority and was dominant economically, while Europe was only beginning its recovery from the war. Conflicts outside Europe were produced by the process of decolonization, the Soviet Union, and the United States, reluctant to be involved in colonial wars, insisted that the United Nations play the role of the Atlantic Treaty did not extend outside of Europe.

Since then, conditions have changed dramatically. Europe has recovered its economic dynamism and is moving, although fitfully, toward political unity. The fear of Soviet invasion has diminished. American nuclear superiority has been replaced by rough parity. In the current round of arms talks allies increasingly question the credibility of the nuclear deterrent.

But on the issue of relationships towards those areas that remain beyond any hope of near term resolution, where regional powers are the key players, the United States and the European powers need to consider carefully their respective roles. The two sides of the Atlantic have exchanged their roles. Now it is Europe that insists that the treaty’s obligations do not extend to the developing world. And it is Europe that is an ally. Free to free dissociate itself from US actions and initiatives, Europe is starting to focus on regional initiatives to deal with conflicts outside Europe. But on the issue of regional relationships, the United States has not been able to move much beyond its own initial initiatives or to adapt to new circumstances.

CONCLUSION

This is a vast agenda. And it cannot possibly be accomplished except in a bipartisan setting. The national security interest of the United States demands that it aggressively pursue and make the most of every four or eight years. That possibility makes us a factor of instability. Weapons negotiations, arms control strategy and serious diplomacy, are the throws of a single Presidency. There will always be disagreements over tactics; but the fundamental issues must be settled. It should be the highest priority of a new Administration and of both sides of the Congress.

Mr. QUAYLE. Mr. President, I have said about all I am going to say tonight. There will probably be another time to speak on this or another couple of times. I have a lot more information to share. But as I said, I am going to yield the floor. Again, I appreciate the kindness of the President. He is a dear friend, and even though we are competing in basketball and other things that spiral across the river— and speaking of across the river, places like Jeffersonville, all those that probably the Red Devils, the Red Devils
To yield for a comment?

Bloomington, IN. And I daresay that very, very fine schools. But this year I will have to confess that they are we might be out in, what is it, Kansas City, IN, as they looked across the river, and we looked sometimes I might have to say to my dear friend maybe with disdain. But even though we did, I had to make time in our little Hoosier hospitality, to our dear friends from Kentucky——

Mr. McCONNELL. Would the Senator yield on this most important matter that he raised at the conclusion of the speech?

Mr. QUAYLE. I am glad to yield

Without losing my right to

Mr. McCONNELL. Kansas City.

Mr. QUAYLE. I do not know how Syracuse is going to be doing this year or any of the other schools from that State. How is University of Kansas doing?

Mr. MOYNIHAN. Would my friend from Indiana yield for a comment?

Mr. QUAYLE. I am glad to yield for a question without losing my right to the

Mr. MOYNIHAN. I will comment only as the Senator from Texas might say. “I don’t have a dog in this particular fight,” but I wish it to be understood that any time I am on the floor I wish to join the Senator from Indiana in speaking on unending affection for and pride in the Red Devils of Jeffersonville High School in Jeffersonville, IN.

Mr. QUAYLE. I thank my colleague.

Mr. MOYNIHAN. It was intended to indicate great enthusiasm for the team.

Mr. QUAYLE. I will tell my friend from New York, they have not forgotten where they come from. As a matter of fact, I remind them that sometimes if they really might need some help, and I might not be able to provide it, that they have a third Senator from Indiana that comes from Jeffersonville and Clark County that I might say is somewhat overwhelmingly a Democratic constituency of mine, though they are trying to do better. So I use this opportunity to sort of let them know, you know, they can talk to me, too. But the Senator hails from that area of the Red Devils. We take note of that.

Mr. McCONNELL. Would the Senator yield on that and having noticed that the Indiana-Wisconsin game started at 8 p.m. on channel 50, I shall with enthusiasm relinquish the floor.

Mr. McCONNELL addressed the Chair.

The PRESIDING OFFICER (Mr. LEVIN). The Senator from Kentucky.

Mr. McCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. McCONNELL. Before the Senator from Indiana leaves, I would note that he answered the Senator from Kentucky’s question about whether or not the Indiana University was playing basketball this year with the speech about the virtues of the Purdue team.

We have experienced the agony of defeat against Purdue, the University of Louisville. But I would respond that the University of Kentucky is in the top 10 and we expect both Louisville and Kentucky to be headed toward Kansas City and we hope to see the Senator there.

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

Mr. McCONNELL. I am happy to

Mr. McCONNELL. Kansas City.

Mr. QUAYLE. We will see whoever we see there. We intend to make it.

I will say one thing, that it appears you may have drafted one of our better basketball players this year, our standout from Richmond, IN, who somehow I think signed up to go to the University of Kentucky. He was in the running for Mr. Basketball of Indiana, I might add, but now it has publicly come out that he is contemplating going down there that he might have even signed a letter of intent to go to the University of Kentucky down in Lexington, or somewhere in the vicinity.

Mr. McCONNELL. Yes, that is the place.

Mr. QUAYLE. Across the river. As at least Senator Mornyih and I know, it is across the river somewhere. We are exactly sure where that location is, but we know that it is across the river and that is good enough for us to be against it.

(Mr. PRYOR assumed the Chair.)

Mr. McCONNELL. I thank my friend from Indiana for his kind observation about the Senator from Kentucky on this issue and his kind observations about our respective favorite basketball teams.

Mr. President, I think, as we look at this issue seemingly on and on, it is important to note those areas of agreement. The so-called group of eight has met twice and, as the Senator from Oklahoma, Senator Boren, pointed on the floor of the Senate I believe yesterday, there were substantial areas of agreement—areas of agreement that would be almost any standard add up to a significant campaign finance reform bill.

The group of eight, for example, was unanimous in desiring to do something about the millionaire’s loophole, something that the distinguished Senator from New York is concerned about and something we have talked about on several occasions. The Constitution members of the group of eight agreed to a suggestion that I had made and discussed again with my friend from New York recently that we simply make it impossible for someone who was not constitutionally required to do so, to buy public office and put it into a campaign in the effort to buy public office to retrieve it. That was an area of agreement by the group of eight.

The group of eight agreed that it was not unfair not to have disclosure of so-called soft money. And certainly that was a step in the right direction.

We did not agree on the limitation on soft money contributions but at least the measure moves us in the right direction.

We agreed on the need to provide a meaningful broadcast rate discount on television time. We agreed on a variety of different efforts to limit as much as you can, consistent with the Constitution, independent expenditures, and we agreed on an effective provision to prohibit bundling.

So, Mr. President, we really came a long way toward writing the kind of bill that could go through this body and truly be a bipartisan campaign finance reform measure. But apparently it is not going to happen. It is not going to happen, Mr. President, because we have broken down over one fundamental issue, and that is the question of whether it is appropriate to put a limitation on the number of participants one can have in running for the Congress.

Because, after all, Mr. President, that is what a spending limit is. It is saying to a candidate, “You can only have this much support and no more.” To us, that is a very fundamental question. It is saying, “You can’t have any more support than just this much.” It is to us a not a negotiable item and it is upon this point that the negotiations have broken down and it is upon this point that it appears that this debate will end for this year.

With regard to the events of last night, I think, without belaboring it too much, my friend from Pennsylvania, Senator Specter, had done an excellent job, it seems to me, in laying out the various legal arguments which
could be made with regard to the activities of last evening in arresting and bringing to the floor absent Senators. There is really not much I could add to what the Senator from Pennsylvania said other than to make the point that it seems to me quite sad that we have deteriorated to that level here. We operate with a great deal of comity. We make a real effort, even when we are disagreeing totally on issues, to smile at each other and refer to our colleagues as “my friend from” and it has a way of taking the edge off. But it seems to me last night we went too far, and I hope that we are not going to see further such activities. It has a way, I think, of poisoning the well, turning us from frustrated to angry. It seems to me it adds nothing to the proud history of this institution. So I hope we will not have any more of that.

Mr. President, I want to take a few moments to summarize some points that I made the other day about the Presidential spending system, but first I want to comment on what I heard the Senator from Indiana, Senator Quayle, talking about in trying to explain to his 11-year-old what was going on here in the Senate. It is pretty difficult to explain what we are currently engaged in.

I called my 15-year-old, who is at home tonight doing her homework, I hope, and explained to her what we were doing. This is a kid, I might add, Mr. President, who since age 6 has been able to name all of the President’s first, middle, and last name and in chronological order; a kid who has some considerable interest in the process, but did have, I think, some difficulty with the filibuster.

I explained to her that in the U.S. Senate this is the way we protect the rights of a relatively determined minority when it can get up into the House—that the FEC would shortly be bigger than the Veterans’ Administration. That is about how many employees it would take to police all of these restrictions on the rights of people to participate in politics.

So let us take a look at what happened over the last three Presidential races. What was the cost to taxpayers? So far this year looking at the 1988 election, in the last 2 months alone the taxpayers have coughed up $40 million. Looking at the last three Presidential elections—1976, 1980, and 1984—over one-third of a billion dollars; tax dollars—tax dollars—coughed up to pay for the Presidential races. We have had a proliferation of what some would argue are extremist candidates.

Now in this country you have got a right to run for public office no matter how outrageous your views. We fought wars over that concept. But one could suggest that you might draw the line before you let the public fund such races.

Lydon LaRouche got a half million dollars in 1984, tax dollars, public money. And this year that great American from the State of New York, a peace candidate, Mr. LaRouche, with the help of New York, Lydon LaRouche has gotten $200,000 of the public’s money. Now I know since she is from New York she must be a great New Yorker and a great American, but we are wondering about the Lenora Fulani campaign.

The big news of the 1988 elections is, of course, that Lenora Fulani has thrown her hat in the ring. She is the nominee of the New Alliance Party. We are all familiar with the New Alliance Party.

And other big news is that she just got, as the Senator from Kentucky said earlier, $200,000 of the taxpayers’ money to do it from that wonderful system of spending limits and partial public financing that some would like to extend to congressional elections.

Now, a word or two about Candidate Fulani. Ms. Fulani has never held political office before. In fact, she is a psychologist. But that means she ought to know what the people of the country are thinking. So I would like to wish her the best of luck, and I hope that she gets more out of these taxpayer dollars.

There is only one problem, Mr. President. Ms. Fulani is not planning to win. In fact, right in her campaign literature she says she does not even want someone to vote for her.

Now, this is an odd candidacy indeed, Mr. President. I thought I had seen it all over the years. I know the folks who ran for jai ler in Letcher County and constable in Grayson County. We have got some interesting characters in my State that run for public office. I cannot ever recall any of them announcing and saying do not vote for them.

Her campaign is not even called Fulani for President. It is called Lenora B. Fulani’s Committee for Fair Elections. If you are a little mystified, Mr. President, so am I. What does the Fulani Committee want if it does not want your vote? According to the campaign literature, what the Fulani Committee wants is your money. What the Fulani Committee wants, Mr. President, is your money.

Why? Because the one Fulani flier bares it all—“Every dollar is worth two.” What a wonderful concept. I bet that most of our taxpayers would like it if every one of their dollars was worth two.

But what wonderful financing miracle is available only to those who say they want to be President. What is this thing? Apparently, however, this two-for-one deal is available even if you do not want to be President. The Lenora B. Fulani Committee for Fair Elections is not a Presidential campaign, it appears. Instead, according to its own literature, this committee was set up to “create a lobbying presence in the very center of the presidential campaign.” Its object, in fact, Mr. President, is not to win but bring issues to the forefront. Thus, Ms. Fulani is not only a great American, she is a shrewd American. She has figured this out. Ms. Fulani is using this two-for-one cash to fly around the country following the real Presidential candidates around and lobbying them on the opinions of her group.

As her flier explains, this lobbying for democracy concept has yet another benefit. “Run as a Presidential campaign, every dollar we raise is matched by the Federal Government.” Now, every citizen has a constitutional right, and it is an extremely important right, to try to influence Mr. President, is it only in this wonderful Presidential system, that some in this body would like to extend to Congress as well, that folks can tap the taxpay-
ers' pocket to spread any view or idea they have, whatever they want. We will just have the taxpayers foot the bill.

Mr. President, I can confidently predict that there will be a lot of great American writing and a lot of great American culture about what the P. L. P. T. is. I am a writer of the people of the United States, and I expect all the campaigns to comply with the myriad of regulations under which they are operating.

Mr. President, to put a limit on spending does not mean that somebody else is going to put a limit on spending. What has happened? Why, since we passed the law, we have had an incredible increase in spending. Overall spending this year for President, processes each contribution through 100 steps to try to comply with the myriad of requirements and I expect all the campaigns to go through some similar procedure. We are dealing with campaign dollars here. Some have become the accounting decisions. That is how it is working out. It was a system designed, if we recall, Mr. President, to put a limit on spending and provide public finance.

What has happened? Why, since we have had this system of spending limits there has been an unprecedented growth in campaign spending. If that sounds like an oxymoron, let me repeat it. Since we have had spending limits, we have had an incredible increase in spending. Overall spending now is increasing at the same rate as before spending limits and taxpayer financing. The difference is that far more spending is now done outside of legal limits and disclosure requirements so there is less accountability. Put a limit over here and it pops out over here.

The law has been about as effective as prohibition. Mr. President. About as effective as prohibition. That is how we were going to wipe out the demon rum, if you will.

What else has the Presidential system done? Well, it has had a really marvelous effect on all the candidates of both parties. Every single major candidate has been cited for serious violations of the law. He has gotten bad press and large fines and, in fact, it has made every candidate a cheater. We created a system here that has made everybody running for President of the United States a cheater.

It is a sad commentary on a disastrous law. One candidate in 1984 spent $2 million in a State with a $400,000 limit. His campaign manager admits it somewhat proudly, I suppose, because the game is to get around the rules, not to comply with them.

Then there are delegate and precand­idacy commitments. Why, their loophole is big enough to drive a truck through, Mr. President. Conduits of millions of dollars, millions of dollars of outside spending and outside contributions are used.

Corporation and labor unions have circumvented limits by paying office rents and phone deposits and giving overly generous loans. All this, Mr. President, I am describing is the great progress we have achieved in this country under the Presidential system of spending limits in public finance which we seek to emulate if we pass it.

What else have we got with the Presidential system? Well, we have got a growing disrespect for law and the election process. Campaign managers candidly report that the first planning priorities are to identify in advance ways to circumvent limits and rules. A respected observer and campaign staffer declared, "This whole FEC thing is a sham. It is your job to find every loophole."

What has happened to special interests under the Presidential system, Mr. President? If the American people have any interest in campaign finance reform at all, and I would question whether they do outside of Common Cause—if they have any interest at all, it is related to the influence of special interests. That is why the Senator from Kentucky and others have suggested that we eliminate political action committees or PAC contributions altogether. But let us see what has happened to special interest groups in the Presidential system.

In the 1984 general election, special interests spent $25 million to oppose President Reagan. Sixty-two percent of Reagan's $40 million spending limit; $22 million dollars of the limit was spent against him by special interest groups in the general election.

Nearly half the money spent in the 1984 general election, $72 million, was outside the candidate's direct control. At least one-fourth of all money spent in Presidential races today is unreported, unlimited, and unaccountable. Soft money spending is roughly tripling election after election. These uncontrolled corrupt politics of the pre-reform era resemble the uncontrolled corrupt politics of the post-Watergate era.

What has happened to voter turnout? Why, it is down. It was 55 percent in 1980; down to 53 percent in 1984. Clearly it has not had much of an impact on voter turnout at all. It has actually gone down. And the quote a number of speakers have used, including myself last week—David Broder, he is quite possibly the most respected writer about politics in the country, said "Spending limits and taxpayer financing have shut down local campaigning. Grassroots democracy has died."

A number of speakers, Mr. President, have said the campaign finance system is a scandal waiting to happen. I would most respectfully suggest, Mr. President, the scandal waiting to happen is in the Presidential system that we are considering. That is why the scandal is waiting to happen. That is where the lawyers and accountants are getting all the dollars. That is where the candidates are spending all their time to get around ridiculous limitations on their right to express themselves. We have created a monster and the last thing we ought to do, Mr. President, is make that monster even bigger by extending it to 435 additional races, by publicly funding the Lenora Fulanis of the world, by creating a FEC as big as the Veterans Administration. My goodness, that is the last thing that we want to do.

The Kennedy School of Government at Harvard, which a number of us have quoted over the last week, is really a good source for drawing some conclusions about how the Federal system has worked.

In 1982, our own committee here in the Senate on Government corruption asked the JFK School of Government at Harvard to study the post-Watergate campaign finance reform and recommended changes. This is what the study group concluded and reported to the Senate Rules Committee.

First, the JFK School said, among the problems of the post-Watergate reforms the most troublesome are related to the attempt to restrict the money spent in Presidential campaigns. Candidates are not allowed to spend enough money, and the expenditure limits have spawned a whole series of serious problems of definition, allocation, and enforcement.

On the other hand, the effort to control total spending has not succeeded. Those involved in Presidential politics are able to raise and spend unlimited amounts of money through conduits other than the candidates' campaign committees.

The matters worse, the Kenne­dy School said:
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Most of the other means through which money is being poured into Presidential politics are inherently less accountable to the electorate and should be encouraged by the campaign laws.

Mr. President, this is the JFK School of Government at Harvard:

Thus, our most important recommendation is to eliminate the limitations by expenditures made by the candidate. Spending limits proved undesirable for a variety of reasons.

And the Kennedy School listed them.

First, the spending limits failed to equalize resources of different candidates. The spending limits failed to curtail the growth of money in Presidential politics. The spending limits failed to shorten the overall length of campaigns.

The spending limits failed to reduce the emphasis on early primaries. The spending limits intrude unduly into campaign strategy. The spending limits created thorny problems with arbitrary definitions, creative accounting, and entangled enforcement and finan­cially. More importantly, the spending limits fostered disrespect for the law.

The Kennedy School of Government report went on:

A more serious consequence of the growth of money in Presidential elections has been the systematic efforts of candidates to route money outside the constrained budgets of the actual contenders. These funding sources are all less accountable to the elec­torate than are the candidates. This constitutes a failure of the Act’s original purpose.

(At this point, Ms. MIKULSKI assumed the chair.)

Madam President, the report recom­mended that we should work to bring on the public record a better accounting of the money spent by labor unions and others for election related communications with members.

So there you have it, Madam Presi­dent, and my colleagues in the Senate. The presidential system has failed in virtually every significant respect. Yet we would have before us a bill which would seek to impose upon 535 addi­tional races such a system.

My goodness, can we not learn from experience? Can we not learn from experience?

There was an excellent article, Mr. President, done in February 1987, a year ago this month, in the Federal Bar News and Journal. Now let me just give you a little background. These are three folk who wrote this article who have been working for over 3 years for a Presidential campaign. By the way, I think it is interesting to note that it is still going on. This was a 1984 campaign and it is still going on, at least it was as of the date which was February 1987. Hopefully, it is now ended and these three able staffers trying to work with an impossible situa­tion are gainfully employed elsewhere.

But the article was called “Counsel­ing a Presidential Campaign.” It was authored by Lyn Oliphant. She was at the time of the writing of this artic­le in February 1987 the deputy gener­al counsel for the Mondale-Ferraro Committee. Prior to joining that com­mittee in 1984 she was special assistant general counsel in the Office of General Counsel at the FEC. She joined that staff at the FEC in 1986.

This is a partner in the firm of Kirkpat­trick & Lockhart in Washington for the Mondale presidential campaign. He was counsel and deputy chief of staff for Vice Presi­dent Mondale.

I give all those credentials, Madam President, for a reason. These are three individuals coauthoring this artic­le who are steeped in Presidential campaign election law, some of the true experts in this field, not only from a FEC perspective but also from a campaign perspective for a Presiden­tial candidate trying to comply with this nightmare that we created.

Let me point out certain pertinent parts of this article. The article begins:

The date is January 3, 1987. It is four years from the day that the Mondale for President Committee registered with the Federal Election Commission (FEC) and 26 months since the filing of the presidential declaration. Inside a small office, piled high with files and boxes, sit two deputy counsel of the Mondale campaign. A few miles away in another office the committee’s treasurer perio­dically meets with his lawyers and reviews documents passing to and from the Federal Election Commission. These three people (the authors of this article) plus a part-time controller and a part-time secretary are all that is left of the Mondale for President campaign, a campaign which for most people has been long since over.

In the past, we have all been reasonably confident that the Federal Election Com­mission Act (FECA) is a workable solution to the admitted and potential problems which plague the area of the campaign fi­nancing.

Now, the author said:

Now we are troubled by a campaign fi­nance law which is used as a campaign weapon: spams “creative” efforts to comply with—really evade—its limits; has made presidential candidates increasingly more burdensome; and has led to rules which in our view sometimes make no sense and which heal the campaign activity.

The authors go on:

For those of us responsible for the campaign’s compliance with the Federal Elec­tion Campaign Act of 1971, as amended, the need for registration of the committee in 1983 until today has been long and frus­trating. It is our hope that by sharing some of our experiences and highlighting some of the unresolved questions, the trail will be easier for future campaigns.

Skipping over, Madam President, the authors continue:

Campaign organizations tend to push the limits of permissible election finance activi­ty. Practices and legal interpretations adopted in one presidential cycle become the new jumping off point for the next cycle, raising new questions concerning the reach of the federal election laws.

DELEGATE COMMITTEES

Frequently these new frontiers of campaign activity are the subject of FEC com­pliance actions, often when a candidate’s oppo­sition or a legislator concerned with the Mondale campaign and the much-publicized delegate committees. One of the cen­tral questions posed in that matter before the Commission was the interpretation of the grassroots activity provision as applicable to individual delegates and delegate commit­tees. However, in this instance in consider­ing the delegate committee complaint the FEC was unable to reach a consensus as to whether the activity of a Mondale dele­gate committee fell within the parameters of the regulation.

Second problem:

REDESIGNATION OF EXCESSIVE CONTRIBUTIONS

Another issue that was unresolved prior to the 1984 campaign and remains unresolved concerns the disposition of excessive contribu­tions to the primary campaign.

A third problem:

SOURCES OF FUNDS FOR REPAYMENTS AND PENALTIES

Neither the FECA nor the regulations make clear what funds can be used to make required payments of public funds. The issue has been before the Commission on several occasions since 1976, yet remains un­resolved.

Problem No. 4, Draft Committees:

Through no fault of the FEC, the status of draft committees remains unresolved.

Persons involved in the Draft Kennedy movement prior to the 1980 presidential campaign used funds raised and used by the committee and subsequently disbursed by the FEC on the grounds that the activity of the draft committees was beyond the purview of the FECA.

Commission has repeatedly rec­ommendations, has not chosen to take fur­
than by the campaign finance laws from spending money. Respect for the law and choose. Candidates should be permitted to engage in traditional party volunteer activities counting against the candidate's limits.

Some have suggested that the current grassroots provisions are being exploited as a millionaire's loophole. Moreover, the requirements of this law are so difficult to follow that they curb healthy campaign activity. Add to this the fact that state laws and federal laws usually differ. It is easy to see why well-meaning volunteers get frustrated, and much spontaneous participation, so important to the process is lost.

And the Mondale staffers go on.

The fact of the matter is that no campaign treasurer can maintain sufficient day-to-day control over the operation of a large campaign spread over 50 states, so as to assure that no provision of federal law is violated.

Anyone who accepts the position of treasurer should assume that there is a better than 50/50 chance that he or she will at least be cited in his or her official capacity, for violating the FECA. The day may come when no reasonable person will accept this responsibility.

CONCLUSION

Eventually, every campaign completes its responsibility under the Act, the last report is filed, that last box of records is placed in storage and it is over. In our case that may well occur just about the time this article is published.

While we have written about many of the problems of frustrations inherent in financing a presidential campaign, the fact of the matter is that with thoughtful planning and diligent efforts by all concerned you can avoid adverse consequences to the operation of the campaign by complying with the FECA.

For us the bottom line is very simple. The time has come for the Congress to take a hard look at the way in which we are regulating presidential campaigns, or one day we may find that these laws have in fact subverted the process.

This article, Madam President, is by three experts on campaign finance. They not only worked with it at the Federal Election Commission, but worked with it for Presidential campaigns. Their conclusion is it is a failure. And to extend that kind of system to 535 races would be a double disaster.

Madam President, there has been some discussion about spending limits as an incumbent protection strategy. We did a little figuring on the 1986 Senate elections; the most recent elections. And I think it is important to take a look at the analysis.

In the most recent version of S. 2 there are certain spending limits by State set out by each State. Every single incumbent in 1986, Madam President, every single incumbent who spent within the limits set by S. 2 won. Ten out of ten incumbents who spent within the limits of S. 2 won.

Point 2: 90 percent of the challengers who spent within the limits set out by S. 2 lost. Eighteen out of 20 challengers who spent within the limits of S. 2 lost.

Point 3: 72 percent of the challengers who spent above the S. 2 limits—that was five out of seven winning challengers, spent above the limits. A challenger who spent above the S. 2 limit had a 63-percent chance of winning; a challenger who spent below the limit had a 5 percent chance. A candidate who spent above the limits won their races. A challenger who spent within S. 2 estimates had a 10-percent chance of winning; 2 out of 20 challengers who spent within the limits won.

So I think it is important to look at the real facts about whether S. 2’s spending limits are incumbent protection strategy. They are.

It is not going to make it any more likely under this bill that a challenger can win, no more likely at all.

So it clearly does not, Madam President, diminish the advantages of incumbency.

One thing I think is it is safe to say is most everybody in this body, maybe not every single individual, but most of them, agree that there is something dreadfully wrong when a person who through accident of birth or through great ability to accumulate wealth is able to spend whatever he or she may wish to spend on attempting to personally buy a political office. It is what I have dubbed the so-called millionaire’s loophole.

Buckley versus Valeo was in my judgment, it really respects a sound opinion properly interpreting the Constitution. But one of the areas that I find troublesome if not from a constitutional point of view, at least from a practical point of view, was the conclusion that it was perfectly all right constitutionally to put a limit on what you could contribute to someone else but it was impermissible from a first amendment point of view to put any limit on what you could spend in your own campaign.

In other words, what was an encroachment on your right of free speech.

I have a new piece of legislation which I think would help deal with that problem. It has attracted some interest on the other side of the aisle. It would help close the millionaire’s loophole in a constitutional manner, and help reduce campaign spending. It would prohibit wealthy candidates from recouping personal campaign expenditures or loans from contributors.

We all know what typically happens now, Madam President. If a person has a lot of money, they simply pony up millions sometimes knowing full well that one out of ten assuming they are successful and many are, a growing number are, they will be able to go around town to all the political action committees and all their favorite individual contributors and get themselves paid back.

The bill the Senator from Kentucky will introduce does not say the millionaire cannot put all the money up be-
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cause you cannot do that constitutionally, but it does say this: If you put it up, you will have to eat the whole thing. That might not deter somebody with really big bucks but just a little millionaire, Madam President, might think twice if he knew he had no prospect whatsoever of getting it back one way or another.

All of us, I think, almost without exception, think we need to do something about this millionaire problem. That is clearly one way to get at it. There is another way. It might not work, but it might have some impact. We could require someone to certify at the beginning of the election when he filed with the FEC that it was his or her intention to spend, let us say, more than $1/4 million.

That notation would be a warning to others seeking that office of what was coming. Under that provision, I think the trigger for the opponent is an opportunity to raise money above the current limit. The current limit is $1,000 in the primary and $1,000 in the general. If you know you are going to be up against a millionaire, one way to counter is have the limit go up some. We suggested $10,000 in the primary and $10,000 in the general. Again, it does not entirely solve the problem, but is another way to try to level the playing field against the millionaire candidate.

Make no mistake about it, Madam President, millionaire spending is bidding up the cost of campaigns. Let me give you some figures on that.

From 1978 to 1986 personal spending, spending out of the candidate's own pocket on campaigns swelled by $30 million. I repeat, during that 8-year period from 1978 to 1986, personal spending on campaigns swelled by $30 million.

It is now the number three cause of explosive campaign spending right after individual contributions and PAC's.

I would bring down the cost of campaigns. As this Senator said repeatedly over the last 8 or 10 months of this seemingly endless debate, if the American people have any interest in this issue at all, and some would argue they do not, it seems to me it is focused on Pac's.

I would be happy to eliminate PAC contributions altogether for the candidates or the parties, just eliminate them. I personally do not have a whole lot of problems with political action committees but it certainly could be argued that if there are special interest contributions to candidates it certainly is the PAC contribution.

Simply eliminating PAC contributions could have a single impact. It would reduce campaign spending by $140 million each year or 30 percent. Some would argue the money would find its way in the system some other way. I would certainly encourage that.

I encourage individual contributions. That is what this debate is all about, the protection of the right of the individual to contribute. But the money coming in that process labeled special interest could be eliminated.

As I said, I support restrictions on personal campaign spending by wealthy candidates. This could reduce campaign spending by up to $40 million each year, another 9 percent. Right there, Madam President, a total reduction in overall campaign spending of almost 40 percent every year by trying to treat the millionaire problem and the PAC problem. If we could do that with the deficit we would be in great shape. In fact, it is a lot better than S. 2 would do.

We ought to report soft money contributions and maybe we ought to limit them. A lot of people on this side of the aisle, maybe it is because we do not get much soft money support, do not see much contribution between a cash contribution and a soft contribution. A cash contribution is limited and it cannot be given to a person or group contributing with a certain amount of money to the opponent of a millionaire out of tax dollars. But there is no way you can constitutionally get at the problem totally.

Take the Senator from Maryland, the occupant of the chair. Let us assume that she faced a wealthy candidate who did not want to obey the current limit. The conclusion, Madam President, was if it is in print, it must be true—it must be true.

If one of the most oft-repeated assertions in this body—and I do not think anybody who said this has intentionally tried to mislead Senators or the public—was if it is in print, it had to be true. And so there was a good deal of discussion about the proposition that if a thing is in print, it has to be true. And so there was a good deal of discussion about the proposition that if a thing is in print, it has to be true.

The conclusion, Madam President, was if it is in print, it must be true—it must be true.

And so I think in this debate when somebody says something first, we assume that that is a well-researched notion and therefore it must be true.

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Well, in fact, Madam President, just the opposite is the case. The money is turning people on, not off, and there is a direct correlation between money spent in races and turnout. And if you think about it a minute it stands to reason, because the races in which significant amounts of money is spent are usually well-contested races in which you have two vigorous, attractive candidates who are able to garner support. Two vigorous, able, attractive candidates who are able to garner support can run aggressive campaigns and aggressive campaigns turn the voters on, not off.

The average turnout in the 1986 Senate elections was not anything we are all that proud of overall, 37 percent. But States watch; spent the most per voter in campaigns tended to have the highest turnout and States which
spent less per voter tended to have the lowest turnout.

As I just said, the explanation is that the high spending races tended to be the ones that were hotly contested, with good candidates, great competition. What did this high spending pay for? It paid for more communication, reaching out to voters, more discussion of the issues. That is what it paid for.

To fund the spending, more people contribute, they get involved. They have a stake in the election. They want to make a difference.

Time and time again over the last 10 months of this debate, people have cited the 1986 South Dakota Senate race as a race in which an obscene amount of money was spent on a small electorate and how despicable all that was.

Well, Madam President, it is interesting to note that the South Dakota Senate race had the highest turnout in the Nation. Fifty-eight percent of the people in the South Dakota Senate race in 1986 came out to vote. The best in the Nation. The best in the Nation. Why? Because they were turned on, not turned off, by a hot contest with a lot of money raised and lot of money spent.

And you could go on down the list. Vermont was No. 2 with a 49-percent turnout. The money spent per voter in South Dakota was $13.47. That produced a 58-percent turnout. The best in the Nation.

In money spent per voter, Vermont was second, and North Dakota was tied with South Dakota for first in turnout.

Let us look at the other end of the scale, the lowest spending States. We had Ohio at 33d, Illinois at 32d, Kentucky at 31st. The turnout was 40 percent, 37 percent, 25 percent.

What was the spending per voter in those States? In Ohio, where you had a 40-percent turnout, 25 cents per voter spent. In Illinois, where you had 37-percent turnout, 33 cents per voter. In Kentucky, my State, unfortunately, we had a 25-percent turnout; we spent 46 cents per voter. Indiana, 39-percent turnout, 53 cents per voter. New York, 32-percent turnout, 72 cents per voter. Utah, 41-percent turnout, 73 cents per voter. Kansas, 46-percent turnout, 85 cents per voter. And so on down the list.

Now, Madam President, show me a race in which not much money is spent and I will show you a race in which there is not much interest, because it is not vigorous, it is not contested and people are therefore not interested. So let us get away from this mistaken motion that the money spent in politics is turning the voters off, because it is in fact turning the voters on.

On the matter of spending and whether it is good or bad, it is interesting once again to quote the Kennedy School of Government at Harvard, a particular paraphrase I think. This is the Kennedy School report to the Rules and Administration Committee, U.S. Senate, January 1982. The Kennedy School report says the public also believes that too much money is spent in election campaigns.

The public also believes that too much money is spent in election campaigns. Our analysis differs from this accepted wisdom. The amounts of money spent by candidates should be sufficient to provide voters with a reasonably good probability of learning something about the policy proposals, the personal characteristics and the abilities of the contending candidates. The creation of an informed citizenry is unduly circum­scribed if the funds available to candidates are not sufficient for them to communicate their messages to the voters. In short, for the educational processes of elections to take place, candidates require ample financial resources.

There is nothing wrong with that, nothing immoral about that, an entirely appropriate way to express yourself in a free society.

The report goes on.

You know, this statement, again, that we make that there is too much money being spent on politics, I think it is important to ask: Compared to what? Compared to what? In fact, the trend of increases in campaign spending is slowing down. All evidence is that it is beginning to cap out.

From 1976 to 1978 Senate and House races together, the spending went up from $113.5 million to $194.8 million, a 70 percent increase over that 2-year period. From 1980 to 1982, it went from $239 million to $342.4 million, a 43 percent increase. From 1984 to 1986, $374.1 million, to $480 million, a 20 percent increase. It is clear that campaign costs tripled in the last 10 years, but the rate of increase dropped over 70 percent. In other words, it is just not going up like it did earlier.

So the next question is that some have made it that it is going to cost $20 million to $30 million to run for the U.S. Senate a few years down the road in small States, there is absolutely nothing to bear that out. The rate of increase coupling off substantially.

Also, when we say we are spending too much money in politics, I think we have to ask: Compared to what? Compared to what? We are spending too much money in politics. Compared to what?

We spent $23 billion—billion—that is with a “b”—that is big money even by Federal Government standards—$23 billion for cosmetics last year. We spent $55.4 billion for alcohol; $121.4 billion for eating out; $230 million on bottled water; $883 million was spent on advertising cosmetics. That is just the top six companies. Twenty million dollars spent on Kennel Rations and Kibbles and Bits ads.

Now, you know we do spend some money in politics, but it does come from a whole lot of folks, a whole lot of folks. So when they say we are spending too much money on politics, I ask: Compared to what? Compared to what? We are informing the voters—except for the millionaire problems—with dollars raised by a whole lot of others and it is a pittance, it is a pittance compared to end what is spent in this communication’s conscious society.

Mr. ARMSTRONG. Mr. President, will the Senator yield to me for a question?

Mr. McCONNELL. Yes, I yield to my friend for a question.

Mr. ARMSTRONG. Let me explain to the Senator from Kentucky who has done such a brilliant job in his management of this issue that, while he has been speaking, behind the scenes there has been a discussion under way which would relate to the schedule for the balance of tonight and tomorrow and into Friday. The acting Republican leader and others have come up with an idea which they are eager to discuss with the Senator and, therefore, the hope is that he would be willing to yield to me for a few minutes, perhaps for 10 minutes, and if he would be willing to yield to me for that period of time, I would propound a unanimous-consent request that he be permitted to yield the floor but to regain it without it counting as a second speech so that, in effect, he would just be permitted to be off the floor for a few minutes and not lose his right to speak further later in the evening.

Mr. McCONNELL. With that understanding, I yield to the Senator from Colorado.

Mr. ARMSTRONG. That is my unanimous-consent request, that I be allowed to address the Senate replacing the Senator from Kentucky and that he have the right to recognition again following my remarks and it not be counted as an additional speech. This request has been cleared with the Democratic leader.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Colorado? Without objection, the Senator—there is no objection. The unanimous-consent request is agreed to. The Senator from Colorado has the floor.

Mr. ARMSTRONG. I thank the Chair, and I thank the Democratic leader, and I thank my friend from Kentucky. I see that he has already gone to the cloakroom to consult and it is my hope that the result of this consultation will in fact be an arrangement under which most Senators if not all will be able to go home for the
evening while the debate continues. But with the assurance that there would not be a series of rollcall votes.

Indeed, without trying to announce in advance an agreement which has not yet been reached, the essence of it is that we would restore the traditional consideration for the rights and sensibilities of Senators; that the debate would go on in a more relaxed and less tense manner; that there be some understanding that the substance of the debate through the night would be limited to the topic which is before us, that is to say the bill, S. 2; and that on tomorrow we would have a series of speakers and wind up at a reasonable hour and then have a cloture vote on Friday morning.

Personally, Madam President, I hope that understanding, or something like it, can be reached for a lot of reasons. First of all because I very much regret the episode which occurred here last night, which is a little bit of a hand and I am not going to comment in any detail on what transpired at this time. In fact, the Republican leader has asked me to withhold my observations about the parliamentary situation which arose during last evening and at the right time—

Mr. BYRD. Would the distinguished Senator yield?

Mr. ARMSTRONG. Yes, of course, I would be happy to yield to the leader.

Mr. BYRD. Mr. President, I thank the Senator for yielding. The distinguished Senator has described in some detail a proposal that is being discussed at some length. I would hope that Senators who are listening understand that that proposal has not been agreed to and that Senators will stay around until we can announce whether or not there is any agreement.

I should point out that something can be worked out whereby there will be debate. It will be on substance and only the substance. However, Senators should not leave the Hill until we are certain that we have that understanding worked out. I thank the distinguished Senator. I ask that the time I have taken not come out of his 10 minutes and that he not be charged with the second speech.

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

Mr. ARMSTRONG. Madam President, I thank the leader and, of course, I share his understanding that this is only a hoped-for agreement. It is not an actual agreement at this point.

I am convinced, myself, that neither this bill nor nothing like it is going to be enacted during this session, not just this week or this month; I do not think 1988 is the year in which Congress is likely to present to the President for his signature a bill of this general character and I have a hunch that if by some misadventure legislation along these general lines were to come to the President's desk, that he would veto it so fast that it would make your head spin, as well he should. Because this is a bill which attempts to abridge some fundamental rights, not only of candidates but of the general public. It is an attempt to shut down the right of certain individuals and certain groups to participate fully in the political process.

There are really two themes of the underlying proposal. One is to say let us have the taxpayers pay for the conduct of political campaigns, and the other is to say let us put some limitations on the amount that can be spent, either by candidates or in some iteration of the bill: How much can be spent by political action committees or something.

Madam President, someone may think that it is highly desirable to limit the opportunity for people to spend money to express their political ideas and political candidates is something that we want to limit but is something that is worthy and is well worth encouraging. One of the notions that quickly surfaces when we talk about campaign finance limitations is the idea which we have heard expressed here in this Chamber on many occasions, that Senators are really too busy to spend their time raising money and I think this is a big distraction from their work.

I would like to discuss that notion at length but I notice that the Senator from Kentucky has returned and looks as if he is revved up and ready to say something and since I am only filling in and will have an opportunity I guess at some future time to discuss this I would be happy to yield the floor, if he wishes to resume his remarks.

Mr. MCCONNELL. I thank the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Kentucky has the floor under the previous order.

Mr. ARMSTRONG. I thank the Chair and look forward to an opportunity to continue my part of this discussion at the appropriate moment.

Mr. MCCONNELL. I thank my friend from Colorado. Having had an opportunity to be briefed by the Republican leader on what we hope will be an agreement I will resume the debate.

When I left off, Madam President, we were talking about our favorite subject: campaign spending and whether it was too much. I was comparing it to some other expenditures that we make in this country on advertising and that is, for the most part, what campaign spending is going for these days: Advertising. It is pretty clear that we are not spending very much at all to communicate with our constituents, to give them an opportunity to make an intelligent choice in political races.

We probably ought to be spending more. But the increase in campaign spending is beginning to abate.

What are the real causes of higher campaign costs? As I have said repeatedly, far and away the biggest problem is the cost of television. Those of us
who have sought public office, major public office statewide, know exactly what happens. You are in a hotly contested race, you move into the last 60 days toward the finish line and what happens? Why, our friends at the television stations reach the absolute lowest point in campaign costs, the cost of television.

About the cost of television, I might say one of the areas of agreement in the group of eight was a proposal made by this Senator that we require the broadcasters to sell us the television time at the lowest point they charged any commercial customer the previous year. In most States that is the non-election year. In my State, I might say parenthetically, we have an election every 6 months, we find it an art form and we like to do it frequently. But in most States they give the voters relief every other year.

So, typically if you had a situation where the broadcaster was required to sell the time to you at the lowest point the preceding year, it would be a genuine break and, therefore, hold down to some extent the cost of campaigns.

What does higher spending usually mean? Well, leaving aside the millionaires problem which we wish we could solve, and we are going to try to, higher spending usually means the following: Obviously the candidates can spend only as much as the people contribute. If the candidate raises a lot of money, under our limitations and disclosures, assume he did not put a lot of his own money into it, it means he assumed he did not put a lot of his own money into it, it means he has a whole lot of support, that is not something we should condemn, that is something we should congratulate.

The money raised in campaigns allows us to use the modern means of communication. We have heard frequently speakers on this floor long for a simpler day, a day when you could go out and meet and talk with your constituents or your would-be constituents, in the case of the campaign, where you could maybe make a speech on the courthouse steps and nobody would care, somebody would listen and everybody would show up.

I would wager in this day and age a typical candidate can make a speech on the courthouse steps and nobody would be there but his family, People do not have an abiding interest in listening to politicians make speeches. Believe it or not, it is a shocking conclusion to reach but they do not.

So we went back to a simpler era, and we went back and made these speeches on the courthouse steps and spent a lot of time— we still do this, by the way, spent a lot of time shaking hands at the plant gates. I have run for office a couple of times. I cannot recall a more meaningful experience working through a factory gate shaking hands like this down the line. I do not think anybody is particularly in a mood on the way into work or on the way out of work to have a detailed mathematical discussion of the race.

So this notion that somehow going out and meeting the voters, speaking on the courthouse steps, shaking hands at the factory gate—all of which we do, you understand—is somehow a better way to communicate with our potential supporters, astounds me because I cannot recall but having had very many detailed discussions of the great issues of the day standing there blurry-eyed at 3:30 a.m. working the plant gate.

For those who have not tried it it is a fascinating experience. I do not mind doing it, but I do not think it is particularly enlightening and to assume that using television and somehow a step backward it seems to me is patently absurd.

Clearly every television commercial is going to paint his candidate in the best way or paint the opposing candidate in the worst way but it is sort of like a lawsuit. The plaintiff has the lawyer and the defendant has a lawyer and they put them in the ring and they go at it and somehow out of that vigorous competition the jury in the case of the election is going to paint his candidate in the best light. The voter in the case of the election is able to make a decision about the relative merits of the candidates.

So we ought to encourage that kind of vigorous exchange and we ought to encourage it in the most modern and effective way and that is the use of media.

We cannot go back to the old-fashioned way because nobody is interested in doing it that way. If the American public is watching television and listening to the radio, then, by golly, the candidates have to be using television and using radio. We have to reach our potential voters and our constituents in the way that they want to be reached.

One of the other arguments frequently made around this place during the course of the debate is that this fundraising is just too time consuming. Let me say that a candidate—let us take an incumbent because that is what we are talking about here in terms of that argument in this body— does not make sense to put a limit on participating just because some of us do not like to raise money. The very reason people seek public office is to do things like raising money.

So no longer should any Senator go to the majority leader and say oh, protect me. I have a fundraiser. We have a week set aside for that kind of thing. We know it in advance. We can plan.

It should not be used as an excuse ever again that somehow raising money is getting in the way of doing our job here. I think it is also important to note that that was never a good excuse. I do not think any of us should ever use that excuse.

Our first responsibility is here doing our job in this body, on behalf of the constituents who sent us.

So one more argument, which many have derided is simply a tactic. Nobody makes us raise money early.

Some Senators do it, as we all know, and try to scare off opposition to try to earn interest on the money because if you raise it early and properly invest it over a period of time, it will indeed grow. But we do not have to do that. Nobody makes us do it. I know several Senators on this side of the aisle who just simply choose not and they have been able to get reelected quite easily. It is a strategy matter. You can do it or not, it depending upon our particular situations and how we want to structure the campaign.

I choose to spread this kind of activity over a whole lengthy period of time rather than putting it off to the end. I have many bad qualities, but procrastination is not one of them. So I choose to do it early or spread it out rather than not have it come down on my head at the end. But either approach is appropriate. It is a strategy decision that each of us makes, but nobody makes us raise money and there is no set amount that any of us have to raise. There is no set amount.

If you do not have a tough opponent you will not need much money. If you do, you will, because the race will be competitive and you will be attacked and you will need it to defend yourself because after all we do not own these seats. We get a 6-year lease and when that 6 years is up, if we want to keep it, we have to fight for it. Sometimes you are lucky enough to get an easy opponent and have a lot of folks in your State who really like your work and love you so much they just would not give anybody running against you a chance to get off the ground. That is a wonderful experience for anybody who has it.
But we do not own it. We do not have a perpetual right to sit here and it is not for us to try to go out and fight to keep it every 6 years or to have some upstart who looked in the mirror and saw a U.S. Senator and said, "By golly, I am going to make that challenge that fellow and this fellow, too." That is part of the process.

And if we have a good challenge it is going to be somebody who can get some support, raise some money, get on TV and jump on us and that is the way it goes—politics in America.

So we should not be offended by the process that requires us to do something to stay here, do something politically as well as our jobs. And it seems to me for somebody who is reasonably energetic, they can both walk and chew gum at the same time.

Now, Madam President, going back for a moment to the issue that divides us, it is really too bad that it is, but it is a deep-seated difference both philosophically and in terms of the positions of our two parties in the American political process and that is the spending limit issue.

The Supreme Court in Buckley versus Valeo basically frowned upon spending limits. In fact, the Supreme Court in Buckley versus Valeo said that mandatory spending limits are unconstitutional.

It did allow Congress, however to appropriate funds for Presidential candidates as an incentive to comply.

There was, however, no penalty on nonparticipants. You just had to work harder.

Now, we have one candidate who tried that. He did not get anywhere, but Gov. John Connally ran for President in 1980 and said, "I am not going to take any public money; I am going to do it privately." He did not get very far. He did not take any public money. He only got one delegate. But when he made that decision, Madam President, to refuse to accept public money, he did not trigger for any of us opponents additional public funds.

His exercise of his constitutional right to avoid taxpayer dollars and spending limits did not trigger for any of his opponents a payout from the Treasury.

The problem with all three versions of S. 2 is that they use taxpayer money as a hammer to take away constitutionally protected political rights.

Under each version there is a punitive payment to the participating candidate as a result of the nonparticipating candidate's decision to do it his own way and to avoid to deny to refuse to accept spending limits public finance.

In the most recent version of S. 2, this unconstitutional aspect is so blatant that it is painful.

There is a significant amount of money triggered out of the Treasury to anyone who decides as a matter of principle or strategy or whatever to simply not accept spending limits and not accept public money.

Now, Buckley versus Valeo is often-times a misinterpreted decision. It was handed down January 30, 1976. The decision said in pertinent part:

The campaign expenditure ceilings appear to be an unconstitutional burden on the constitutional rights of political candidates.

The decision went on:

In any event, the mere growth in the cost of federal election campaigns in and of itself poses no problem for governmental restrictions on the quantity of campaign spending and the resulting limitation on the scope of federal campaigns.

The First Amendment denies government the power to determine that spending to promote one's political views is wasteful, excessive, or unhealthy. In free speech it is not the government but the people—individually as citizens and candidates and collectively as associations and political committees—that should control over the quantity and range of debate on public issues in a political campaign.

Now the famous footnote in this decision says:

For the reasons discussed in Part XIII, infra, Congress may engage in public financing of election campaigns and may condition acceptance of public funds on an agreement by the candidate to abide by specified expenditure limitations. Just as a candidate may voluntarily limit the size of the contributions he chooses to accept, he may decide to forego private fundraising and accept public funding.

What does that mean, Madam President? What that means is that the public money can be used as a sweetener or inducement to a candidate to accept a limitation on expenditures and that is what has happened in the Presidential system.

All but one of the Presidential candidates have found it irresistible to dip into the taxpayer's pocket for public funding. They have found it irresistible and have accepted some form of punitive payment to any of their opponents but simply because you do not have to work as hard if by raising a certain amount of private dollars it triggers public dollars. And so each of the candidates in spite of the fact that the law is a disaster and that one out of four dollars is spent on lawyers and accountants has found it irresistible and has accepted the limits but there has been no punitive aspect to it. S. 2 to the contrary in all three versions sets up a punitive payment to your opponent. If you decide as a matter of conviction or strategy to go your own way, to raise your own money, to do that as best you can, and to spend it all in your election, your opponent receives a huge taxpayer subsidy to punish you in effect for exercising the right that Buckley versus Valeo made available to you. That is the misinterpretation of the first amendment as it applies to campaign expenditures. Punishment.

Now, the Department of Justice in an opinion written to the Senate Committee on Rules and Administration in May of 1987 mentioned these points. And it said with regard to monetary sanctions:

Although participation in the public funding program and adherence to the expenditure limitations would violate all of these points. That is the Justice Department opinion on S. 2 the constitutionality of it—

The bills impose some form of monetary sanction on those candidates who choose not to participate and who raise and expend sums in excess of the limitation applicable to participating candidates.

The opinion goes on these provisions pose grave constitutional problems.

Further, the opinion says:

Direct limitations on a candidate's right to expend his personal resources on his own political campaign plainly violate the First Amendment. See Buckley v. Valeo, 424 U.S. 1, 50-54 (1976). See 424 U.S. at 53. These bills impose limitations on the size of contributions directly, by placing what amounts to a penalty on a candidate's personal expenditures in excess of his hypothetical entitlement to public funds. The penalty may engage in o a matching grant of public funds to his opponent.

It is not the way the system works:

Personal expenditures by a candidate thus serve to trigger the subsidization of views with which the candidate presumably does not agree. While this type of indirect restriction does not fall within the precise holding of Buckley, we believe it is clearly embraced by its reasoning. Congress plainly cannot forbid candidates from spending resources on their campaigns. Rather than directly doing so, the bills "exact [a] penalty," 4187 U.S. at 256, for such conduct, by making the size of the public subsidy to the candidate's opponent dependent upon the candidate's own First Amendment conduct.

The more the candidate does to promote his own views, the more he fosters the promotion of his opponent's views.

In sum, we think that the proposed provisions, by tying a candidate's funding of his own campaign to increased public funding of his opponent's theoretically likely represents an unconstitutional infringement on the right to use one's own resources to disseminate political messages.

The DOJ opinion goes on to say:

For many of the reasons outlined above, the bills may also unconstitutionally burden the rights of contributors. Under the bills, contributions to candidates in excess of the separately specified amounts result in the payment of additional public funds to their opponent. Thus, contributors see their contributions fostering the spread not only of those views but also of those they do not. The predictable result is a chilling effect on the right to contribute.

Accordingly, all of these bills raise serious constitutional questions with respect to the rights of contributors. Since they are not even designed, much less narrowly tailored, to prevent corruption, they appear to us to be unconstitutional on the Commerce Clause. And so we look at these bills.

Madam President, let us talk a little bit about what can be best described as getting and spending under S. 2.
In the primary election—let us talk first about where the money comes from under the most recent version of S. 2.

First, there is a postal subsidy which we estimate to cost the Government, the Federal Government, about $17 million for House and Senate races combined per cycle. If the bill were to apply to both Senate and House races, we would estimate the cost of the postal subsidy to be about $75 million per cycle. That is more money than would be gained through offset by denial of the mail subsidy to political parties. That would raise only about $10 million annually.

But another way, under the current system as we know the Federal subsidy for the American Communist Party along with other parties, it sort of takes it away from them and gives it to the Communist Party candidates just like any other party. It is sort of paid for by the taxpayers through a tax stamp similar to those levied on the colonist under the British.

Other costs under the S. 2 in addition to the postal subsidy are administrative costs. The FEC estimates an additional $1 million a year for the Senate alone. That is we believe a conservative estimate.

Then there is direct public financing. If a candidate raises $1 million, $2 million, $3 million the public will give them the full million. Under S. 2 the matching fund would be $130 to $150 million per cycle if the Senate and House were combined. Both of these are very, very conservative estimates. Both take account of the transfer of mail benefits from parties to candidates. That offset is included in the figure.

That is where the money would come from under the most recent version of S. 2. Now, let us get a sense of what the estimated spending would be. Bear in mind that the notion behind these proposals are to try to limit campaign spending.

I pointed out at some length earlier that that has not happened in the Presidential system, the only system we have available to compare or to take a look at. It has not worked out that way. So let us take a look at what is likely to happen under the most recent version of S. 2.

Under S. 2 the primary, a total spending limit for 99 candidates and 66 primary elections, we are assuming we have a few cases with 3 candidates. In the case of a party and 2 candidates in the opposing party, the spending allowed under this bill would be $101,151,200. In the general election under S. 2, the most recent version, total spending limit for 66 candidates and 33 general elections, is $202,509,333.

So under the most recent version of S. 2, we are talking about a total primary spending spending across the country of an estimated $101 million, total general election spending across the Nation estimated at $102 million.

There would be an expenditure in the general election by independent candidates in the general election. Under S. 2, the independent candidates in the general election we have to assume there will be some. Let us assume 33 independent candidates and 33 general elections. That is one independent per State funded by S. 2 matching funds. There would be an expenditure in the general election by independent candidates in the amount of $51,254,666.

In addition to the spending allowed in the primary election, the general election, by party candidates and the general election by independent candidates, we have to estimate the S. 2 independent expenditure defense allowance, which is a dollar-for-dollar-matching funds to 66 candidates against independent expenditures. Based on the total independent expenditures of the 1986 independent Senate races, we estimate that the Federal tax dollars triggered to defend against independent expenditures would be about $4.4 million.

The most recent version of S. 2 has the technical compliance cost fund. The technical compliance cost fund, S. 2's total allocation to 66 candidates for compliance expenses, 10 percent of the State spending limits would be about $10.2 million.

So the anticipated increase in campaign spending under the most recent version of S. 2 for Senate election cycle is about $270 million. Let us compare that to the total spending in the 1986 Senate election cycle, the most recently completed cycle: only $211 million was spent in those elections under any spending limits, and without any public finance.

So the anticipated increase in campaign spending under S. 2 is about $58.6 million, a 28-percent increase in spending if we adopt spending limits. It does sound absurd but the only thing we have to compare it to is the Presidential system. And of course we know that under the Presidential system of spending limits and public finance, we have had a great deal of money in spending, and a great expenditure on an increasing basis of tax dollars.

So there is no reason to believe that this measure designed to limit spending will limit spending. And if a measure designed to limit spending will not limit spending, why pass it? Why pass it?

We think this is a pretty conservative estimate of the cost under S. 2. That is a 28-percent increase in spending under the spending limit proposal.

The way to get at reducing spending, Madam President, is not all that complicated. There are certain things that are driving the cost of campaigns: the cost of television, more and more millionaires putting their money into races, and the proliferation of PAC's, political action committees. If we could do something about all three of those areas we could have a dramatic impact on reducing the cost of campaigns. But ironically, the one approach least likely to produce the desired result of reducing the cost of campaigns is the spending limit measure because they do not work.

They just do not work. There is no way you can construct a spending limit measure that will not force the money out in some other direction. And so all it fosters is cheating. All it fosters is the proliferation of the expenditures of money outside the system to get around it.

So if we really want to do something about campaign spending, we could lower PAC contributions. This Senator and several other Senators, unfortunately all just on this side of the aisle, are willing to eliminate political action committee contributions altogether—
kiss them goodbye as a worthwhile experiment that did not work out too well.

There are some who would say that, "Well, if you cut out the PAC's making direct contributions to party and candidates, they will simply make independent expenditures." I do not know about that but it is possible. At least if the idea is to diminish the influence of special interest contributions on political campaigns, we would eliminate them altogether. Unfortunately, we have not been able to get a single solitary cosponsor of that bill on the other side of the aisle. I would like to. Maybe next year.

We can reduce millionaire spending. We talked about that a lot tonight and there is no sense in rehashing all of that. But the growing number of wealthy people trying to buy public office is a problem. There is a clear increase, by spending by millionaires to buy public office. We are not happy about it. We ought to do something about it.

We ought to control soft money spending. We do not get much of that on this side of the aisle but it is out there and it is unreported and unlimited. And it seems hardly fair. Spending is spending. It does not make any difference whether it is a cash contribution or a soft money contribution, a contribution is a contribution. And if we think it is desirable to limit and disclose cash contributions—and I happen to think that it is; we have not advocated even raising the contribution limit although it has not been raised in 12 years—then why not have soft money disclosed and soft money limited?

We could provide a real discount for television; a real discount. You know that the stations do not have an unbridled right to charge us to rip us off in the last 60 days of an election. They get a license to operate. The public here and in the country has considered the public property. But, on the other hand, for 60 days or so every 2 years, it does not seem to this Senator to be unconscionable to require them to sell us the time at the lowest unit rate for the preceding year, the nonelection year. Give us a break. We are trying to reach the voters.

We could tighten controls on party and special interest campaign activities. We could require full financial disclosure by national political party committees, candidate draft committees of all receipts of independent expenditures and soft money activities.

And even though there are constitutional difficulties, there are some things we can do about making it just a little bit tougher to engage in independent expenditures. We could require that any independently-financed political organization collecting the personal organization financing the ad. We have to do that in our races. At the end it has to say "Paid for by friends of Mikulski." I do not think that is inappropriate. They look for the knowledge who paid for it. That is not currently the case with ads which are placed independent.

The next thing we could do, and some would argue the one going too far, but we could require notice to other candidates to the contents and placement of any independent financed political communication. It will probably buy us a lawsuit that it is unconstitutional, but we could try. It just may give the regular candidates a sense of what is about the happen to him as the attack commercial hits the air.

We could require reports to the candidates who are being opposed by the FEC of independent expenditures totaling more than $1,000 and for each additional $5,000 so we would have a sense of what is being spent in independent expenditures in a political campaign.

We could have a strict definition of independent expenditures stopping all consultation or communication with any candidate or his agents. And we could prohibit bundling by counting bundled contributions against both the bundler and the original donor unless the bundler is retained or authorized by the candidate for fundraising or is the national committee of a political party.

All of those things, I might say, Madam President, would do something about the cost of campaigns. And in the areas where it would not treat the costs, at least it would give us a better view or perspective of what is in fact being spent, get a better sense of what has happened through disclosure.

On the issue of soft money, on October 9, 1986, there was a complaint with the FEC against an AFL-CIO, and this was the response that I think bears some bearing on that issue:

This letter constitutes the response of the Missouri State Labor Council and MRV, Inc., ("the Labor Council") and MRV, Inc., ("MRV") to the complaint filed with the Commission alleging that the Labor Council and MRV ("respondents") have violated certain provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). The gist of that complaint is that respondents are proposing to sell "voter lists" to federal candidates for less than those lists' fair market value and are therefore making unreported contributions to such candidates in the amount of the difference between the fair market value and the price charged in violation of 2 U.S.C. § 441b. Specifically, the complaint alleges that respondents are proposing to sell Missouri voter registration lists for approximately $7.00 per thousand names, a price which complainant alleges is "far below any reasonable and acceptable market charge". Complaint at 5. The complaint also alleges that respondents are violating the Act by selling the voter lists from those candidates who refuse to "tie the Labor line".

The Missouri State Labor Council regularly communicated with its members regarding political issues and urges all of its members to register and to vote in all elections. The Missouri State Labor Council understands that it is necessary for the Labor Council to know which of its members are registered to vote. In the past, the Labor Council has been required to spend approximately $100,000.00 to $120,000.00 every two years to compile a current computerized list of AFL-CIO union members in Missouri who are registered to vote.

The response goes on:

Aware that other organizations and individuals also needed the registered voter information that the Labor Council had been compiling, the Council, along with others, began investigating alternate methods for compiling, and making use of, a computer tape of Missouri registered voters. This investigation revealed that a complete list of registered voters could be assembled and stored on magnetic computer tape and that the list so stored could be enhanced with additional information, such as birthdates and telephone numbers, derived from public records.

MRV, Inc., was therefore established for the purpose of assembling, owning and marketing a computerized list of registered Missouri voters. MRV is a not-for-profit corporation organized pursuant to Chapter 356 of the Missouri Revised Statutes. MRV has no shareholders or members. The Board of Directors of MRV is composed of the individuals listing as president and treasurer of the Missouri State Labor Council, AFL-CIO, and of the Greater St. Louis, Missouri Labor Council, AFL-CIO.

Now, the charges and services provided by the labor organizations to party voter registration committees, selections, and options. No charge, party affiliation; $4 per thousand can provide information on the ethnic background of the voters, the party registration, past voting history, all of those kinds of activities provided at a lower than market rate.

As the affidavit of Daniel J. McVeY points out, it says:

As President of the Missouri State Labor Council and the President and a Director of MRV, Inc.

In the past, the Labor Council, in order to obtain the lists of voters which it has been required to have, has spent between $100,000.00 and $120,000.00 every two years in compiling a list of registered voters in the State of Missouri. Those sums were expended to purchase lists of voters in those counties and cities where such lists are maintained in computerized form, to pay for the handling, gathering and keying of the voter registration information lists in counties where that information is not computerized, to convert all that information to a form compatible with the Labor Council's computer files, and to match all the information gathered with Labor Council's list of members. During the period covered by the last complaint, this process was repeated every two years.

MRV, Inc., was organized to assemble and maintain a complete list of Missouri registered voters.

Now, this kind of expenditure, Madam President, is all unlimited and undisbursed, unlimited and undisclosed. There is nothing that anyone calls soft money. And that is every bit as relevant to the political process as the
cash contribution which is limited and disputed by many individual to a candidate of his or her choice. And so this is the kind of money in the political process that we are talking about that needs at the very least to be disclosed and perhaps debated by many of us, lim- just like a cash contribution. It is indistinguishable from a cash contribution. And yet that sort of thing is outside the system.

It is held that New York City recently decided to go to the system of spending limits, but not without a fight. Here is what Walter J. McCaffrey, a Democrat who represents the 21st District of Queens on the New York City Council, had to say in the New York Times op-ed piece of January 12 of this year. Mr. McCaffrey said:

The New York City Council is considering legislation—

And I am told they subsequently passed it—

To use tax money to finance political campaigns. Under it, candidates who choose to participate must accept a spending cap and limits on how they spend it. Each contribution would be matched by city tax dollars. Most political analysts estimate that this would cost about $30 million.

This is just for the city of New York. I am not against campaign financing reform, but the Council proposal would not keep its promise to clean up corruption and does not reflect economic realities.

Paul Dickstein, New York City's Director of Management and Budget, recently said that the October stock market crash elimi-

nated the city's financial stability. Even crucial programs, such as police protection, may be cut. Is this the time to spend $30 million on political campaigns?
The money for publicly financed campaigns must come from a tax hike, which would be unequitable, or from cutting municipal programs and services. People would not like it if New York City in effect told some youngster, "We took away your hot meals because the borough president faces a pri-

vate election, appointed by Governor Cuomo, has

found no link between corruption and cam-
paign contributions. We have learned that from federal experience with PAC's.

Moreover, the legislation would, unfairly, constitute an incumbents' protection act. Several Council members have argued for setting very low campaign spending ceilings. Some members of the Council also argue that candidates should be allowed to spend only $40,000 in the primary and $60,000 in the general election.

This means that a challenger, without the benefits of incumbency, would be limited to spending the same amount. Public financing of candidates would place candidates on the same level playing field. The Council legis-
lagation would not achieve that goal.

Each Council member currently receives $24,000 to publish campaign literature and mail newsletters twice a year. Over four years, this amounts to nearly $100,000 in free publicity sent to every registered voter in each member's district. Council members also get publicity simply by being public of-
ficials, and enjoy the benefits of full-time staffs for service to constituents, which also builds voting support.

In community meetings, I've encountered considerable opposition to public financing of political campaigns. My constituents be-

lieve that using their tax money to pay for campaigns is absurd. A recent poll of New York City residents showed that 78 percent oppose public financing for New York City elections.

My constituents are already dissatisfied by Mayor's Koch's plan to increase taxes on their homes. They may take some $30 million of those funds to finance political cam-
paigns would be a disgrace.

City legislation modeled after the Federal laws governing Congressional elections, which restrict contributions without spend-

ing public funds, would be a much better ap-

proach to campaign reform. In fact, under those laws an individual's contributions to candidates for Congress would be considerably smaller than the city legislation would allow.

Finally, a major rationale for public fi-

nancing is that it would restore confidence in the city government. That's foolish. The public's trust is earned foolish. The public's trust is earned over time. It can't be re-
gained in a flash through public financing. The people are smarter than that.

Now, Mr. President, the Washington Post Outlook Section of August 10, 1980. There was an interesting piece, a rather amusing piece, actually, enti-
tled, "Are the Candidates Worth Your $100 million in Taxes?" The headline says, "The boost, ballrooms, junk mail, and money in America's political conventions cost you at least $105 million, probably more.

You see, the people who check off a dollar do not send an extra dollar to the IRS to pay for campaigns and conventions. They are the same tax payers who will be publicly funded, and do so. All of their dollars and all of your dollars go into the U.S. Treasury. It's a beaut. All of the people's dollars—goes to the special campaign fund. In other words, the 30 percent of taxpayers who do check off appropriate money for the IRS, that person who does not pay, it does not sound very democratic to you, just ask the people at Common Cause. They say it's a reform.

Anyway, back to the main point: What are you getting for your money? First, you might consider the quality of candidates this year. Are they worth $100 million? (Are they worth $100, you might ask.) Perhaps we judge contemporary leaders too harshly; maybe we should look to history as a com-

parative guide. But sometimes history is

During the 1980 primary season, historian Barbara Tuchman said of the various presi-
dential candidates: "Look what we're of-

ferring. They are often like George Washington has got this collection of crumb-bums!" Mort Sahl offered similar disdain a few years ago. He noted that during the American Revolution, when our popula-

tion was far smaller than it is today, we had leaders such as Thomas Jefferson, Samuel Adams and Thomas Paine. Now, he said, we have leaders such as Gerald Ford, Ronald Reagan, Jimmy Carter. His conclu-

sion? "Darwin was wrong."

Actually, the folks at Common Cause never promised us that public funding would buy us smarter, more competent or nobler presidents. They did suggest that it would buy us presidents less beholden to "special interests." The idea was that the taxpayers (willingly or unwillingly) would be investing more than $25 million in Jimmy Carter in 1976.

Yet the National Education Association, with much lower bid, bought itself a De-

partment of Education. The maritime inter-

ests, also low bidders, won Carter's support for a cargo preference bill. Democratic Party fat cats did not contribute nearly as much as taxpayers, but several of the fat cats won diplomatic posts.

Mort Sahl's wife and her husband contributed $51,000 to Democratic candi-

dates and committees from 1973 through
The subsidy for junk mail is lower than the others; this year it is $4 million. I suppose it is not very charitable to call party fund-raising letters "junk mail," but I have received such letters, and I find it hard to call them anything else. For some reason, I’m not on the Republican sucker list.

The two major parties slipped the postal subsidy through Congress in 1978, by making party committees eligible for the nonprofit bulk rate. Then last year, after realizing that several of the minority parties were taking advantage of it, they voted to exclude the minority parties but keep the subsidy for themselves.

This year the minority parties struck back with a lawsuit in federal court, charging discrimination. John Anderson’s independent campaign joined the suit late in the game. The minority parties and Anderson won their case, though they are still excluded from the other political subsidies.

There’s an effort in the House to cut the postal subsidy altogether. The subsidy is worth about a nickel for each letter in the mail overflowing from your mailbox when you think about it. It’s small change, though not necessarily debated. Convention managers learned a lesson from the 1968 Democratic convention. In order to get through their July convention without any platform debate, they even planned to pay professional decorators for the work, as when George Bush’s campaign paid $240 to the Freeman Decorating Co. of Des Moines to spruce up the campaign headquarters. That was small potatoes.

The Carter-Mondale committees have spent $7,800 for limousine service. The Republican convention joined the suit late in the game. The minority parties and Anderson won their case, though they are still excluded from the other political subsidies.

How should you, as taxpayers, decide another $1 million a day for each convention while it is in session. And that sum doesn’t even count the many costs piled up by the host cities. Argue about the price with the taxpayers. OK.

There are several ways to judge. You can view them as conferences in which the discordant issues of the Day are discussed—although not necessarily debated. Convention managers learned a lesson from the 1968 Democratic convention debate on water and from the 1982 Democratic convention debates on everything else. About the last thing they want on their prime-time TV shows is a live issue. The Republicans manage to get through their July convention without any platform debate. The unlucky Democrats seem unable to do the same; but I doubt that their platform debate will be worth $1 million a day.

Alternatively, you can judge each convention by the extent to which the dinners booze it up and whoop it up and generally have a good time. The only problem is that you’ve got to do an honesty test. Were you, watching adults wear silly hats and use strange noisemakers not be your idea of fun. Is a national New Year’s Eve party worth $1 million a day?

Finally, you might rate each convention strictly as a form of television entertainment. Is the Bolling yardbook as good as "Archie Bunker’s Place"? Did Grandpa Ronnie read his lines well enough to come across as a genuine political figure? It’s a toss-up.

The GOP might receive a bonus for the Great Ford Flirtation at its convention. If the Democrats stage a spectacular family fight, with broken dishes and blood all over the floor, they too, would win a bonus. On the other hand, if the RNC were to be signed for the most borsing speeches. An alternative would be to provide an automatic rise or fall of subsidies according to the Nielsen readings.
think that, and so would I, but the outlook is not encouraging.

Although Gramps is philosophically opposed to public funding of campaigns, he accepted $4.4 million in matching funds for his 1976 primary campaign. In 1980 he has received nearly $7.3 million in matching funds, more than any other candidate. After the Republican convention, he applied for and received $29.4 million in fall campaign money, that comes to a total of $41 million in campaign subsidies for a man who does not believe in them. Gramps is no dummy.

But as for John Anderson—who enthusiastically voted for the subsidies from which leaders—who wonder why the subsidies maybe Gramps has an out on this one.

I suppose Gramps can say that he really had to vote for the subsidies because he Carter accepts subsidies, and, because of the contribution limits, Reagan could not compete costlessly in his campaign alone. Maybe Gramps has all but won on this one.

But as for John Anderson—who enthusiastically voted for the subsidies from which he accused the committee leaders—who wonder why the subsidies haven't brought us to the Promised Land—there is a Committee on Committees in Edith O'Connor's "The Last Hurrah." Charlie Hennessey said of the young man that "when he adds up two and two he gets five and a half." The fact is, that there will be no roll call votes carries the explicit element of the agreement that the Chair will not put the question. That could necessitate a roll call vote, but there will be no roll call votes, no quorum calls. There will be debate, speeches, limited to the substance only of the pending business before the Senate, no discussion of tactics, no discussion of yesterday, the day before, tomorrow, or the day after because that gets everybody in. We probably will be a vote of some kind.

Mr. SIMPSON. Mr. President, I might at this time relieve my colleagues. The gentleman's agreement at this point is that there would be no further voting or activity or chicanery, and therefore I think that I will take the floor and continue with the remarks. I think soon the majority leader and I will be able to pose something that may be able to resolve our difficulty and we will know that shorty.

So I thank the Senator from Kentucky. He has indeed performed yeoman service. He serves in a sense as the chair of our delegation, the group that we appointed to try to resolve issues with regard to S. 2.

He had been the direct contact with the proponents' informal chair of S. 2. Senator BOREN of Oklahoma, and the two of them have worked diligently with their groups to see if we could not resolve this issue. If there is a failure to resolve it, it certainly does not reside with them. Today, I have watched Senator BOREN and Senator MCCONNELL meeting privately. I have watched them gather their groups together, and I am sure it has been frustrating for them and, indeed, I commend them. I have been deeply impressed to see how the Senator from Kentucky has entered the issue, learned the issue, done his homework, and been able to influence the colleagues in the manner in which he has done. That is what the Senate is about, and I greatly commend the Senator. I have seen the Senator grow and, indeed, participate in Senate activity in a very good way, and I thank him and commend him for his efforts in every way.

Mr. BYRD. Mr. President, will the distinguished acting Republican leader yield?

Mr. SIMPSON. I yield the floor.

SCHEDULE

Mr. BYRD. Mr. President, the able acting Republican leader and I have discussed with our respective colleagues the following schedule for the rest of the night until 10 o'clock tomorrow morning. Senators on both sides will be discussing the substance of S. 2 and the committee substitute, pending committee amendment. All debate will be on substance only, and there will be no roll call votes. There will be no quorum calls. The fact is, that there will be no roll call votes carries the explicit element of the agreement that the Chair will not put the question. That could necessitate a roll call vote, but there will be no roll call votes, no quorum calls. There will be debate, speeches, limited to the substance only of the pending business before the Senate, no discussion of tactics, no discussion of yesterday, the day before, tomorrow, or the day after because that gets everybody in. We probably will be a vote of some kind.

Mr. SIMPSON. Mr. President, reserving the right to object, and I shall not object, I would inquire of the majority leader that under the cloture petition that vote was to occur 1 hour after convening, which would have been 10 o'clock and now the request is to set that for 10:30; is that correct, I ask the majority leader?

I believe that that is what I had recalled. I had told my people that it would be 10 a.m. I am sure that this 10:30 time could be accommodated easily enough. I just inquire.

Mr. BYRD. My problem is I am confused days of the week. I was thinking that Friday was the next day.

Mr. President, the roll call vote will occur on tomorrow—

Mr. SIMPSON. Friday.

Mr. BYRD. I was right the first time.

Will the Senator repeat his question so I may get my thoughts in order?

Mr. SIMPSON. Mr. President, I had just proposed the question to the distinguished majority leader as to what time we might expect the first vote. Those of us who are working all night are interested in that, trying to maximize our sleep.

Mr. BYRD. Yes. Tomorrow morning, circa 10 o'clock, but not before 10 o'clock.

Mr. PRYOR. Right. And I think the other question, if I might interrupt, related to the vote on cloture.

Mr. BYRD. The vote on cloture will be Friday morning and I had said 10:30, but if the distinguished assistant Republican leader has made assurances, statements to his colleagues that it be at 10 o'clock, why, we will say 10 o'clock.

Mr. SIMPSON. Mr. President, I greatly appreciate that. I think it would be helpful. It is difficult to contact people. I had expressed that that would be a 10 o'clock vote, 1 hour after convening, on a motion for cloture. I also ask the majority leader,
would we waive the automatic quorum call?

Mr. BYRD. We would have to waive the automatic quorum call.

I must point out that in waiving an automatic quorum call, it does not necessarily mean that a Senator cannot put in a quorum call, unless that is explicitly stated in the agreement.

Why do we not have an understanding? I will ask consent that the vote occur at 10 o'clock on Friday morning on the motion to invoke cloture and that that be a 30-minute rollcall vote.

Mr. SIMPSON. Mr. President, I have no objection.

The PRESIDING OFFICER. Is there objection? The Chair hears none and it is so ordered.

Mr. BYRD. I thank all Senators. I especially thank the distinguished leader on the other side of the aisle, the acting leader. He is doing a good job.

Mr. SIMPSON. Mr. President, I thank the majority leader. It is a pleasure to do business with him. He has been sincere and candid. This is a very informal approach, and it is done in the form of a gentleman's agreement. In the West, as we say, that is good enough for me.

One other thing: I know we discussed it: that on Friday, everyone should be aware that after the cloture vote, I believe you expressed what you intended to do, whether it is successful or whether it is not. Would that be something you would convey?

Mr. BYRD. Of course, if it is successful, all other business would be excluded until completion of action on the business which had been clotured. If the cloture motion fails, then I would hope that we would proceed to other legislation and have votes and make progress thereon.

This would be in keeping with our schedule of 3 weeks in and 1 week out, with 5 days of activity, full activity, on each of those weeks, in line with the schedule of 3 weeks in and 1 week out, that makes that ever more attainable.

Mr. SIMPSON. Mr. President, would that include then, the premise that if the cloture vote is unsuccessful, the bill would then be taken down?

Mr. BYRD. Yes; as I have indicated to the distinguished leader and to my colleagues, the bill will be taken down, because we will have made our case. We will have done our best to get votes on the bill and on amendments thereto. It not being within our power under the rules to force a vote on a bill or an amendment except by moving to table—and cloture is the last resort to gain such a vote—if cloture fails, I will put the bill back on the calendar.

Mr. SIMPSON. Then I would want our agreement and all Members—and I believe this is correct, and I ask if this is part of this informal agreement, which is perfectly acceptable business, in my mind—that then we will go to another legislative item, some bill. We really do not know what that might be. This is in line with the majority leader's agreement which may determine to lay down.

Mr. BYRD. Yes.

Mr. President, I think we all should live by the understanding we entered when I put forth the proposal that was well received on both sides, that we have 3 weeks in and 1 week out, and that during those weeks the Senate is in, everybody is expected to be here and to be prepared to vote—early and late, if necessary—Mondays through Fridays.

This Friday is no exception. There does happen an occasion once in a while. It happened the other day, when our friends on the other side had a retreat and we said we will not have any rollcall votes. Now the Democrats are having a retreat, or an event, it is something going on, on Monday. I am not asking, nor am I saying, that there will not be any rollcall votes on Monday, but we may seek to not have too many on that occasion. But it is only when an occasion like that comes along that we try to accommodate each party there.

As to this Friday, there is no reason not to have a full day's work, and I would hope that we could call up one of the several bills, and there could be some Executive Calendar business.

I have mentioned the polygraph legislation as a possible bill. I have mentioned Price-Anderson legislation as a possibility.

I know that the distinguished assistant leader, as he has in the past, will do the best he can to assist me in getting some legislation or business before the Senate on Friday.

Mr. SIMPSON. Mr. President, in view of this remarkable court here, that makes that ever more attainable.

I assure you that we will be attentive to your need to schedule us properly. That is your right and your duty, and we will assist you in that.

This has been the singular sticking point of many weeks, and I have a genuine feeling that we can get to our agenda, whatever the majority leader feels.

We have discussed informally, between ourselves, what we have to do and what is priority, and I will leave that to the majority leader to share with the Members. I understand the import of it and the priority of it, and I assure you that I will pledge to assist in reaching that, and so will the others on this side of the aisle.

Mr. BYRD. Mr. President, I thank the distinguished Senator, and I thank all Senators who have worked with us in developing this understanding and this gentlemen's agreement for the rest of this evening and up until 10 o'clock tomorrow, when business will no longer be in order, on this very difficult bill. We will continue to try to make our case for it, hoping that somehow we can have a vote on the bill or on the pending amendment tomorrow, fully expecting that those in opposition will, unless there is some change of heart between now and then, probably try to avoid having such a vote.

I thank all Senators. I especially thank those who have spent their time preparing in the Chair. I thank the Chair, the Senator who is presently in the Chair, Mr. Lautenberg.

I yield the floor.

Mr. SIMPSON. Mr. President, I thank the majority leader. Again, I feel privileged to have a unique relationship—or at least I feel it is such—with the majority leader. I think it is evident in the way we do our business.

We do like to get into spirited dialogue; there is no question about that. We have a very similar nature and are spirited, not exactly reticent to wade in.

He has shared this with me this evening, as he presented this basic scenario, and we were able to put that together, and we need not go into further formality. It will be done, and we will have people on the floor from midnight to 10 a.m., both sides of the issue, proponents and opponents, speaking on substantial amendments.

We will not be referring to what has been or might be. Those things can all take place during the orary course of our activities from 10 a.m. until our adjournment at no later than 6 p.m.

The evening's activities will go on without tricks, snares, or delusions on either side; and as certain exigencies come up, they will be handled in the same gentlemanly manner that we have accomplished this agreement.

Well, now, if we were playing baseball, you would want to issue a walk until midnight. That is impossible.

Mr. McCONNELL. Mr. President, will the distinguished Senator from Wyoming yield?

Mr. SIMPSON. Mr. President, I yield to the distinguished Senator from Kentucky.

Mr. McCONNELL. It is my mission to drones on until midnight, and I am more than happy to do that. It is my understanding that someone from the other side will be here promptly at 12, and I will be glad to—

Mr. SIMPSON. Mr. President, I inform the Senator from Kentucky if he has rested.

Mr. McCONNELL. I think I am quite chipper once again and prepared to forward until midnight.

Mr. President, I think I am unanimous consent that this not be considered a second speech. It is my understanding that I yielded for the purpose of work-
ing out the agreement and stating that for the Record. So, to be certain, I ask unanimous consent that my resuming speaking until midnight not be considered a second speech.

The PRESIDING OFFICER. The distinguished Senator from Wyoming.

Mr. McCONNELL. I thank the distinguished Senator from Wyoming for the kind remarks about my work on this bill.

It has been a pleasure to be involved in it. We have had a number of outstanding performances on both sides of the aisle. It is too bad that we could not reach an accommodation on what I felt would have been meaningful campaign finance reform on a bipartisan basis, but it appears that that will not be achieved at this time. Maybe on another day.

Mr. SIMPSON. Mr. President, from what I have observed in watching the Senator from Kentucky and the Senator from Oklahoma, seeing in writing some of the proposals that have been made, I think it may be that that, in itself is extraordinary progress, when we consider that we have had seven very serious locked-up situations.

I am not even going to comment on what movement was made or in what area. That would bring down clouds of activity from all areas.

It seemed to me that you had indeed finally put everything on the table and discussed it in ways which neither side said we will not under any circumstances even brush upon the issue. I am not saying it penetrated it, but certainly you brushed upon that. I think that was an admirable approach, and that was necessary because campaign reform is necessary, and it is critical that we do it. We must do it in a way in which we are totally up front.

We know so well the strength of the Republicans, and we know so well the strength of the Democrats. It is our duty, if we are really going to have campaign reform, to kind of dig a little into each one of the secret trenches they have.

So I think that augurs well for the future. Whatever happens with regard to the cloture vote on Friday, that at least things were placed there and there was a request and overtures of cooperation in support and assistance and trying, and that could not have happened in any way without the Senator from Kentucky and the Senator from Oklahoma (Mr. Boxer) doing their work.

Again, I commend you. You have broken the ground that has not been broken before.

I yield the floor to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. I thank the distinguished acting Republican leader.

It is true. We are ever so close. We had agreed on pursuing every constitutional method. We agreed on soft money disclosure. We did not agree on limitations on soft money contributions. Frankly, that is something that we had hoped to see. We had agreed on a meaningful broad-based rate discount for campaign advertising, and there is no question that is what is driving the cost of campaigns more than anything else, the cost of television. We had agreed on that.

We had agreed on pursuing every avenue that we could pursue to make it tougher for regular party candidates to be blindsided by independent expenditures, and there were a variety of different approaches we thought were appropriate. We had agreed on a bundling provision.

In summary, Mr. President, we agreed on really quite a lot. We could have passed a landmark piece of campaign reform legislation, and I hasten to add, there is one area where we had reached agreement on in principle, and that was that there ought to be disclosure of public polling or financing of political action committees, or either a lowering of the amount of individual PAC contributions, some kind of aggregate limit on what PAC's could give on some kind of acceptable formula, but, in any event, some effort to inhibit the growth of PAC's and restrict, to some extent, the influence of PAC's.

All of that would have been a meaningful, significant landmark piece of campaign reform legislation.

But alas, the sticking point, which we were unable to overcome, was the issue of a limitation on participation in campaigns by those contributing limited and disclosed contributions.

It is upon that issue that the discussion broke down. That is a terribly important issue on this side of the aisle. There are two strong concerns. One is that it is not, in our judgment, desirable, as a matter of public policy, to put a limit on how many people can participate in the process. Provided the contributions are limited and disclosed, we ought to be encouraging participation as much as they can because it comes from people who give, and we ought to be happy they are participating in the political process.

To the extent that the number of individual contributors have grown over the years, we ought to commend them, not condemn them. That is progress, progress that more and more people are participating in the process.

And so that is the fundamental difference between the two sides, and it is what keeps us from passing a meaningful campaign finance reform legislation this year.

This is an issue that this Senator has had an interest in for a long time. I was never a college professor on any political science. I said confidently to those students back in the mid 1970's, "You know, organized labor has always been consistent, it has always been on one side. You know where they stood, and you really had to commend them for taking a position and sticking to it." I said to my students in those days, "You know, the business people are kind of reluctant to get involved in politics. They always thought it was sort of an unseemly business. Some have contributed, but most have not done anything one way or the other."

And I said to those students back in the mid 1970's, "I bet you, with the advent of the political action committee, that business is going to get involved in politics and is going to provide some counter to organized labor. And you can just write it down those business PAC's are going to be contributing to those Republican candidates." Mr. President, that was not a very good prediction. Labor has continued to be, of course, 95 to 99 percent in the Democratic column, but we do find that business is mostly in the Democratic column, and the Senator from Kentucky's predictions about the behavior of business PAC's has not been borne out.

That, in and of itself, does not make them evil. The fact they choose not to support the Republican candidates, in my judgment, just shows they made bad decisions.

It is interesting how that worked out. To the extent the American people are interested in this issue in any big way, and I do not think they are, of any list of priorities I have seen in this country, this rarely appears and certainly nobody will list it on any kind of open-ended survey as an important issue confronting the country.

But to the extent that people do think about campaign finance reform, I think what they think of is the PAC's, the political action committee, the appearance that is raised by PAC contributions of some undue influence.

A course at the University of Louisville called "Principles of American Elections." It was an interesting place to be teaching because that was about the time the law, about which we are having such lengthy discussions this year, was enacted.

I remember making a number of promises about how we were all going to play out over the years. Some of those projections were right and some were wrong. One projection that was absolutely wrong I mention at the moment really apropos of nothing, but just to point out the irony.

I said confidently to those students in the mid 1970's that the advent of the business PAC, the business-oriented political action committee, was going to really be a boon to the Republicans.

I said, "You know, organized labor has always been consistent, it has always been on one side. You know where they stood, and you really had to commend them for taking a position and sticking to it." I said to my students in those days, "You know, the business people are kind of reluctant to get involved in politics. They always thought it was sort of an unseemly business. Some have contributed, but most have not done anything one way or the other."

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Mr. SARBANES. Will the Senator yield for a moment? We would like to make a unanimous consent.

Mr. McCONNELL. Yes, I yield to the Senator without losing my right.

Mr. SARBANES. Without losing the Senator's right.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I ask unanimous consent that no speech be considered as questão under the two-speech rule until 10 o'clock tomorrow morning. So the two-speech rule would not apply. We would not have to worry about interruptions or speaking again, and that would apply, of course, to speeches being made from either side of the aisle. I think it would help to expedite matters.

Mr. McCONNELL. Would that apply from this point forward, including the Senator from Kentucky?

Mr. SARBANES. Absolutely.

The PRESIDING OFFICER. Is there any objection to the request? The Chair hears none, and it is so ordered.

Mr. SARBANES. I thank the Senator for yielding.

Mr. McCONNELL. Mr. President, the nub of the issue, of the issue, of course, is how to look at the cash contribution. It has been interesting to listen to some of the speeches on the other side that equate money with evil in politics. It seems to me that in a capitalistic society like ours, money is not necessarily evil in politics. Provided it is limited and disclosed, it seems to me it is not evil at all.

Robert Samuelson, who is one of my favorite writers, in Newsweek last summer, when we were earlier waiting around this issue, had a fascinating column which appeared, as I said, in Newsweek, July 13, 1987. The headline was, "The Campaign Reform Fraud." And the subheadline was, "Ninety percent of the challengers who spent within the limits set by S. 2 lost, 18 out of 20. Spending Limits Would Create Greater Evils."

Samuelson goes on as follows:

The Founding Fathers are growing in their graves. The Senate is now debating campaign-finance reform: a respectable-sounding idea that's a fraud. Campaign reform would cure problems that don't exist with solutions that would restrict free speech, another elections in bureaucratic rules and hurt candidates' chances of beating incumbents' right.

Mr. SARBANES. The bill

Mr. McCONNELL. The bill before the Senate is below what five of the winning Senate Democratic challengers spent.

In North Carolina, Terry Sanford spent $47 million to beat former senator James T. Broyhill. The bill would have allowed Sanford $2.95 million.

Mr. McCONNELL. No one is smart enough to set "correct" spending limits based on population or any other thing. States and congressional districts differ radically in political characteristics. California races require lots of media spending. That's less true in Chicago. Spending in hotly contested races is typically higher than average. Because Congress—that is, incumbents—would control spending limits, the bias would be against challengers.

I might just say parenthetically before finishing this article, we have done a little study which I referred to earlier tonight which would fit in right here. That is how S. 2 spending limits would provide incumbent protection strategy.

In the 1986 Senate elections, every single incumbent who spent within the limits set by S. 2 won, without exception. Ten of ten incumbents spent within the limits.

Ninety percent of the challengers who spent within the limits set by S. 2 lost.

Ninety percent of the challengers who spent within the limits set by S. 2 lost. Five out of the seven winning challengers spent above the S. 2 limits. Nine out of ten incumbents and seven of the ten spending above the S. 2 limits.

A challenger who spent above the S. 2 limit had a 63-per cent chance of winning. Five out of eight challengers who spent above the limits won. A challenger who spent within S. 2's limits had a 12-per cent chance of winning. Just two out of 20 challengers made it.

Mr. McCONNELL. I yield.

Mr. SARBANES. Back to Samuelson's article, he goes on:

Mr. McCONNELL. Likewise, Wertheimer's assertion that campaign contributions corrupt the legislative process is similarly weak. You hear lots of talk about the dangers of political-action committees (PACs). But PACs' contributions, by and large, don't benefit the donor. PACs are a minor influence on politics. PACs are only a minor influence on voting. PAC's. Contributions are fairly evenly split between Democrats ($74.6 million in 1986) and Republicans ($37.5 million).

Mr. SARBANES. PACs spend heavily on senior, powerful congressmen, who are politically secure and not easily intimidated. According to Common Cause, Democratic Representative Augustus Hawkins of California is the most dependent on PAC contributions (92 percent). First elected in 1962, he won last year with 85 percent of the vote. Of course special interests mob Congress. That's democracy. One person's special interest is another's crusade or livelihood. To say PACs' powers have grown, so has lobbying by affected groups; old people, farmers, doctors, teachers. The list runs on. But PAC's are not a major influence on politics. PACs' give heavily to senior, powerful congressmen, pro-abortion PAC's, anti-abortion PAC's, and PAC's. What you don't hear is:

Mr. McCONNELL. Our preferences about special interests, and more money, they're more beholden to the donors. The obvious answer is to limit donor's gifts. And, if we do that, the special-interest process is similarly weak. You hear lots of talk about the dangers of political-action committees (PACs). But PACs' contributions, by and large, don't benefit the donor. PACs are a minor influence on politics. PACs are only a minor influence on voting. PAC's. Contributions are fairly evenly split between Democrats ($74.6 million in 1986) and Republicans ($37.5 million).

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Robert Samuelson is right on the money who says PAC's. Not only are spending limits offensive on their face by limiting the number of people who can participate in the process; they will not work. They have not worked in a presidential election. It is true that there is no scheme that will actually limit spending on political campaigns. So why try? It is not good public policy and it will not work.

Why not accept the notion that there is nothing inherently evil about a limited and fully disclosed campaign contribution? There is nothing inherently evil about a limited and fully disclosed campaign contribution. Candidates ought to be encouraged to get as many contributions as they can. The only reason these campaigns have been able to spend this kind of money is that PAC's have been able to raise this kind of money, leaving aside the millionaire problem which everybody on both sides of the aisle would like to solve.

The astounding thing is how much money has been raised and how many people are participating, and it has grown dramatically. It has grown dramatically. But we would like to cut the cost of campaigns and we can do it by treating the real problem in the growth of campaign spending. The cost of television, limitations of PAC's. I am not overly fond of them. Regardless of what Samuelson said, it seems to me there are some things we can do about PAC contributions.

The cost of television is really outrageous. The stations have rapped us off by raising their lowest unit rate chargeable to all customers during the cost of television, limitations of PAC's. I am not overly fond of them. Regardless of what Samuelson said, it seems to me there are some things we can do about PAC contributions. The stations have rapped us off by raising their lowest unit rate chargeable to all customers during the campaign season is over. All of those kinds of measures were part of the bill that the group of eight was close on. But we broke down. We broke down on the fundamental difference of opinion over whether it was appropriate—appropriate—to limit the number of people who can participate in the political process by making a cash contribution.

Beyond the public policy there is the practical problem with it. The base of my party in a presidential election is the laying off Main Street and the lady on Main Street who has a small business, who struggled to start it, who she happens with the myriad of different problems to keep it going, and who, as a result of that effort, is able to employ people, who create wealth and who pay taxes to keep this system going.

It has been the success of my party in attracting the support through an average cash contribution of about 300 bucks. It has been the success of my party in attracting those kinds of contributors and supporters that has allowed us over the last 10 or 12 years to go from a party which appeared to be a perpetual minority in the low twenties to a party which has risen in terms of public acceptance to the low thirties, the Democrats being in the low thirties and the Independents being in the low thirties. In other words, a position of relative parity in America.

We did not do it in any immoral or unholy way. We did it by going out and getting a whole lot of support.

Our support tends not to come from the organizations. This fellow or lady out on Main Street that I am talking about typically does not belong to anything. They may belong to the Kiwanis Club, but they do not belong to an organization that has a particular interest to promote before a legislative body. Essentially they like to be left alone. They think we have enough government and they participate in the process. They hope that we will leave them alone and let them function, let them hire those folks that create that wealth and pay those taxes. That has been the base of our party.

So we will not accept—not now, not later, not ever—a limitation on how many of those people can participate in the process. It is not only bad public policy; it does not work. And, if it did work, it would be a disaster for the two-party system in this country.

So that is where we broke down. Hopefully, we can visit this issue on another day. The Senator from Oklahoma and I talked earlier this afternoon about continuing our discussions after this matter has passed from the scene, as it probably will Friday, in the hopes that we can come up with the kind of bipartisan campaign finance reform that everyone here hopes that we can come up with that could pass this body, that could pass this body. I will be happy to give the Senator a copy if he is interested. But just to make the point that they made, these were three people who worked at the FEC for a number of years, then went over to Mondale and were writing the article in the Federal Bar Journal in February 1987, about 3 years after the campaign was over. And I do not want to overstate this, but I think it is clear that they think the Presidential system is a disaster.

I will be happy to give the Senator a copy of it. I am not going to read all this into the Record again, but these are people who worked with it. They worked with it both from the FEC perspective when they were on the staff there, then worked with it with a Presidential candidate.

Their article can speak for itself, but I think the conclusion is that spending limits are not working and will not work.

My own view, I say to my friend, is that if we extend a system similar to the Presidential race to 535 additional races, the FEC is going to be about as effective as the Veterans' Administration.

Mr. SARBANES. Well, I simply say to the Senator—I know he is going to leave the floor and I see my colleague is arriving—the notion that these ex-
penditures can continue to go where the sky is the limit places, it seems to me, an enormous strain on the political process. When I hear the Senator's assertion that if you have an overall limit you are in effect then limiting the number of people who can participate by making a contribution.

But what is happening with this system is that the limited expenditure possibilities candidates end up spending most of their time raising money.

Mr. McCONNEL. The reason for that, I say to my friend, is not the limit. I have not advocated raising the $1,000 limit even though we have had it in the same place since the mid-1970's. But the reason is because the amount you can receive has not kept up with inflation. That is the reason. The other reason we are having to spend as much money as we are is that the television stations are absolutely sticking it to us in the last 60 days of an election cycle. That is one of the things, the way, that the group of eight agreed to, that we should require a truly meaningful broadcast rate decrease from individual donors whose contributions are spending a pittance on politics.

We know in advance for the whole year when we can do other things other than Senate business, and so I do not think we are going to hear that argument anymore. And if we hear larger amounts from individuals, I have not advocated that because, frankly, I do not find the press of raising money very offensive. It does not take much of my time and it is going to be particularly easy, I think, now with the 3 week in and 1 week out schedule that the leader has given us.

We think surely no one will ever again say to the leader, 'Please protect me; I have a fundraiser that I need to do this week.'

But even on the point of spending in general, the rate of increase is beginning to drop off. We had some dramatic increases in the seventies but it is beginning to drop off. As to the predictions that we were going to end up having $25 million Senate races in October, there is no evidence that that is going to happen and if we do something about the cost of television and if we concluded that we would raise maybe just a little bit what individuals can contribute, it would not be nearly so time-consuming.

Mr. SARBANES. Does the Senator concede that expenditures can be at such levels that he would regard them as a problem?

Mr. McCONNEL. I just cannot see any evidence that that is happening. Compared to what our society is spending on almost everything else, we are spending a pittance on politics.

The Kennedy School at Harvard did several different studies on this issue and it is their conclusion that we are really not spending that much at all. The important thing is not the amount but whether or not that is the way a Member of the Senate should spend such a large amount of his or her time. Each one of us knows the answer to that question. Perhaps we answer it differently. But at least all of us know the answer in our heart.

Perhaps not the one who is saying that the influence of money in politics has eroded public confidence and that it is too commanding and corrosive. It is the public that is saying that.

The American people were asked the following question in a Harris poll late last year: "Do you feel the excessive campaign spending in national elections is a very serious problem or somewhat serious, or not a serious problem at all?" They were given three options in this question, and 62 percent of the American people said it is very serious, 29 percent said somewhat serious. So 91 percent of the American people said that it was either very serious or somewhat serious. And when that large a percentage of our public has reached the conclusion that excessive spending is a problem in national campaigns, we have a problem with us. We have a problem of public confidence.

As people who represent the American public, we have an obligation to try to do something about it. Are we sure we will succeed? No.

Are we obligated to try? You bet. Because when there is a public perception that this body and the body down the hall is dominated by money, we better address it, and we better address it fast if we are going to be worth our salt.

Some of the editorials that we read reflect the feeling of the American people.

I hope the Washington Post, on July 1, 1987, noted the following:

The average Senate election now costs $3 million. To amass that much, a Senator must raise $10,000 a week, 52 weeks a year, every year of his term. Let him miss a week for some reason—would it be the press of legislative business?

The editorial asks ironically—Then he must raise twice that much the next week, three times as much the week after that. If he represents a large State or
feats a strong opponent or worse to scare such an opponent off, he must also raise more than average. And they do.

The editorial continues:

The system has become obscene. Its defenders argue that the money now in politicians hands facilitates healthy competition. But in the long haul can it be

selves to permanent minority status. But Republicans, nor in the long haul can it be

in the Post on July 29, 1987:

Hard liners still resist the bill on the

those who support it ... At some point in a

policy. It was easy for Republicans to block

campaigns. The Democrats therefore moved

in return for Federal funds. Republicans

ment, spending limits must be voluntary. As

are going to have to raise

days included-$171 every hour of

$125,000

In other words, by the end of 1986—

four of the Senators likely to run in 1990 had already raised more than $1 million, one was only $15,000 away, two more had raised more than $900,000. What proportion of good government is served by that?

Asks the editorial. It goes on to say:

The Democrats seek to restore a sense of proportion to this process. They would impose spending limits. The Supreme Court has said that to satisfy the First Amendment, spending limits must be voluntary. As a practical matter, that means they must be

Republish object to public financing of congressional campaigns. The Democrats therefore moved successfully to minimize the role of public funding. Their latest proposal is that a candi­

date could get such financing only if he

after that period. He has clearly proved its worth in opening up

level. As Americans would support standby

public financing in the case one's op­

question of whether or not spending

limits.

Surely, if it has accomplished that in

Presidential elections, we can give it a

standby function in congressional elec­

ions, to be triggered when, and only when, one side in the battle goes above the limits which are set by law. That form of financing Presidential cam­

agnas is proven. Thirty-four of the thirty-five candidates for the Presi­

cy since the law went into effect have participated in the public financ­ing system.

In the 1988 elections, all of the major candidates have accepted spend­ing limits and public financing. Presi­


In a moment, I will comment on the question of whether or not spending
limits favor incumbents; but at this point let me simply say, relative to the public financing and spending limits in Presidential elections, that the system has not proven to be an incumbent's protection act. It has never been argued that it is.

In two of the three Presidential elections under public financing and spending limits, incumbents have been defeated by their challengers. In 1976, both sides accepted limits and public financing, and the challenger defeated a Republican incumbent. In 1980, both sides accepted limits and public financing, and the challenger defeated a Democratic incumbent. In 1984, the Republican incumbent won, and again both sides accepted public financing. In two of three cases where public financing has been used in Presidential elections, the challenger has defeated the incumbent. Hardly an incumbent's protection measure.

The central point on this question of public financing. I agree that many Americans do not particularly want to spend hundreds of millions of dollars on congressional elections. At the same time, I do not know whether any money would be spent, because it is only a standby proposal in order to level the playing field, in case one side goes above the statutory limits.

In any event, there is a possibility that some public funds could be used to finance one or more campaigns. I am not arguing that anybody is thrilled about that, but I have to say that I do not think most Americans are very happy with a system where hundreds of millions of anybody's dollars are spent on Senate elections.

Does anyone really believe that many Californians find it appropriate to spend $21 million of private money in a Senate election, or that $100 million will be appropriate for the same election 1998? In a few years, we could be spending several billion dollars to elect a Congress. How is the public interest served in that case one side goes above the statutory limits?

I quoted a poll before, and I just want to quote one other question from that poll at this point. This question addressed the question of whether or not one candidate who is adept at raising money should thereby have an advantage over another candidate in the eyes of the public. This goes to the question of the innate fairness of the American people and their determination that there ought to be a level playing field in the area of campaign finance. This is a basic assumption and belief that is embedded in S. 2, in the standby public financing, which would only be triggered in the event one side went above the limits.

Here is the question that was asked of the American public in this poll. The sample was asked whether they agreed or disagreed with the following statement:

“Campaign spending is an area of legitimate competition, and if one candidate is better at raising money than another, that candidate deserves an advantage.” Only 27 percent of the public agreed with that statement. Seventy percent disagreed with it. So the American people want competition all right in politics, like in everything else, but they do not think it is unfair in politics like in everything else; just like in trade, by the way, assuming that we are going to be addressing it at great length, hopefully, this year to try to insist on some fairness in the campaign system.

And in the area of campaign spending, Americans want competition, but they want it to be fair; 10 percent disagreed with the statement that if one candidate is better at raising money than another, that that candidate deserves an advantage.

I think that it is accurate to say that the American people by some of the arguments that have been heard in opposition to this bill.

I have talked about whether this bill is an incumbent protection act. It has been argued if it is as a matter of fact, I believe that the status quo is the incumbent protection system. It is the current system that protects incumbents, not this bill. In 100 campaigns over the last 5 years, the 100 cases where there were limits, both sides accepted limits and public financing, and the challenger defeated a Democratic incumbent. In 1984, the Republican incumbent won, and again both sides accepted limits and public financing. In 18 of those 19 races where the challengers exceeded the limits, the incumbent was outspent by a challenger, not one candidate who is adept at raising money.

Perhaps the most significant cause of this disparity in favor of incumbents is the way political action committees chose to allocate their funds. In 1986, PAC's contributed $132 million to congressional campaigns, up from $12 million, by the way, in 1974. Eighty percent of PAC contributions in 1986 went to incumbents. Why? Because obviously an incumbent is usually a safer bet than a challenger. Besides, I guess, if the challenger can win, the PAC can always write him or her a check after the election.

Not only is this present system unfair to challengers, it is also unfair to the electorate. In the 1986 elections, there were a number of Senate incumbents who had easy reelection campaigns because strong would-be opponents were scared away by PAC money that the incumbent had accumulated over the previous 6 years.

It is no secret that both of our parties had to scramble around looking for candidates in a couple of instances where no one wanted to challenge a well-financed incumbent. It is not good for the Senate, and it is not good for the American people.

So it is not this bill which is an incumbent protection act. It is the status quo which protects incumbents.

Let us take a look at how the limits in this bill would have affected election 1998? In the last four election cycles:

Incumbents: 45 incumbents went over the limits of this bill in the last four cycles; 45 incumbents. Challengers, 19.

We will start with that figure, and we will take it one step further. But if you look at that figure alone, 45 incumbents went over these limits in the last four cycles.

By the way, those 45 spent over $64 million over S. 2's proposed limits.

Sixty-seven incumbents stayed in these last races that these bill's limits had been in effect. Challengers, only 19 went over these limits. Ninety-one challengers spent less than these limits.

So just looking at that figure alone, we have got over twice as many incumbents going over these limits as you do challengers; again assuming that these limits have been in place in the last four cycles.

If you look at the 19 races where challengers went over these limits, and, in 18 of those 19 races, the incumbents went over the limits, too. So we have only one case in the last four election cycles, only one case that exemplifies the argument that this bill would have set the limit that this bill would have set the limit that this bill would have set but the incumbent did not also go over the limit. In only one case.

And if you look at the total amount of money, the total amount of money, the total amount of money spent over these limits and compared to the total overage that the incumbents went over these limits, you find another part of the story.

Incumbents exceeded the limits in those 19 races where the challengers exceeded the limits by $41 million. Challengers went over by $27 million.

So where is the incumbent protection act in this bill? It is the status quo which protects incumbents.

Mr. President, I want to spend the remaining time that is available to me, under our gentleman's agreement, by talking about PAC's and the provisions in this bill relative to PAC's.

The plain truth is, as many of our colleagues know, that a good many Americans believe that most politicians are corrupt. The headlines link that corruption to our continual search for campaign funds. "PAC's Hold Mortgage on Congress." Now, that headline did not come from the National Enquirer. That headline came from the Christian Science Monitor. If we do not worry about headlines like that, and there are many, then we are not carrying out the responsibility that has been entrusted to us.

Many papers are more restrained than that headline. They do not draw
the explicit link between contributions and votes. They just simply allow, or perhaps encourage, their readers to draw those conclusions.


When you want to see a point of view more explicitly expressed, just take a look at some of the editorials: “Congress Still for Sale,” suggests the Albuquerque Journal. “Limit PAC Re­ceipts Now or Put Democracy at Risk,” warns the Globe Times in Beth­lehem, PA. “PAC’s Buy Too Much In­fluence in Congress,” claims the State, a newspaper in Columbia, SC. And how about this simple and direct eval­uation of PAC power from the Greensboro News and Record in North Caro­lina, and this words are really pungent: “Buying Congress.”

No matter what we do and no matter how we behave, the truth of the matter is that the appearance, and it is a matter of appearances, whether we are talking about PAC’s, the appearance is less than pristine, and we ought to worry about those appearances. By the way, it is not just the media which create and perpetuate those appearances. We do it as well, sometimes unwittingly in some of the rhetoric that we use.

This is some of the language from a "Dear Colleague" letter which was circu­lated a couple years back when we were still debating the question of PAC limits, and here is what the writers of that “Dear Colleague” letter said about the threat of putting some limits on PAC contributions in an amount which was being considered:

The amendment’s limits will confer a disproportionate advantage * * * * *

That is the word that was used by our colleagues:

* * * upon the largest, best financed inter­est groups by permitting those with larger amounts of money to move quickly and contribute where they choose before limits are exhausted.

So people who are then opposing the PAC limits in the Boren amendments, people who are opposing those limits were acknowledging the advantage which these contributions confer.

Now, what is that advantage we are giving to those who contribute more and early which we are denying to those who contribute late and less? Even those of us who know better begin to adopt the language of influ­ence peddling.

To some degree, we actually have a vested interest in suggesting that these contributions can affect behavior, because that suggestion is what gets many PAC’s to make their contributions.

I am not suggesting that there is a link between our behavior and PAC contributions. I am not suggesting that because I do not believe it. Not all Americans are skilled in detecting the existence of the post hoc, ergo propter hoc fallacy. They see one thing happen, then they see something happen after that, and they believe there must be a causal link between the two. We know the logic is falla­cious, but the people are of the mind that because I do not believe it. Not all Americans are of that mind.

The critical point is this: Had these limits been in effect in the 1988 elec­tion, PAC contributions to Senate can­didates would have been cut by two­thirds, from $45 to $16 million. For House candidates, the limit would be $100,000.

The problem that has been caused by the growth of PAC’s in these elec­tions again, Mr. President, is principal­ly a problem of numbers as the number of PAC’s has tripled and tri­pled again over the last 10 years from 600 to around 4,000. As PAC contribu­tions to Senators and Representatives increased to over $130 million more and more often we have been por­trayed as being for sale. Virtually all PAC’s represent groups of organiza­tions concerned only about a single issue or a narrow set of related issues.

The public reads of those linkages and is disgusted, and understandably so. Is the linkage fair? Maybe not, but it cor­responds to public desires. New evidence is provided thereby for that proposition.

The fact is that in the election before last, 163 Members of Congress received over half of their campaign contribu­tions from PAC’s. I think that elevates the problem’s appearance to a whole new order of magnitude. More and more it is made to appear that this Congress is for sale. We are not. Those of us who work here, who struggle here, who labor here, know we are not. We have an obli­gation to prove we are not and we have to care about appearances. We deal in appearances every day, and appearances become real. It is our obligation to deal with them. We cannot simply say, “Well, that is an appearance problem.” It is an appearance problem which corrodes the founda­tion of this institution and we have to do something about it. We have to do something about the time we spend, by the way, in raising all this money. It is not just that these
linkages can be drawn between the single-interest PAC's and how we vote, linkages which I believe are unfair but linkages which are drawn, nonetheless.

We spend just too darn much time in raising money and we have to end that. We have to reduce the amount of time. We cannot end it. We know that. We are realists. But we have to reduce the amount of time that we spend in raising money.

(Mr. SANFORD assumed the chair.)

Mr. LEVIN. Again, the average cost of winning Senate campaigns increased in 8 years from $600,000 to about $3 million. That is almost a 400-percent increase in just 6 years.

In my own case, I spent less than $1 million in 1978 but spent more than $3.5 million in 1984.

One other provision of this bill that is an important one and related to PAC's is the provision which would prohibit the practice of bundling, whereby PAC's serve as conduits for individual contributions which they solicit and collect and then present to a candidate without having those contributions counted against the PAC's own contribution limits.

Mr. President, without some kind of limits, without some reasonable kind of overall PAC limits, public cynicism is going to grow and Congress' reputation and credibility are going to decline. We must address appearances when they shape public attitudes, particularly when those attitudes provide the basis for public support. That support is critical if democratic institutions are going to prevail.

We ultimately depend on public confidence. And that public confidence is shaken. The poll figures that I have read indicate that over when they shape public attitudes, particular seriousness or seriousness is going to grow and Congress' reputation and credibility are going to decline. We must address appearances which I believe are unfair but linkages can be drawn between the kinds of influence buying in Congress is clearly there and is growing in millions of dollars donated in each new election campaign.

The editorial closes with this question: "Does anybody care?"

That was almost 3 years ago now. We still have not answered the editorial. I hope this bill, we will answer yes. If we do not, the problem will not go away. Public confidence will continue to decline in this institution, in this Congress, because the public perceives us as too often being for sale. That should hurt us. It should move us. It should make us mad. It should infuriate us. It should energize us. It should motivate us. Not least to try to persuade the public, "Wait a minute. There is no difference between a lawyer's PAC giving us $10,000 and 10 individual lawyers giving us $1,000.

There is a difference. Indeed, there are two differences which I see, and that is that the PAC has a single, focused interest, whereas 10 individuals have many interests. They look at our character, they look at our integrity, they look at our position on a varying range of issues individually, whereas most PAC's look for one thing: What is our position on a particular area of interest to them?

Is it legitimate? Of course it is legitimate. Does it create a problem? It does create a problem. And we must address it.

I hope we carry out our obligation to address it. This bill is not a cure-all but might have written parts of it a number of different ways. That is not the point. It is an honest effort to try to put some lid on campaign spending; to bring those of us who are out raising money to the recognition that many people, perhaps most people who even oppose this bill, recognize that we have a serious problem of public confidence in this institution.

We know that those public opinion polls showing that huge percentage of people think that this has too big an influence on national elections is reflected in our own States. It is in mine. This bill will do something about it. I hope we do something about it.

Mr. President, I note the absence of a quorum.

Mr. President, I withhold that request.

Mr. EVANS addressed the Chair.

The PRESIDING OFFICER. The Senator from the State of Washington.

Mr. EVANS. Thank you, Mr. President.

Gratitude to the President and the other distinguished Senator in the Chamber, the Senator from Michigan.

Why are we here? I really wonder sometimes why at 1 o'clock in the morning with virtually no one around we are attempting to carry out the great function of unlimited debate in the Senate. As I came over here from my office, I was really struck by the fact that we have elevator operators, running the subway, security officers, a number of them, staff who are sitting here inside the Chamber, and the staff outside the Chamber, young pages who are awaiting our needs, and now dedicated and cheerful doing one of them as I greeted them.

As I stand here now, I am reminded of only one quote, and that is of Abraham Lincoln in his famous speech at Gettysburg when he said "The world will little note, nor long remember what we say here." And all I can say is Amen for what is now going on, and I suspect they will little note what we do here as well.

Let me for some period of time at least talk about my own perspective and history and views of campaign finance and perhaps some of campaign finance excesses.

Perhaps in the later part of the time I have been given I might even revert back to a little history of previous times in the Senate because they might be instructive to all of us, not specifically on the issue of campaign reform but perhaps on what we are doing here and what we should be doing here.

It seems to me that every time we try reform, especially in an area like this, we create yet another evil. With great fanfare, more than a decade ago, we had an attempt—no, an attempt. We thought that at that time the amount of money spent was growing out of proportion, that we would, if let go, find ourselves in terrible shape in terms of the equities of campaign finance, in terms of the fairness of campaign finance, in terms of who might get elected, who might sort of own the country.

Interestingly enough, one of the reforms of that era was to allow people inside a company or an association or an organization to join together in their campaign donations. The idea then was to give people a chance to find a way to bring their campaign donations, small as they might be, together in sort of a conduit, if you will, to various campaigns throughout the country.

That was viewed as a reform at that time. And of course, that reform was the invention of political action committees. And now here we are more than a decade later talking about the evils of political action committees and deciding that somehow we have gotten way out of bounds, that evils surround us, I suspect, although I have not done it. If I went back and looked at the speeches given in the mid 1970's, we would find many of the same words being used today, many of the same potential problems being expressed as
Today, it is sort of the cycle we go through on many issues.

I had an occasion during research on a bill not too many months ago to go back and read the speeches given on that issue about a generation ago. On a bill I introduced to suggest that people ought to get paid what they were worth. It involved the idea of measuring one job against another on its value and paying people under what is called comparable worth, the U.S. Chamber of Commerce and the National Association of Manufacturers and other organizations erupted in a paroxysm of opposition. They said, of course, we ought to pay people equal wages for equal work but you certainly could not go around that and measure work in some comparative sense. It just simply was not logical. And so I went back and looked at the speeches which had been given and the testimony which had been presented a generation ago when the bill equal pay for equal work came before the Congress.

Interestingly enough, in the committee reports, the National Association of Manufacturers, the U.S. Chamber of Commerce, and others of the same organizations were saying you simply cannot have equal pay for equal work; it would devastate the country. It is almost as if they reached back into history and pulled out those same arguments to be used a generation later when the issue just shifted a little and then, interestingly enough, they based their case on what they had opposed a generation before.

I think there is something of that nature going on today in campaign finance reform. We talk about the evils, how extraordinary they are, and yet the evils are the same very things we created more than a decade ago as the solution for previous evils we say.

So what is going to happen if this bill, as it now sits, passes? Are we going to come back another decade from now, have our speeches and our actions, and examine and find that we are being pointed at as the producers of an evil that will exist some time in the future?

Well, I hope not. And that is why I think we ought to be very careful of what we do. I am a great believer that we ought to examine history and examine history very carefully before we take action in almost any direction.

Let me first talk about political action committees. Are they inherently evil? Have they become evil in the course of a 14-year period when they were touted at their beginning as being a correction for evil?

Well, I am not so sure that they are so absolutely evil, for what are political action committees anyhow? They are a collection of people representing an interest. It can be a business interest, it can be a labor interest, it can be an environmental interest, it can be an interest of almost any kind of the thousands of what some people call "special interests."

But we all have special interests. We all have special interests because we are individuals and we choose to focus on certain things that are of particular interest to us.

Unfortunately, in this drive for reform, we have made the term "special interest" in itself an evil term. There is no inherent evil in a special interest. Certainly those who espouse the cause of a handicapped child and who themselves are an interest in that cause and who may even raise campaign money and who may even create a political action committee and who may even donate to a candidate are then thrown in the cauldron of special interest?

Well, I can substitute almost anything for handicapped child and the same thing applies.

I remember vividly the very first political action committee donation I received when I ran in the special election for the Senate in 1983. I was invited to a dinner of a medium-sized company close to the city of Seattle. It was a dinner of people in the company who had taken part in political activity, and they had taken part in political activity on both sides of the political spectrum. They had taken part in political activity in causes that had no particular partisan orientation, and among the other things they had done was contribute to the political action committee of their company.

When I say their company, this was an audience of several hundred employees of a company that might employ 1,000 people but probably not so.

So it was a pretty good and substantial cross-section from top to bottom of people who were participants in that company in the political process. Would they have been if that company had not taken an extra effort and had created a political action committee and had opened up the conduit and the opportunity for people to contribute? I do not know. They might have. But I think the chances are probably smaller that the same number of people would have gotten involved.

At any rate, the program was an interesting program, not partisan or politically oriented particularly. It was devoted to trying to help those people who had first to recognize what they had done in being involved in the political activities of their community, but it was designed to inform and to broaden their opportunities to participate. I think it was done in a very fine way.

Well, maybe the reason I thought it was such a fine way is that, among other things, they had chosen to support my candidacy and so they presented me with their political action contribution. And it was for the maximum that they could give for this election campaign, or at least as I remember it, it was $2,000. But it did not come in one check. It came in probably 50 to 60 checks of varying sizes, from the company to individuels and chosen to make that political action contribution.

Now, is that evil? Is that bad? Is that tearing apart the fabric of America? I think quite the contrary. It may be helping by bringing that many more people into the political process, giving them a chance to contribute in relatively small amounts but have the feeling that those small amounts were gathered together to represent an interest that they thought was important, and that interest was their own company and their own activity.

I do not think for 1 minute that they contributed to me because they thought that was buying something, they thought they were buying support for everything for which that company stood. No, I think quite the contrary. They provided that particular contribution for the same reason I believe an overwhelming percentage of contributions of all kinds are given to any political candidate, and that is because they believe that that candidate already in his or her fundamental beliefs and past practice has shown they are in harmony with or have some association with the beliefs and the ideas of those who contribute. Frankly, I get very upset when I see people waving their arms and expounding on the buying of candidates and the buying of office holders as if this was a large mart in which the chance to have your bill or your issue go through was up to the highest bidder, and that everyone sitting in this Chamber, all 100, would wave in the wind, would go this way or that way on a particular issue, being bought by special interest of almost any kind of the thousands of what some people call "special interests."

There is no inherent evil in a special interest. Certainly those who espouse the cause of an interest of almost any kind of the thousands of what some people call "special interests."

So, when we are talking about these contributions from the political process, I think it is true for others, other.

They know very well, from the campaign contributions that come to them and from the campaign contributions that come to others that, as I have said, for the overwhelming part, our campaign contributions come because they believe the candidate already represents the kinds of policies and the kinds of fundamental political principles that they would hope someone would have in public office. I even think that there is a precision with the beliefs and the ideas of those who contribute to political campaigns who ask for not much more than that an officeholder be honest, straightforward, speak and vote on the basis of those principles that they believe this candidate has. That is what we all seek in those we send to public office.
Are political action committees any better or any worse than an individual who contributes to a political campaign? Just draw the parallels between individuals and political action committees. The very same people who contributed to the political action committee of the company I mentioned contributed the small checks to me separately, and no one would have thought that was bad. All those who are working so hard for this bill or for campaign reform would have thought that is the way campaign financing ought to occur.

Of course, there is nothing that prevents any of us, as candidates, from putting those voluntary requirements on anyone who contributes. I could have said: "I'm sorry, I can't accept this group of checks which comes to me as a campaign contribution from the political action committee of this company. But if you will just give me the checks, I will, do not worry, put them under a large envelope and give them to me separately, that is OK." Just what in the world is the difference?

Or, you can have an individual who chooses to give a bigger amount of money. Individuals or committees with a political action committee, but they can come pretty close, because the limit we have placed on one election, $5,000, for political action committees can be matched, and often is, by an individual of considerable wealth who chooses to give $1,000 campaign contribution on his behalf, $1,000 which comes from his wife, and $1,000 which comes from each of several grown children. It can be as easily as much as a political action committee donation.

Is that evil? Is that bad? No. I think we ought to really start talking about evils, if there are any, and try to find the real evils and the real problems rather than the imaginary ones, the ones that make convenient demons for the public. People who assert that. Is that the legacy we want to leave, to say it is perfectly legitimate to come to excesses, and excesses lead to evil, and evil leads to crookedness and immorality, and that almost no one who has a campaign financed, in whatever way it is financed, by small contributions or large, by broad or narrow, but a campaign that is financed with a substantial amount of money, can therefore not be honest.

I have heard my distinguished colleague from Michigan a little earlier this evening read poll after poll, talking about precisely that, about people and their perceptions of campaigns and whether people are influenced or whether people are people influenced, and whether people are crooked as a result of the amount of money spent on a campaign.

Well, of course, the polls will show that, because then they have been drubbed of charges from those they listen to who assert that.

Mr. President, we have seen in the course of the last month or so one of the most blatant of organization's charter to conduct an open political attack, and that was done by an organization devoted to reform, an organization very strong in its support of S. 2, and that organization, of course, is Common Cause.

Mr. President, John Gardner, the distinguished founder of Common Cause, a number of years ago—in fact, shortly after its founding—called me and asked if I would serve on the national board of Common Cause. I was proud to do so and did for a short period of time. Then I left office as Governor and did other things.

Mr. President, I fear that an organization which I felt was one of the finest in the country at that time has come to a point where, unfortunately, I believe the emphasis today is far more on the "common" than on the "cause." When an organization such as that blatantly misuses the funds which have been contributed to them by the supporters of Common Cause in a raw, political power play, I think that goes far beyond the bounds of an organization purporting to represent the highest standards that Common Cause purports to represent.

Those full-page ads aimed at particular Senators—not all, just particular Senators who have chosen to oppose S. 2—are done with a political intent in mind. Interestingly enough,
while more Senators—many of them, at least—who have opposed S. 2, I have been subject to those ads, to that knowledge, at least so far, I have not.

Interesting. I have not. Virtually all of the other Senators who are in this class and up for election in 1986 have been subjected to those ads, and yet I, like others, for reasons I think are proper and appropriate, have opposed the current version of S. 2, although I would be delighted to join in appropriate campaign reform.

Why do you suppose that I have been spared the intensity of those full-page ads? Do you suppose it could be that I have chosen not to run for reelection and that they see no particular political value out of using their money in the State of Washington? Well, I would not make that kind of an assertion. Others might. But I certainly would ask some questions.

An organization like that devoted to the broad range of political good, and they have done an extraordinary amount of good over the years of their existence, turns to this kind of pure political advertising, and that is what I would call it, then the questions ought to be raised, especially to an organization that believes so much in openness: Who raised the funds? How much was spent on this campaign advertising? For that is what it is. Would they agree to a voluntary open disclosure of the particular funds used for those ads? Did contributors to the general support of Common Cause understand what their contributions might be used for? Were they aware of the partisan onslaught that their organization would embark upon?

They might respond to those kinds of questions, but I am not so sure they would.

No, it is time for us to look at the facts as they relate to not only S. 2, but the whole arena of campaign financing. Let me start with the very first, and that is the question of costs.

We have all sorts of statistics and trends and potential and future trends in terms of campaign costs, but almost all the ones I heard miss at least a good deal of the picture. They could go back and look at the rising costs of almost anything in our society and make an extraordinary point out of it.

I remember vividly when I first became Governor. The general fund budget in the State of Washington at that time, as I remember it, barely exceeded a billion dollars. And the total budget of the State was something like 1.7. That was for a biennium, not for a year.

Whatever the figure was, it was somewhere in that neighborhood. As each year went by, during the 12 years I spent as Governor, the State's budget went up, and it went up faster than the cost of living went up during that period of time.

I winced regularly as editorialists and reporters and political opponents relented all to try to make a federal case of the Governor of the State of Washington and how our budget was growing out of proportion and how each year there would be the story, we are now spending X amount at the State level. That pales into insignificance because now, 12 years later, the budget for the State of Washington is over $14 billion, and the huge spending practices of the past were forgotten. But they are still writing the same articles about the new Governor. The very same articles that we have a recordbreaking budget and it is bigger than the year before, and they do not go beyond that.

In campaign financing, it is often the same. We have had the rise in costs. Let me read a little from a report from a conference sponsored by the Citizen's Research Foundation. This was done a couple years ago in May of 1986. It was prepared for financing congressional campaigns, candidates, PAC's and parties. They talk about the increases in campaign financing.

They say at the beginning:

For some observers, the almost 500 percent increase in spending from 1972 through 1984 has caused great concern. Those disturbed by this trend often describe campaign spending as out of control and feel that many talented individuals are being priced out of running for office. They maintain that the ever-larger sums of money required to mount credible campaigns, coupled with the system of strict contribution limits enacted in the Federal Election Campaign Act amendments of 1974 favor-

And let me repeat that: "They maintain," those who are concerned by this huge increase in spending, maintain that:

ever-larger sums of money required to mount credible campaigns, coupled with the system of strict contribution limits enacted in the Federal Election Campaign Act amendments of 1974 favor-

They go on: "Others point out," they say, "that when spending figures are adjusted for inflation, spending has increased by 125 percent rather than 500 percent. Already, just by understanding that there is inflation in campaign spending, just like there is inflation in family
bargains, just like there is inflation in a loaf of bread, we simply suffer, or some mighty even say benefit, from a steady inflationary spiral, and that, over the years, adds to the cost of anything.

So if we take the cost-price index and put that against this increase in spending, we have already reduced it from 500 percent down to 125 percent. That is three-quarters of that increase in spending. But do not think you can stop there, because it is too easy to use a broad cost-index and not to focus on those particular elements that are the elements going into campaign spending.

Just as I found out when I was president of a college and had to deal with the various elements of the college, and they would come in for their budget presentations to me, we would always try to take into account inflation so that we could get a better sense of what it would really cost in next year’s dollars to fund the same programs that we had the year before.

I shall never forget the first year that I was president of the college. The librarian came in and I tried to apply the same cost-price index to their budget. She said:

"Now, wait a minute. Wait a minute. You cannot legitimately apply that cost-price index to our particular function because a great share of the book budget goes into the purchase of books and other reference material. The costs of those books and those reference materials are going up much faster than the general cost of living. If you only apply the inflation that is general, you are underestimating and you are underestimating substantially what we will be able to do next year.

We cannot buy the same amount of material, reference material, periodicals, books, films, that we bought the year before. You will never get away that base.

That was a pretty good lesson and we all ought to learn it; we all ought to understand it. When you apply that to campaign financing, I believe if an honest study were done—not that this was the case—but it was low enough to go far enough—if a study really went far enough and examined what is happening in terms of campaign spending when you relate it to the particular cost of campaigns, you would probably find that we are not buying a whole lot more today for our campaigns than we did a decade ago. Why? Well, I did a little looking into my own circumstance. I felt like Rip Van Winkle when I ran for the special election to the Senate in 1983. It had been 11 years since my previous election to public office. I ran three times for Governor and each time spent just about $500,000. Since those elections were 4 years apart, that meant that each successive election I was actually spending less money in what I could buy than the election before. But I figured that that was probably appropriate because I was an incumbent and for all the bad that that might bring you there is some good that goes along with it. That good is in total name familiarity—you do not have the expense and the responsibility of trying to get people to at least know who you are.

You do have an expense of trying to tell them that you really have been doing a good job rather than what they might otherwise have thought.

But suddenly, in an 11-year period, I have a special election for the U.S. Senate. I find that within 5 days of the special election we raised and spent just over $2 million.

I am very proud of the fact—in fact, I will not run a campaign in any other way—that we had a balanced budget. I have told every one of my campaign committees from beginning to end that we will spend no more than we take in and if we get to the point where there is no money left we stop running.

Fortunately, at the end of each of those campaigns we have had a balanced budget and even a little left over.

I was still concerned. How in the world could we spend that much money? What happened in that 11 years of political sleep of this Rip Van Winkle?

So we went back and looked at what had happened. We found that the cost of television advertising in that period of time had gone up 400 percent. The cost of radio advertising had gone up more than 200 percent. The cost of newspaper advertising had gone up about 200 percent. These fundamental elements of political campaigning that take up a very large share of what we spend to get a message across had gone up on the average far faster than the cost of living.

So if we go back to this study, when they say if you only measure it by the average cost-price index, that is three-quarters of the reason for an increase in campaign spending. I suspect that a more detailed look at the increased costs of the particular elements that go into campaign financing would find much of that remaining 125 percent being eliminated. It may be that there is still something left, that campaigns have risen in cost, but it is simply wrong and if people understand and know these facts and continue to say that campaign costs are rising out of control and the way the British, and to put on campaign financing generally, they might have something.

Better yet, we might do like the British do.

I was there during an election period a decade ago and found, to my surprise and interest, that in that country on this particular issue for the candidates before an election, they set aside half a hour free—free. One night for the Conservative Party; the next night for the Labor Party; the next night for the Liberal Party, in that way; and the result is campaign presentations which people can use that half hour in any way they choose to use it to espouse the cause of their party.

I am not sure we would end up doing the same things that they do, but I would only try a particular way of campaign and getting word across to their citizens, but I was deeply impressed by the relative civility and the positive nature of the content of those presentations.

It is relatively easy in a 30-second spot to really zing somebody and to engage in negative advertising, and to leave that subliminal or not so subliminal message that this opponent is bad to the core. There is a particular campaign that does engage in a half hour of unmitigated negative muckraking of the opposition. That is self-defeating. I think people in political life are wise enough to understand that. The end result is campaign presentations which tend to be much more positive than the campaigns we end up with.

Well, I am under no illusions that free, independent, and private communications channels of this country are at least not to do any such thing and we probably should not ask them to.

The British have a different system with the government-run television operation, but it does allow us to understand a little better why campaign costs are rising. They are rising because there is competition for the use of the airwaves. And they claim that their costs are going up; that their profits are not so extraordinary. They simply have to keep their noses above water and it is necessary, as a result, to increase that particular cost of campaign advertising.

Let us understand, then, really what is going on in terms of costs, and try, if at all possible, to do anything that we can to do anything that we can to reduce the costs, and we probably should not ask them to.
What will we do now because there are campaign limits here and there is the can we now influence campaigns? do if, in fact, they are that evil. That is to say to themselves, the unhealthiest kind of campaigning threat of public financing, and there turn honest or disappear? that evil group who are trying to influ­

They will do? In this Senator's view, which I see on the horizon. That is the one individual—who, because he believed Chuck Percy was anti-Semitic, a grossly false charge but nonetheless which really has exceeded the cost-of-living index, which really has exceeded even a particular cost index applied to the costs of mailing, and the costs of paper, then look at what we are doing for ourselves in the newsletters and polls and other nice little things we send out to our con­stituents.

There is not anyone here who does not understand that a pretty fair share of that plethora of mail is designed to carefully create in the minds of the recipient that this Senator or the Congress is not listening to their needs, is responding swiftly and well to their concerns over legislation, is asking their opinion through a series of polls, most of which are polls designed carefully to bring the an­swers that the Members of Congress wants to have on a particular issue.

I have never seen so many questions that are so nonsensical in their makeup than the silly questions which are asked by Members of Congress of penning. I would love to see a complete round of campaign finance reform. We have found one more time that in our effort to reform we put limits in one place and create an aber­round of campaign finance reform.

We have put the limits on things over here and we think we have re­solved the problem, we are going to be sadly mistaken. Instead of money given totally to the campaign and openly declared and at least out there for everyone to see, and to make up their own mind as to whether this campaign is too heavily funded or not heavily funded enough, or by the right people or the wrong people, we will see a rise in independ­ent expenditures that will cause us once again to come back for another round of campaign finance reform.

We have found one more time that in our effort to reform we put limits in one place and create an aber­ration that leads to an even greater evil somewhere else.

Mr. President, I think there is another one­the self-funding campaign reform, or campaign missappropriation, if you will, that is perhaps more important than much of what we are dealing with. That is the extraordinary advan­tage we retain as incumbents through the use of the opportunity for those of us who are in office during the entire course of our term in office, through newsletters and re­sponse to constituents and whatever other clever way we come up with to communicate with those voters. And of course it is nice to do so, maybe even important to do so. But it is an advantage which is reserved for inc­umbents. And if you want to look at something that the real danger has grown beyond all bounds, which really has exceeded the cost-of­living index, which really has exceeded even a particular cost index applied to the costs of mailing, and the costs of paper, then look at what we are doing for ourselves in the newsletters and polls and other nice little things we send out to our con­stituents.

If we are going to create savings by killing a subsidy, let us put the savings to the purpose of deficit reduction and not the perks of political offices, now and taxpayers to subsidize the mail costs of Senate candidates. The way the sponsors propose to pay for this is a gimmick which really reveals some considerable cynicism, it seems to me.

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I have never seen so many questions that are so nonsensical in their makeup than the silly questions which are asked by Members of Congress of penning. I would love to see a complete round of campaign finance reform. We have found one more time that in our effort to reform we put limits in one place and create an aber­round of campaign finance reform.

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ally pay for these subsidized rates are not volunteers who frequently check off a box on their tax form. Oh, no. The people who pay for this political perk are the taxpayers and the stamp buyers of the United States. The committee modified version of S. 2 did not. All eligible candidates shall be entitled to mailing rates provided in section 3629 of title 39 of the United States Code. 

Now, if we sent a copy of S. 2 to any citizen and asked the citizen to really examine it and if they really supported that bill, what in the world would they think of that particular clause. They would have absolutely no idea what it meant. 

Well, what does it mean? Mr. President, when you turn to section 13 of the bill you find the mail subsidy which is included. 

Participating Senate candidates will be entitled to send their campaign matter by first-class mail—Understand this, by first-class mail— for one-quarter the cost of regular first-class mail. 

How many citizens would like a subsidy like that? All of us would. And second, they can send it by third-class mail for 2 cents per piece less than their special first-class rate. 

Well, the first-class stamp now cost 22 cents and it is my understanding that it is likely to go up sometime soon, and if S. 2 passes participating candidates will be paying 5.5 cents for their first-class stamps and 3.5 cents for each third-class piece. 

Now, if the cost of running the mail service today—and it is supposed to run at least at a balance, if not a small profit, no more overall subsidies to the mail service as in the past years, supposed to run as a business—well, if it cost 22 cents to send a first-class piece of mail, who subsidizes the 5.5 cents at which a political candidate will be able to send their mail? Well, who subsidizes their mail? The taxpayers, of course. Who else could? I doubt there is a Member in this body who has not heard the outcry when the broad House and Senate committees, and both Senate campaign committees, and the National Republican and Democratic Senatorial Campaign Committees, the Democratic Congressional Committee, and the National Republican Congressional Committee. 

Now, this provision of the law is about 10 years old. It was a straightforward effort to promote political communication by subsidizing the postal costs of broad political parties and campaign committees. Now, a political candidate, Senate candidates by repealing another subsidy for other politicians. Under current law, third-class rates are extended to a national or State committee of a political party, the Republican and Democratic Senatorial Campaign Committees, the Democratic Congressional Committee, and the National Republican Congressional Committee. 

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Well, I suppose if we are in the business of subsidizing, if we really want to do that, if anyone ought to be subsidized it seems to me it ought to be the national parties and the State parties and the broad House and Senate committees, those that at least in the overall are trying to present the cases for political parties and their philosophies and their platforms rather than dropping all of that just so Senate candidates can be subsidized for our own campaign purposes. The idea is to drop everyone's subsidy but our own. 

Mr. President, that really is cynical. 

Mr. President, a few days ago, the Washington Times published an article entitled "Postal Service Quits Proc-
say public financing is; it is taxpayers' money.

Many have talked about the marvels of Presidential financing and what public financing has done for the Presidential campaigns. One of the most distinguished of writers of that in the United States—I think one of the most straightforward and perceptive—is David Broder of the Washington Post. In an article not long ago, he spoke out on this very thing. He said that public campaign financing has helped to slow down—listen to this—helped to slow down grassroots campaigning. We have tended to shift away from the kind of grassroots campaigns of years past, which included as a major share of that grassroots campaigning the need to seek out and to gain the kind of political support, including money, that now is left to the taxpayer through the public funding. Even though it is a voluntary taxpayer funding currently at the Presidential election level, it is still, nonetheless, taxpayers' funding.

I think there was something to be said in years past for the necessary efforts of people to seek out friends and acquaintances, to try in every way to engage the interests of people, to make sure that they fully engaged in the political process.

I was very proud that in the first campaign I ran, there were more than 13,000 separate contributors, most of them small. Those contributors were fulfilling one of the important functions of being a full citizen, because I do not think you can be a full citizen in this country unless you fully participate in that system of free government that our forefathers gave us just 200 years ago. An essential part of that system was the opportunity to freely choose our representatives—to vote, in other words; and for the first time in this history of the world, to create a government which was of the people. If the ownership in the government, it was not by kings and emperors or by dictatorial tyrants or czars. The ownership of this government was to be by the people; and, as Abraham Lincoln, of course, more than a century later, not only by the people, but of the people and for the people. How can it be by the people unless people, themselves, are actively participating as shareholders in that enterprise?

The framework of politics is participation. I often refer back to the dictionary, read the definition of politics, just to make sure I have not forgotten it. The direct and most forthright meaning of politics is in most dictionaries I have read is that politics is the art and science of government. Under the definition, to be a politician is to be a practitioner of the art and science of government.

Under that definition, I am proud to be a politician. I believe that I was a politician long before I ever ran for political office, and I will continue to be a politician long after I retire from political office, just as I believe every full citizen of this Nation ought to be a politician; because the only way we can fully carry out the heritage left to us by our forefathers is to be a shareholder, by being a politician, by fully participating in the art and science of government.

What is the most fundamental way to do that? Some would say it is to vote, and certainly that is as fundamental as any participation, but it is an incomplete participation.

It is terribly important that people become involved early on, that they be the participants in political campaigns, that they seek out, listen to, and understand better what those who are running for political office really stand for; and, better yet, go out and help find people they believe would represent them well and encourage them to run for political office, and provide the best encouragement possible by saying, "Will you vote for me?" That active participation in the political campaigns of a candidate is a terribly important second element of being a full citizen.

A third one is for everyone to contribute, not only the time they contribute but also the money necessary to help make political campaigns as broadly financed as they can be. I think we would all agree that ultimately that is by far the best way to end whatever perceived evils there are in campaign funding. It is the best way possible to ensure that we have broad support from the many rather than narrow support from the few.

I think there are at least three other elements to that citizen's involvement in government which are really important if they are to be a full citizen and, in the best sense of the word, a full politician. Not only voting. It is participating in a political campaign, to not just wait until you get to the point where the primaries have passed or the candidates have chosen to step forward, and you are faced with only the last of the choices among those remaining.

If, in fact, there are evil special interests out there, they would be overwhelmed by the people voluntarily engaging in the political grassroots work and the political grassroots fundraising that is necessary to be a full citizen.

When I hear from one of the most distinguished observers of the American political scene that the public financing we have engaged in for the Presidential races has resulted in a slowdown of grassroots campaigning, that is a big warning sign. The alarm bells go off all over the place, which would tell me we should look pretty carefully at what we want to do in our limitations, to try to ensure that those limitations do not act further to slow down grassroots campaigns.

After you have gone through the contribution of whatever money you can to a political campaign, engaged in the active work of helping part of our total political system, let us be very careful that in doing so we do not inadvertently cut out or reduce or diminish the interests of people in participation.

That has happened far too often in the course of the last few years. Why is it that in every single election in this generation we have seen successively smaller percentages of our population engaged in voting? And if there are successively smaller percentages engaged in voting, then along with it there are almost certainly successively smaller percentages engaged in work for political candidates, engaged in giving money, even small amounts of money, and those who are interested enough in what is going on so that they will continue to be in touch with the political candidate after that person takes office.

Mr. President, I think there are some things that we can do and should do. I have mentioned some of them a little earlier—indeed expenditures, which I believe are one of the largest current evils and could be one of the overwhelmingly biggest evils of the future. Personal wealth is another element which we will find difficult to get around. We are trying to do it in various ways in S. 2, I think probably inadequately, and I am not sure there is any way we can really get around the problems of personal wealth, except that we find, interestingly
enough, that candidates of extraordinary personal wealth who have put huge amounts of money into political campaigns in recent years have, more often than not, been defeated.

I feel the American people are smart enough to know. They are able enough to understand what is happening. They understand that a candidate is, no matter how honest, putting in an enormous amount of their own money in an attempt to overwhelm the opposition and to buy an election, that is not good. That is why I would say that the most important thing we can do is try to be as honest, straightforward and open as we can be in getting people the knowledge of what is happening in terms of campaign financing. That is the current law.

But what happens? We require by our law that people follow carefully a long list of regulations and that they file within certain time limits the amounts of money that have come in and who they have come in from, and those are reported faithfully to the Federal Election Commission.

No, the real problem is that we have full disclosure, but it stops in the vaults of the Federal Election Commission. The only thing people ever see are those selected bits and pieces which are chosen to be transmitted to us by the press, and what do they transmit? Do they transmit a whole comprehensive list of all the contributions to a political candidate? Oh, no, not at all. It is much more fun, much more interesting, and it probably is the kind of thing that titillates the imagination of people who are reading, to get only the exotic or the large, or it is always fun for a reporter to find someone who has contributed to both candidates, running against each other. That is always worth publicity. But that gives an ine­herent view of what is really happening.

Mr. President, we have not even taken the first step on laws we already have to make sure they are working to produce what we thought they would produce, and here we are, again, trying to go further, to write more laws, to put in more regulations, to carve out more territory against those “evil influences” out there.

I think we just might do even more good if we found ways to ensure that there were clear and consistent and complete public explanations of the campaign financing that came to each candidate.

If we really think that people find excess campaign donations are bad, if we are trying to stop an evil on this side through S. 2, we are saying we are going to stop it by preventing campaign donations. We are unwilling to believe that if we disclose completely and can somehow get into the hands of the voter complete information on the kind of money and where it is coming from and the amounts and from what sources, especially what evil sources that I mentioned from, we do not think that is enough. Why do we not think it is enough? Because we do not trust the good sense of the American people? Well, I think that is probably a pretty good inter­pretation of what we are doing right now.

Let us see if we cannot find a way to broaden that public knowledge. If there is a contribution the press collectively could make, it would be to see how comprehensive, completely and quickly for all candidates they could print the campaign donations, not just the partially, not just the interesting, not just the bizarre, but all so that everyone could see where the money is coming from.

And I have enough faith, Mr. President, in the American people to believe that they, given full information, will make good decisions. They do not need someone selecting a decision for them as to what constitutes good or bad donations. They certainly would not ever understand what is being done to them by a bill or a law which, on the one hand, says you are going to put some stringent limitations on campaign financing, and you are going to take money from the taxpayers’ pocketbook to make this thing work. But, on the other hand, there are a lot of soft contributions out here, not as easily measured, that we are not going to do anything about.

I think if the people knew the full story on all of that, they would really wonder what in the world we were doing and why we were doing it this way. I think they would say with complete honesty, or they would ask with complete honesty, the question: “If you are going to put limitations on, why don’t you do a complete job of it?” Why don’t you put the whole story, the soft as well as the hard campaign contributions? Why don’t you really wrap a tight burden around those political candidates?

No, we are not doing that. We are being selective in our coverage. I am not quite sure why. Maybe it is because we think we cannot get at some of those ways of campaign fundraising or the equivalent of campaign fundraising. Maybe it is because we think those who support S. 2, that it is to their particular advantage to leave that kind of limitation out because they may think that they get more than their opponents might get of the advantage of it. Of course, there are those who are opposed to S. 2 who have the very same thing in mind.

We have to be careful of this kind of limitation. We are OK on the other kind of limitation because we some­
how think we may get a benefit or the other guy may get a benefit, depending, depending on which way the campaign financing bill is written.

I come back, Mr. President, to my belief that if we want to do something worthwhile we can get at independent campaign expenditures: we can get better and fuller disclosures; we can try to get at the problems of personal wealth.

I think we should be doing all of those things. Letting people know what is happening, but also spending more of our time and more of our effort and more of our leadership in trying to help people participate in the political system to make sure that every citizen possible is not only working on campaigns but contributing to campaigns and in telling the officeholders after the campaign is over what they think, instead of passing legislation that cuts back on grass roots campaigning, that cuts back on the kind of thing that we ought to be encouraging.

But, Mr. President, to a rather specialized element, one that I think might do some good in a campaign piece of legislation. It is not in S. 2 currently, although I have offered it as a separate bill. It is designed to try to get at the kind of problem I see too often in negative advertising.

It is one thing to talk about political campaign financing. Wherever we end up, whatever kind of limitations we put on, wherever we come out, there is going to be a certain amount of money set aside for campaign finances. Even under the limitations of S. 2 it is a large amount of money, so there is going to be a lot of opportunity for people to get their message across to the voters.

How do they get it across? They get it across in the ways that they believe are going to be most successfully in influencing a political office. They have a whole new group of professionals that we did not have a generation ago. We did not even have them when I first ran for office, or in the second or third term. It is a brand new group they are working on which way the money will be used, and it is because these gurus of political wisdom have told us that negative advertising is the way to political success.

Mr. President, I do not quite know how to stop that, but I have an idea that I hope might be added to whatever kind of bill might ultimately emerge from this Congress, and I hope a bill does emerge from this Congress. It would do just this: It would revise the Federal Communications System interpretation of "use." We have a proposal where a candidate is entitled to the lowest unit charge for advertising, and no censorship protection, by appearing in a media spot.

Well, that is a pretty good idea. We say if the candidate appears, then he gets the lowest rate. There is some real benefit attached to that. I would be willing to bet—I do not know it, but I would be willing to bet—that the sponsors of that law when it was proposed in the Congress hoped that it would mean that candidates themselves would appear on media spots. It was a way to encourage candidates to speak for themselves.

Well, how do they do it? That law had a hole big enough to drive a Mack truck through. I would rather say a Kenworth truck, because that is a product of the State of Washington and the highest quality of truck. But, nonetheless, they did it by appearing for a fleeting instant in a television ad, sometimes in a fleeting instant not even recognizable as the candidate but as the ad. What message that the advertisers are putting out, or on a radio spot right at the end where it says, "This spot paid for by the "XX Committee." That is carefully read by the candidate. Nothing else in the spot is paid by the candidate. The candidate is not involved at all in the rest of the message.

Mr. President, I am suggesting that the bill I have introduced would redefine the use requirements. It would mandate that the Foton redefined the "instantaneous appearance" so that the candidate would be required to be identified or identifiable for 100 percent of the media spot.

Some may say, "Well, what good is that? What does that really do?"

Well, I think it does a lot. It does several things.

In the first place, people would get an idea of who their candidate was, that candidate looked and sounded like that candidate. It would be a modern-day equivalent of that citizen getting on the horse and riding into town, or whatever distance was necessary, to listen to and to view and to look in the eye of a political candidate.

It was important then and people thought it was important. It is important today. If they will not get out of the house and get into the car and go visit a political forum to see and listen and in telling the officeholders after the campaign is over what they think, then they have done more harm than good to the campaign.

I think we should be doing all of those things. Letting people know what is happening, but also spending more of our time and more of our effort and more of our leadership to help people participate in the political system to make sure that every citizen possible is not only working on campaigns but contributing to campaigns and in telling the officeholders after the campaign is over what they think, instead of passing legislation that cuts back on grass roots campaigning, that cuts back on the kind of thing that we ought to be encouraging.
would lose an election. You cannot personally look out at your audience and constantly negatively attack your opponent and hope to win.

So I think, Mr. President, in that small way we might do more than a lot of things, but we are not doing that. We are not doing that about doing because when you get right down to it when we talk about campaign financing all we are talking about is the means to get a message across.

We are not doing a darn thing about the message itself. It is the message itself. I think, that more than anything else is destroying the American voter's interest in the political process.

How can it be any other way, when all that the voter sees day after day after day for every campaign, for every level of office, is a negative, negative, negative political campaign?

That is why, Mr. President, as I said at the beginning of these remarks some minutes ago, we are shooting at the wrong target and we are hitting the wrong target. I think we are missing the whole point as the set of exist in the increased costs of campaigns and why they are increasing and how much in real dollars they are increasing.

We are not touching at all the message, and we probably cannot, by law. We can only do that through our own more positively to change the face and educate people on issues, put forth our own stand on issues, helped campaigns more personally and more positively to change the face and the map of American politics. We would not worry so much if that happened about political campaign financing and campaign reform.

If the message were a positive one, if we were spending our time speaking out on issues, and if the message that we were buying with political donations was a message that helped educate people on issues, put forth positively our own stand on issues, helped us engage opponents in a legitimate debate where we differ on issues, then we really would have done something. But if all we do is tinker around the margins with campaign financing, try to put limits here, almost certainly by instituting almost every new limit we create a new brand of cheater and we also give ourselves another place where perceived excesses will erupt and lead us to yet one more round of campaign financing.

I wonder sometimes, Mr. President, where we will be a decade from now on the next round, with another set of evils or ills, not having done anything about correcting the message but merely aiming at the means. I fear for the kind of political system we will have then.

So I hope that we can all join, and I am sure we could in a bipartisan way if we only knew the means and only knew the method where we could join in building a more positive message to send to people, a broader message, a message that would encourage rather than discourage grassroots campaigning, a message that somehow would give to every citizen the added impetus to be more interested in the art and science of government, to not only vote but to work on political campaigns, to help tell an officeholder what to do after they are elected and in a very real sense to be a full participant by contributing to political campaigns. It is not evil to do so. This Senator for one does not believe that there are an extraordinary number of evil influences in political campaigns. We have got to do more to change the message than change the means.

Thank you, Mr. President.

Mr. WEICKER addressed the Chair.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from Connecticut.

Mr. WEICKER. Bon jour. The distinguished Senator from Washington concluded his eloquent remarks exactly at the point I would like to start because the first thing I am going to do is to read an article that was published in 1977, almost a decade ago; it was published in U.S. News and World Report. "Pro and Con—Use Tax Dollars To Elect Congress?"

Congressman Mo Udall of Arizona went ahead and advocated: "YES—we have to respond to evolving conditions," and an interview with Senator LOWELL WEICKER, Jr., Republican of Connecticut, "No—the whole idea of public financing stinks!" So I am going to pick right up as to what my comments were on amendments to the original act which we are trying to reform again today, and as the Senator from Washington says if we got through the original act, I do not think is going to happen, believe me, 10 years from now we would be reforming the reform of the reform.

Q. Senator Weicker, why are you against using public funds to finance congressional campaigns?

A. I think the whole idea of public financing stinks. What you'd be doing is subsidizing mediocrity. You'd be taking away from the people of this country one of the checks which they have on their Government specifically, the power to politically utilize their resources.

What particularly nettles me is that I've heard federal financing of campaigns referred to as a Watergate reform. This is absolutely wrong. The Senate Watergate Committee explicitly opposed public financing in its final report. I can only say that if there is to be "federal reform" of our election process, more power should be put in the hands of the people—not less.

Q. Your view is that public financing increases the power of the politicians. In essence, you are eliminating competition in our election process; you're saying that a warm body is enough to get money.

I see the distinguished Senator from Maine eagerly receiving these remarks along with his colleague, Senator HARKIN. And I am delighted that two of the finest Senators that enter this body are here and interested in the floor during the course of these remarks. They are, I can assure you, more than warm bodies. These are two of the finest Senators that enter this body. And I assume you and I agree that financial rewards come to them at election time, are well deserved.

Mr. MITCHELL. Will the Senator yield?

Mr. WEICKER. I yield the distinguished Senator.

Mr. MITCHELL. One of us was going to leave now, but given those remarks we are going to be reduced to staying.

Mr. WEICKER. These remarks only come at 3 o'clock in the morning, let me assure the Senator.

Mr. MITCHELL. I want the Senator to know that I eagerly await the Senator's remarks.

Mr. WEICKER. I thank the distinguished Senator from Maine.

Q. But wouldn't the proposals for congressional-campaign subsidies require a candidate to demonstrate he has support before he can qualify for public money?

A. I agree, but the fact is the requirements aren't that stiff. What is the argument for giving this money to the Federal Government? I don't understand it in light of the track record of the Federal Government, which has been one of chicanery and corruption.

The real story of Watergate was the story of the Federal Government gone haywire—of federal institutions being used politically. Now, what are you doing with a federal-financing concept? What you're doing is to say, "O.K., we're going to punish those who are going to do with the, the ordinary people—and we're going ahead and putting additional power in the hands of the Federal Government which was involved in the wrongdoing.

Look at the two major parties: The people have less and less faith in them. That's a statistical fact. Yet the representatives of the major parties are trying to make sure that, regardless of declining support in numbers, they're going to have the money to continue operating.

Q. The backers of public subsidies for congressional races argue that private financing leaves open too many opportunities for wealthy special interests to buy influence. The answer is you give the electorate the facts, and let the electorate decide whether or not an election is being bought. The answer is election.

Another answer is limiting the amounts of individual contributions and group contributions; a good reform. It seems to me that when you limit the amount of contributions to $1,000 from an individual and $5,000 from a group, as we have, this
Let the constituency, not an ethics committee which we now have, not a Federal Elections Commission, which associates with the Campaign Financing Act, let the constituency decide what is permissible or not; what is acceptable in Maine might be considerably different than what is acceptable in Connecticut, considerably different than what is acceptable in California or Oregon.

Let the constituency within each State decide what it is that they will accept in terms of both the amounts and the sources when it comes to campaign financing.

I wrote an article on the matter of disclosure for the New York Times. Again this was in 1977. I will now read from that article which was called Full-Full-Disclosure by LOWELL P. WEICKER, JR.:

Seventy-four years ago, the British philosopher George Edward Moore wrote of the "difficulties and discontents" that arise over the subject of ethics. The problems, he wrote, "are mainly due to a very simple cause: namely, the attempt to answer questions without first discovering precisely what question it is which you desire to answer.

The United States Senate, now considering a new code of ethics, provides living proof of Moore's thesis. Members know full well that they must answer the public cry for stringent rules of conduct; the issue can no longer be ignored. Yet, they are rushing to meet the challenge without a clear perception of what the so-called reforms will remedy.

The Senate ethics plan under consideration is an amalgam of arbitrary restrictions and incomplete regulations whose only claim to the title "reform" stems from its public relations value.

Very much akin to what we are doing here and what we did in 1977.

These two came up simultaneously in 1977 vis-a-vis campaign financing.

The proposal proclaims tough, new financial-disclosure provisions for senators and top Senate aides. But it stops short of revealing personal financial interests. No tax returns need be revealed. No specific amounts of assets or liabilities need be listed.

When the Senate and House approved the $12,000 pay raise (recommended incidentally not by the Senate and House but by an independent commission), lawmakers drew criticism. The rationale was to promise 'reform' and to limit the amount of a senator's outside earned income to 15 percent of his new salary.

Ignoring the fact that one cent paid a "reform" and to limit the amount of a senator's outside earned income to 15 percent of his new salary.

But some type of income limit is vital to the integrity of the institution, they argue. Senators making more than $8,625 a year giving speeches, writing books or maintaining "consulting" interests might be greater for a senator who appears to be in the pocket of special interest groups or shortchanging the American people—

You see the very argument that is being presented out here today—by failing to devote enough time to their Senate work.

No consideration is given to those senators who are responsible to less well-to-do senators who permitting rich lawmakers to get richer.

Would not the potential for legislative support of interest groups be greater for a senator holding 1,000 shares of stock in a major corporation than for another lawmaker who earns $1,000 delivering a speech to an educational institution?

Instead of scurrily for public favor through artificial and illogical restraints on officeholders, the Senate should consider the effectiveness, not the cosmetics, of its ethical standards.

This is the issue here.

If the question of ethics hinges on a falling public trust in its elected officials, then the best defense is disclosure. Let the American people police their own politics.

Let the American people police their own politics.

Instead of senators' judging the propriety of their less-wealthy colleagues. In essence, let the public all the facts and let the voters decide what is a conflict and what is proper.

Then I go on in the rest of the article to advocate a system of full disclosure.

For those who are seeking avenues of accountability in this matter of the financing of federal election campaigns, they do not have to look any further than to the people of this Nation.

In March 1977, I wrote an article in the Congressional Digest on a question of Federal financing of congressional election campaigns—this is 11 years ago—"Should Federal Subsidies Be Provided for Congressional Election Campaigns?" I wrote the "con" argument.

From the debate of March 17, 1976, on the floor of the U.S. Senate during consideration of S. 3065, the Federal Election Campaign Act Amendments of 1976. Sen. Weicker's remarks center on an amendment to the pending bill which he had introduced which would have had the effect of repealing provisions of the FEA relative to Federal funding of presidential campaigns.

From the start, I have believed that public financing of national election campaigns—whether presidential or congressional—would be a step long overdue. That such public financing will not be seen as a reform, is a dangerous step toward decentralization of the Federal Government, and is in the sense of the control exercised over us by the sovereign people of the United States.

For several years, efforts have been mounted in the Congress to broaden the present provisions, under which the campaigns of presidential candidates are financed from tax revenues, to include fund-raising and the campaign expenses of candidates for the Senate and House of Representatives. As my colleagues know, I have expressed grave reservations about the action.
of Congress which authorized Federal funding of the Presidential campaigns, and have expressed my undisguised concern over damage to basic and vital principles of our American system which would result—and, in my view, has resulted—from a sort of financing scheme. I feel, if anything, even more strongly about proposals to devise a Federal financing of Presidential candidates for congressional office.

I understand the motivation behind public financing. It was deemed a reform measure to provide a financial incentive in the electoral political process, and to diminish the amount of money spent in the course of an election. But I suggest, that, in effect, we did what we enacted public financing was to accept the problem and merely find a way to finance it.

What am I talking about here? I am specifically saying that the reason why so much money is expended is the length of our political campaigns.

Why then did we not attack the basic problem, reduce the time? Because, indeed, if we had done that, we would have reduced the funds to be expended. Instead, we accepted the inordinately long length of campaign time.

Believe me, unless the funds are coming from some source other than individuals, it does demand a sort of financing scheme. With the best intentions, the Congress enacted campaign reform legislation calling for direct Federal contributions to Presidential candidates. However, that accommodates rather than eliminates the problem. The problem is long translating into big money. Public financing only pays the blackmail imposed by that sin.

Matching funds have kept floundering Presidential campaigns afloat beyond their time.

I said that in 1977, and it has happened several times since then.

They have allowed one issue candidates and those with only a marginal chance of winning the presidency to compete. If we had done that, we would have reduced the funds to be expended. Instead, we accepted the inordinately long length of campaign time.

Well, now, let us examine that just for a minute. I do not have the right, neither does any American taxpayer, to designate that a certain amount of my tax shall go to HUD, or that a certain amount of my tax shall go to Defense. So, in effect, we are giving a special privilege here. It is money that does come out of the general fund. It is money not going into the general fund but, rather, into the business of politics and financing of campaigns.

I think, and this is all the amendment is predicted then, away from public financing of just Presidential campaigns to include those for Congress, for the House and for the Senate. I might add that, unlike the House of Representatives, the Senate committee was authorized not in the sense correctly objected to this public financing being labeled as Watergate reform. There is no such thing. It has no relationship to the facts of Executive abuse, no relationship whatever. Indeed, what we have done with the approval of the Senate, have given power into the hands of the Executive; more power into the hands of the Congress. The benefits that the American people still have to themselves is their vote, their support, their contributions. This is their one check on the Government, and it is one that I feel they should preserve. But certainly, since the Congress, the representatives of the people, deemed it advisable to give a new system a chance, let us try it out, but then let us put the active responsibility on their shoulders to justify its continued existence.

I have made the statement that I thought in this country what we should do is have the candidates file the first Tuesday in September, let there be direct primaries the Tuesday in October, and then let the general election take place the first Tuesday in November, letting the whole process consume 60 days. Believe me, then we will reduce the role of money in politics, reduce the time of politicking. In so doing we will preserve the rights of Americans, while getting better men and women to serve.

I have heard comment that in fact these are not general funds, that these are designated by various taxpayers. They do not have the right, neither does any American taxpayer, to designate that a certain amount of my tax shall go to HUD, or that a certain amount of my tax shall go to Defense. So, in effect, we are giving a special privilege here. It is money that does come out of the general fund. It is money not going into the general fund but, rather, into the business of politics and financing of campaigns.

I think, and this is all the amendment is stating, that if we are going to take this step, both in the sense of its effectiveness in reducing the ill of our political system and in the sense of what it does to the basic rights of Americans, this is something we should tread into with a light step. It makes eminent sense to examine our experience, as we will, before we impose such a system forever on the American people. It would be very hypocritical, indeed, for this Congress to demand a zero budget-type base for all the other agencies and programs of Government if we are not willing to do it to ourselves.

I hope the American people understand what is at issue here. I have always thoroughly objected to this public financing being labeled as Watergate reform. There is no such thing. It has no relationship to the facts of Executive abuse, no relationship whatever. Indeed, what we have done with the approval of the Senate, have given power into the hands of the Executive; more power into the hands of the Congress.
of an impeachment process but, rather, to look at the election, to look at that election that had taken place, ascertain the facts and then given recommendations. What was the name of the committee that was the Select Committee on Presidential Campaign Activities? That was the name of the committee. Now listen to the full title: The Select Committee on Presidential Campaign Activities, the U.S. Senate, pursuant to Senate Resolution 60, February 7, 1973, a resolution to establish a select committee of the Senate to investigate and study illegal or improper campaign activities in the Presidential election of 1972.

This is completely different from what it is the House accomplished. It was the actual impeachment process itself, or at least a portion of that process, the process never having been completed in the sense of coming to the U.S. Senate.

So this body authorized this committee to find out what went wrong and to make recommendations. I do not think there is any debate over the fact that the Senate, the House, the Nation, was aghast at what it was this country had seen and, and, on the basis of what it found out, it made its recommendations. One of those recommendations went to the heart of what it is that comes before us at issue now. Recommendation 7, and I now quote:

The committee recommends against the adoption of any form of public financing in which tax monies are collected and allocated to political candidates by the Federal Government.

Now, can you have anything more direct to the point at hand than that?

The committee recommends against the adoption of any form of public financing in which tax monies are collected and allocated to political candidates by the Federal Government.

The Select Committee opposes the various proposals which have been offered in the Congress to provide mandatory public financing of campaigns for Federal offices. While recognizing the basis of support for the concept of public financing and the potential difficulty in adequately funding campaigns, the committee feels that the adoption of the form and amount of contributions, the committee takes issue with the contention that public financing affords either an effective or appropriation solution. Thomas Jefferson believed "to compel a man to fur­nish contributions of money for the propa­ganda of opinions which he disbelieves and abhors, is sinful and tyrannical."

The committee's opposition is based on Jefferson's view that the Federal government should protect the voluntary right of individual citizens to express themselves politically as guaranteed by the first amendment. Furthermore, inherent dangers in authorizing the Federal bureaucracy to fund and excessively regulate political campaigns. The abuses experienced during the 1972 campaign and unearthed by the Select Committee were perpetrated in the absence of any effective regulation of the source, form, or amount of campaign contributions. In fact, despite the progress made by the Federal Elections Campaign Act of 1971, in re­quiring full public disclosure of contributions, the 1972 campaign still was funded through a system of essentially unrestricted, private financing.

What is inappropriate is not the abandonment of private financing, but rather the reform of that system in an effort to expand the voluntary participation of individual citizens while avoiding the abuses of earlier campaigns.

We can all speculate as to what might transpire from our legislation here on the floor of the Senate, but this conclusion, which I have just read, is no speculation. It was based on a track record of abuse by government­al agencies, not just by one man, Richard Nixon, but by governmental agencies. And here we are right back in the same old corner saying let us give more power to these agencies or let us create another agency and give new powers to it. I think that a little bit foolish.

The other track record you have is the track record now, as far as President­ial campaigns are concerned. Again, that track record is nothing of which to be proud: People overspend­ing their limits, extending campaigns, as I suggested might happen, just to receive Federal funds.

What is the impetus behind new re­forms? As I indicated earlier, if you want some reform, let us have election campaign consume 60 days. Now there is something new. Sixty days, primary process, election—60 days instead of the year to 2 years to 3 years, in some instances, 4 years that is involved in the present process.

What is it that we are tinkering with in S. 2? I suspect that some of it has to do with PAC's, and I do not quite un­derstand that. What is the actual problem with the PAC's here? What are PAC's? They are not just something out there in the air by them­selves. It is the result of a joint effort of many people to give some clout to their contribution. What is wrong with that? I recognize that on both sides of the aisle here, to say PAC's are awful. What is a PAC?

It is people, plural, getting together to have their voices heard as 1 rather than 10 or 100 or 1,000. And the PAC's come from across the spectrum of activity in this Nation. There are environmental PAC's, educational PAC's, scientific PAC's, in addition to those of labor, working men and women, business, every conceivable concept where people want to have their voice heard, where they find it is far easier to have their voice heard when they speak as one rather than as a myriad of individuals.

So I do not even go along with the badmouthing that associates with the word PAC.

But be that as it may, I get back to the recommendations of the Water­gate Committee, why it recommended against public financing and, in that regard, will now recite the individual views which I expressed as a part of that report. Those individual views are merely a recitation of the facts of gov­ernment abuse of the process and the government should not have more power. I do not think anything can cite my case more strongly than what actually happened in America in the early 1970's.

If anybody wants a copy of this report of July 1974, my office will be glad to supply it.

In the early 1970's, several independent events took place in the United States of America and if surface they appeared to lack a common bond.

In June 1969, a Louis Harris poll found that 25 percent of all Americans felt they had a moral right to dis­regard a victim's cry for help. Over the next several years, this mood took the form of countless incidents of "looking the other way" when men and women were assaulted and murdered in full view of entire neighborhoods.

May 4, 1970, at Kent State Univer­sity in Ohio, a group of students who refused an order to disperse were fired upon by the National Guard, kill­ing William Schroeder, Sandy Scheuer, Jeffrey Miller, and Allison Krause, and wounding nine others. Ten days later, at Jackson State Univer­sity in Mississippi, police who had been called in to protect firemen from violence, opened up a 28-second fusil­lade into and around a dormitory kill­ing Phillip Garry and Earl Green, and wounding 12 others.

During 1971, a decision was reached by the administration to conduct the President's reelection campaign with a special committee totally separate and insulated from the political party which would renominate that Presi­dent.

In early 1972, a young radio reporter in Miami stood outside a supermarket trying to get people to sign a copy of the Bill of Rights. Seventy-five per­cent refused, many saying it was "Communist propaganda."

In February 1972, it was revealed that International Telephone & Tele­graph had allegedly offered a cam­paign contribution of $400,000 in return for the Justice Department dropping an antitrust suit against ITT. The suit was dropped on Presidential order, but when the Attorney General was questioned about the President's role by a Senate committee in March, he lied.

On June 17, 1972, burglars employed by the Committee to Reelect the President were arrested inside the headquarters of the Democratic Na­tional Committee with bugging equip­ment and large sums of cash.

In December 1972, having failed to get congressional approval for a reor-
The next chapter was entitled, "The Watergate." For this Senator, Watergate is not a whodunit. It is a documented, proven attack on laws, institutions, and principles. The response to that attack was and is a nation of laws at work, determining whether men shall prevail over the principles of a constitutional democracy. It has been and will be the testing of a great experiment in Government begun more than 200 years ago.

The next chapter is "Constitutional Democracy in the Era of Watergate." For this Senator, Watergate is not a whodunit. It is a documented, proven attack on laws, institutions, and principles. The response to that attack was and is a nation of laws at work, determining whether men shall prevail over the principles of a constitutional democracy. It has been and will be the testing of a great experiment in Government begun more than 200 years ago.

Laws, institutions, and principles were squarely before this committee, to be debated, probed and documented, in order to assert remedies and reassert time-honored concepts. Guilt or innocence was not an issue. This was a fact-finding body; it was a legislative body; and those duties go to the heart of what Watergate was all about.

In keeping with the committee's duties, this is a report of facts and evidence, leading to legislative recommendations. I might add, I just read to this body here, being against Federal financing of elections.

To document the abuse of laws, institutions and principles, the facts and evidence are presented, first, as they bear on the basis of our laws, the Constitution; second, as they relate to the institutions of our Government; and third, as they affect the principles of our political system.

I. THE CONSTITUTION

One of the most disturbing facts about the testimony presented to this committee is that so many Americans, wholeheartedly to the heart of our Constitution.

To appreciate what happened to the Constitution, it is useful to divide the seven articles and 26 amendments into substantive versus procedural provisions. The substantive sections lay out rights, powers, and duties. The procedural sections require more technical and administrative matters. The important point is that the essence and strength of the Constitution springs from its essential functions, primarily the first three articles, the first 10 amendments and the 14th amendment.

A. THE EXECUTIVE

Of all the issues confronting the Constitutional Convention at Philadelphia, the nature of the Presidency ranked as one of the most important. The resolution of that issue was one of the most significant actions taken.

Most state constitutions prior to that time had weak executives and strong legislatures. The decision to create a President, as opposed to plural administrators, was a reluctant recognition of the advantages of a strong executive.


2 As a result of experience with the royal governors, not only did most states have weak executives, but the Articles of Confederation which was the agreement by which the national government was functioning at the time of the Constitutional Convention vested all powers in a one-body Congress. C. Thach, chs. 1-3. The Virginia Plan, which was an agreement by which the national government was functioning at the time of the Constitutional Convention, vested all powers in a one-body Congress. C. Thach, chs. 1-3. The Virginia Plan, which was an agreement by which the national government was functioning at the time of the Constitutional Convention, vested all powers in a one-body Congress.

3 It was not until the closing days of the Convention that there was any assurance the executive would not be tied to the legislature, devoid of power, or headed by plural administrators. Although the discussion about the executive opened on June 1, 1787, as late as September 7, 1787, eight days before the final Convention was ordered printed, the Convention voted down a proposal for an executive chosen by the Congress. The proceedings were printed in the exercise of all the executive's duties. M. Farland, "The Records of the Federal Convention of 1787" (New Haven: 1907), 21 and 842.

Nevertheless, the Convention took steps to contain presidential power. Only after deciding the method of selecting a President, his term, mode of removal, and powers and duties of the President, did the Convention agree to the concept of a strong President.4 This bit of history, indicating that the delineation of the President's office and powers preceded the Articles of Confederation in the Constitutional scheme, is quite important. It demonstrates that executive power is to be exercised within the framework of the Constitution, and particularly, within the guidelines of Article II, which lays out the powers and duties of that office.

This is much of what Watergate is all about, and it bears a close look at Article II. The issue at stake is the exercise of potentially awesome Presidential power. As to that issue, Article II contains two points of significance. First, its opening words state: "The executive power shall be vested in a President of the United States of America." This grant of executive authority, with no words of limitation, has, from the time of Jefferson, been the basis for expanding the presidential office and its powers.

However, the initial broad authority is offset by a second significant factor, the enumeration of executive powers later in Article II. These declare in part that the President is to be Commander-in-Chief, make treaties, appoint ambassadors and other officers, grant pardons, and take care that the laws are faithfully executed. It is worth noting that experience has eventually placed limits on the general powers. The President has been allowed, as from a practical matter, to exercise those additional powers that fall naturally within his range of activities.5

The important point, however, is that no President has been, or can be, allowed to conduct the executive branch in conflict with the Constitution taken as a whole, and certainly not in conflict with express sec-

4 The eventual basis of Article II was the New York Constitution. On June 1, 1787, James Wilson moved that the executive should be one person. A few days later, Wilson was put out of the Convention for other attributes of the office had been decided. The decision reflected those of the Virginia Plan. Wilson was dead of a fever as much as an unfeathered executive dare not be considered a strong executive could not be considered without the legislative body," Congressional Record, p. 439.


6 U.S. Constitution, Article II, Section 1.

7 The practice of expanding presidential powers has continued steadily but has been irrevocably set when Congress, over the last three decades, and did not curb executive power, but rather enlarged it. The modern theory of Presidential power was conceived by Hamilton, but it is interesting to note his qualification that "the executive power of the President is vested in the President alone," U.S. Constitution, Article II, Section 1, to the exceptions and qualifications, which are expressed in the instrument," 17 "Works of Alexander Hamilton," J. C. Hamilton ed. (New York: 1851) 76; see Congressional Research Service, 433 and 437. A. U.S. Constitution, Article II, sections 2-4.

8 See note 7 supra.
tions of the Constitution, such as the Bill of Rights, or Article I (the legislature), or Article III (the judiciary). This then is the process of breaking and entering.

Article II of the Constitution, by which the Presidency was created, was violated from beginning to end by Watergate. This article authorized use of most of the awesome general powers that reside in the executive department.

There is equal evidence documenting abuses of the enumerated duties.

1. General powers and duties

The facts show an executive branch that approved a master intelligence plan containing proposals that new sophistication's telephone, one that set up its own secret police, one that used its clandestine police force to violate the rights of American citizens, one that hired a private intelligence firm with a "black bag" to breaking and entering capability as secret investigative support for the White House, one that ordered a warrantless telephone tap on a News columnist's phone, one that wiretapped newsmen and journalists, and one that installed a surveillance. They did so for security reasons, and their brother was aware of that installation, and never reported that crime.

That contacted the IRS as well as the Justice Department in a number of other tax cases involving Friends of the President, one that planned and possibly carried out a break-in at the office of a Las Vegas publisher, and will not go beyond that. They went to the apartment of the man who attempted to assassinate Governor Wallace, and that contained a lot of facts, but those facts were not reported to the IRS.

That issued a surveillance. They had it set up at the office of a Las Vegas publisher, in order to get the information from the IRS.

That proposed setting up a private intelligence firm with a "black bag" to break-in and entering capability as secret investigative support for the White House. That established an elaborate, and imputed, and context for examining facts.

There is equal evidence documenting abuses of the enumerated duties.

It appears to have good security with guard present in the Ellsberg case, that installed an elaborate surveillance system of taping conversations between the President's opponent with communist money and the crimes alleged in the Ellsberg case, that installed an elaborate surveillance system of taping conversations between the President's opponent with communist money and the crimes alleged in the Ellsberg case.


15 Operation Sandwedge, drawn up by John Caulfield in late 1971, to infiltrate campaign organization, with a "black bag" capability, "surveillance of Individuals," and a "derivative surveillance of Individuals," of the "intelligence capabilities, world-wide." See Ex. 28, and Ex. 30, John Caulfield, 2165, 2166.

16 See, the Intelligence Community, infra. (discusion of the establishment and functions of the secret so-called Plumbers unit in the White House).

18 On June 21, 1974, Mr. Charles Colson, was sentenced to one to three years in jail for, among other things, conspiracy to obstruct justice, and impede the conduct and outcome of the criminal prosecution of Daniel Ellsberg.

19 See, the list of investigations by Anthony Ulasewicz, The Intelligence Community, infra; see also, sworn testimony, Vol. 4, pp. 2122-2127.


21 See 18 U.S.C.A. 1852, 1855. Finally, learned of the break-in 18 months after it occurred, they were told by the President, "you stay out of this," that it was not their. In one of the defendants has been convicted. Vol. 9, p. 9613.

22 Ellsberg-Break In Grand Jury Proceedings, 572-575.


27 That suggested firebombing the Brookings Institute, that set up an Intelligence Evaluation Committee outside the legitimate Intelligence Community, that contained a lot of facts, but those facts were not reported to the IRS.

28 That, if set up an Intelligence Evaluation Committee outside the legitimate Intelligence Community, that contained a lot of facts, but those facts were not reported to the IRS.


30 Testimony of Henry Petersen, Vol. 9, p. 3631.


32 Id., see, The Electoral Process, infra (description of the Segment operation).


34 Notwithstanding the fact that the statutes prohibit the CIA from participating in any domestic intelligence function, they were used to evaluate domestic intelligence-gathering by other agencies, when the Intelligence Evaluation Committee was set up. Testimony of John Dean, Vol. 4, p. 1457.


36 Testimony of Fred LaRue, Vol. 6, p. 2343.

37 Mr. Kalmbach testified that he reported the original telephone. John Caulfield, Vol. 6, p. 3620.

38 See, Executive Session, Herbert Porter, April 2, 1973 (the activities of Sedan Chair I and Sedan Chair).


40 Id., at 2074.

41 Mr. Rebozo was called by William Simon of the Treasury Department and told that Mr. Rebozo was to be warned of the planned break-in at the White House.

42 For example, on March 30, 1972, a few days after the Liddy plan was allegedly approved, a memo from Strachan to Haldeman reported, "Ma­riner has asked the Sequester Committee to include prostitutes, mugging, kidnap­ping, bugging, and burglary.

43 Id., at 2074.

44 Mr. Strachan testified, "I did not tell Mr. Dean that we were using the plan... in support of demonstrations against the President in 1972. We tied all 1972 demo­nstrations to the Watergate system of taping conversations between the President and his staff or visitors." He told federal investigators to stay out of the case, and the President ordered FBI agents to hide a wiretap on a News columnist's telephone, but that it was not used in support of demonstrations against the President in 1972. We tied all 1972 demonstra­tions to the Watergate wiretap transcripts. Testimony of Jebe Magruder, Vol. 6, p. 2442. Mr. Strachan had also had access to all the Watergate wiretap transcripts. Testimony of Jebe Magruder, Vol. 2, p. 822.

45 Mr. Strachan, according to Mr. Magruder, was as well briefed, on the evening of June 16, 1972, on the Watergate wiretap transcripts, and never reported that crime, and was warned of the planned break-in at the White House.

46 The White House counsel, among others, was fully briefed by Liddy himself three days after the break-in, and given the full story of Liddy's Watergate activities as well. Testimony of John Dean, Vol. 3, p. 920.

47 Testimony of Gordon Strachan, Vol. 6, p. 2442.

48 Both Mr. Helms and Mr. Ehrlichman were fully briefing on the evening of June 16, 1972, on the Watergate wiretap transcripts, and never reported that crime, and was warned of the planned break-in at the White House.

49 Mr. Haldeman, and Mr. Ehrlichman, were in­structed to use the CIA to interfere with the FBI. Mr. Haldeman, and Mr. Ehrlichman, were instructed to use the CIA to interfere with the FBI. Mr. Haldeman, and Mr. Ehrlichman, were instructed to use the CIA to interfere with the FBI. Mr. Haldeman, and Mr. Ehrlichman, were instructed to use the CIA to interfere with the FBI. Mr. Haldeman, and Mr. Ehrlichman, were instructed to use the CIA to interfere with the FBI. Mr. Haldeman, and Mr. Ehrlichman, were instructed to use the CIA to interfere with the FBI. Mr. Haldeman, and Mr. Ehrlichman, were instructed to use the CIA to interfere with the FBI. Mr. Haldeman, and Mr. Ehrlichman, were instructed to use the CIA to interfere with the FBI. Mr. Haldeman, and Mr. Ehrlichman, were instructed to use the CIA to interfere with the FBI. Mr. Haldeman, and Mr. Ehrlichman, were instructed to use the CIA to interfere with the FBI. Mr. Haldeman, and Mr. Ehrlichman, were instructed to use the CIA to interfere with the FBI. Mr. Haldeman, and Mr. Ehrlichman, were instructed to use the CIA to interfere with the FBI. Mr. Haldeman, and Mr. Ehrlichman, were instructed to use the CIA to interfere with the FBI. Mr. Haldeman, and Mr. Ehrlichman, were instructed to use the CIA to interfere with the FBI. Mr. Haldeman, and Mr. Ehrlichman, were instructed to use the CIA to interfere with the FBI. Mr. Haldeman, and Mr. Ehrlichman, were instructed to use the CIA to interfere with the FBI. Mr. Haldeman, and Mr. Ehrlichman, were instructed to use the CIA to interfere with the FBI. Mr. Haldeman, and Mr. Ehrlichman, were instructed to use the CIA to interfere with the FBI. Mr. Haldeman, and Mr. Ehrlichman, were instructed to use the CIA to interfere with the FBI.
scene of meetings at which high officials plotted to use the power and influence of the presidency to cover up crimes and obstruct justice, that saw advisors invoke the president's "white house" to keep the lid on Watergate and other crimes, while misleading the American people by calling Watergate a "third rate burglary," that discussed using the president's clemency power to keep John Dean from testifying, that used its influence to get special treatment for high officials before a federal grand jury, that plotted to cover up the Segretti story and delay an indictment of those who uncovered the story.

That noted "it would assuredly be psychologically satisfying to cut the innards from Ellsberg prerogatives as early as July 1972, to use subpoena powers to delve into the financial and sexual activities of political opponents, that made numerous misleading or false statements about Watergate to the American people, that failed to promptly inform the proper authorities about knowledge of crimes involving White House officials, that for a private eye operating out of the White House, when there had in fact been a coverup not an investigation and the President's decision to keep it a secret, that President had never, ever talked to Dean while misleading the American people by denying a conspiracy, that announced, in a presidential statement, a Dean investigation clearing the White House, when there had in fact been a coverup not an investigation and the President's decision to keep it a secret, that used its power over the tax collection agency to gather information on and harass political opponents, that issued instructions to hire a shaggy person to sit in front of the White House with a McGovern button, and counter demonstrators at the funeral of J. Edgar Hoover, and ordered 24 hour protection and a three hour surveillance of a political opponent.

On October 29, 1973, Attorney General Richard Nixon recommended in response to the President's demand that they fire Special Prosecutor Cox, who was about to reveal a story involving Watergate evidence to the Supreme Court. See also, Executive Session of General Alexander Haig.

Memo to the Attorney General from Mr. McGraw, August 11, 1971: "Pat Buchanen suggested that maybe we could have the Florida State Chairman do whatever he can under this law to keep McCluskey (Rep. McCluskey, R-Calif.) off the ballot." Vol. 10, Ex. 177, p. 4194.

Memo from Charles Colson to H.R. Haldeman, September 25, 1970, recommending that he "pursue with Dean Burch the possibility of an interpretive ruling by the FCC ... this point could be very favorably clarified and it would, of course, have an important impact on the networks. . ." Memo from Charles Colson to H.R. Haldeman, September 25, 1970, recommending that he "pursue with Dean Burch the possibility of an interpretive ruling by the FCC ... this point could be very favorably clarified and it would, of course, have an important impact on the networks. . ."

On March 16, 1972, at the White House with Ellsberg, Ziegler, Buchanan, Moore, Chaplin, and Dean was held to prepare a press response to the story. It was decided to attack and deny the story, even though an intense investigation within the White House had already cast serious doubt on the story. The same denial was issued again in March 21, 1972.


Memo from Fred Malek to H.R. Haldeman, March 17, 1972, entitled "Increasing the Responsiveness of the Executive Branch.

For example, a request that a prominent Jewish figure in Florida be pardoned for political benefit, in a memo to John Dean, Charles Colson recommended: "If there is anything we can do here to influence Warren- erly, we should ... this has to be handled with extreme delicacy. . ." Weicker, hearings on Warrantless Wiretapping and Electronic Surveillance, April 8, 1974. The pardon was later issued. Memo to the President from Patrick Buchanan, March 3, 1970. Vol. 10, p. 4114.

Memo to the Attorney General from Mr. McGraw, August 11, 1971: "Pat Buchanen suggested that maybe we could have the Florida State Chairman do whatever he can under this law to keep McCluskey (Rep. McCluskey, R-Calif.) off the ballot." Vol. 10, Ex. 177, p. 4194.

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Memo to the Attorney General from Mr. McGraw, August 11, 1971: "Pat Buchanen suggested that maybe we could have the Florida State Chairman do whatever he can under this law to keep McCluskey (Rep. McCluskey, R-Calif.) off the ballot."
That used the Departments to dredge up potentially embarrassing information on presidential candidates and their staffs, within the boundaries of what he called "the press," that used White House influence to obtain CIA equipment for the Ellsberg operation. He also used the FBI's ability to go after those with our national security to convince four cubans to burglarize a political party, that ordered an FBI investigation of an unfriendly newspaper, that proposed leaking confidential FBI files to embarrass the producer of a satirical movie, that used the FBI's power of subpoena and the privilege known as executive privilege to aid those supporting the President and to deprive or delay those in opposition, that made plans to eliminate professionals in government service who placed their professional responsibilities above questionable White House political demands, that participated actively and formally in a campaign organization while drawing White House staff salaries, that ran secret letter-writing campaigns against Republican Senators, and that generally emasculated the Republican Party.

That, all of that, violated the consent of Executive power in article II of the United States Constitution by usurping it, beginning with Section 2 of Article II. That Section grants the President direct power over Cabinet officers, and much testimony confirmed that the Attorney General himself later testified that he felt such a role in politics while still in office was wrong.

Memos from CRP, such as one entitled "Grantmanship," suggesting an effective method of "insuring that political considerations" be used in Federal programs, were then directed to the President from the milk producers and to the National Farmers Organization, with that position, was placed in charge of a Constitutional responsibility to "take Care that the Laws be faithfully executed." 111

A Secretary of Commerce with all the authority as to corporate affairs that goes with that position, was then directed to raise funds for the President's re-election, including, as it turns out, a number of illegal corporate contributions. 112 A Secretary of Health, Education, and Welfare was then directed to support his pro-choice agenda and supported their request for higher price supports. After the President granted higher price supports, the milk producers were then paid at least $10,000 in cash for his personal use.

He later aided them in tax and antitrust matters at a time when a large contribution to the President from the milk producers was being arranged. 113

The Commissioner of the Internal Revenue Service was criticized because "practically every effort to proceed in sensitive areas is met with resistance, delay and the threat of derogatory exposure." 114 The Director of the CIA, accordingly to his own testimony and that of his assistant, was then directed to bring the White House to bear on the CIA to cover up Watergate. 115 The Acting Director of the FBI was brought to the White House and given material from the safe of one of the Watergate burglars, to keep it hidden, an act which resulted in his eventual resignation. 116

That same Acting Director turned over raw FBI files on Watergate to the White House 117 perhaps illegally, 118 when assured it was at the President's request, 119 which request the President has confirmed in his personal statements. 120 He was rewarded by being left to "twist slowly, slowly in the wind" 121 while his nomination to permanent Director was pending before the Senate, even though the President has reportedly already abandoned him. 122

This is how the officers in the departments and agencies were used by the White House, and it is clear that those activities did not pertain to "any subject relating to the Duties of their respective offices." 123 as the Constitution requires in its grant of presidential authority, but rather was used to immediately following the Section in Article II granting authority over departments and agencies, is a section giving the President the power to grant Reprieves and Pardons for Offenses against the United States. 124

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111 U.S. Const., Art. II, sec. 3.
113 See, Milk Pand Investigation, supra.
119 See, Milk Pand Investigation, supra.
122 "91st Congress, 2nd session, at April 5, 1973, and October 19, 1973."
124 See, Vol. 7, Ex. 102, p. 3290.

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Three Attorney Generals and three Assistant Attorney Generals. And all this was done on behalf of the presidency, which has a Constitutional responsibility to "take Care that the Laws be faithfully executed." 111

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February 23, 1988

CONGRESSIONAL RECORD—SENATE 2185

There is undisputed testimony that defendants in the Watergate criminal case were offered clemency in exchange for their silence. Aside from the self-serving offers that authorized the offers, they were particularly firm in the case of one defendant who was apparently ignoring the "general plan." The unprecedented case of a request from a former Senator, and close friend of the President, for a pardon on behalf of a prominent Jewish figure in Florida, was another political advantage that would follow. That pardon was granted. The beneficiary then gave the President's campaign $30,000.

Article II also gives the executive the power to appoint ambassadors. This has often been a source of political reward, there is substantial evidence of an unusually well-organized and enforced program. This power was used, for example, as a reward for at least one participant in the Teapot Dome scandal to get rid of officials, across the board, who rightfully placed their professional responsibilities in the way of White House political demands.

Ellsberg Case. Illegal use of wiretaps and rewards in most major conspiracy cases brought responsibilities in the way of White House political demands. 

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Along with appointive power for ambassadors, there is an appointive power over lesser "Officers of the United States." This power was used, for example, as a reward for at least one participant in the Teapot Dome scandal to get rid of officials, across the board, who rightfully placed their professional responsibilities in the way of White House political demands.

These enumerated powers and duties of the Executive are, as a matter of constitutional law, executive branch responsibilities in the way of White House political demands.

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The record of Watergate reflects a conscious attempt to undermine the responsibilities of the other two branches, as set forth in Article I, which established the legislature, and Article III, which established the judiciary.

The Committee's recommendation to appoint an interest in the Watergate matter was the House Banking and Currency Committee. Every attempt was made to use executive power and influence, not to legitimately reduce fact to investigate the Executive Branch, but rather to obstruct, block, and actively mislead it. The executive branch had sole possession of critical evidence necessary to the investigation. Its efforts attempted to undermine the Committee's work were therefore of great significance.

A different type of obstacle to the exercise of the investigation and made it as difficult as possible to get information and witnesses. "The White House has not used the Bureau (FBI) and we have not used the Justice Department but have not used the FBI and we have not used the Justice Department. We have not used the FBI and we have not used the Justice Department. The FBI has not been used.

And again, Mr. President, I repeat a necessity to cite all these examples is that they are the background for the recommendation of the Watergate Committee which states:

"The separation of powers between three branches of government, as set forth in Article I, which established the legislature, and Article III, which established the judiciary. The first Congressional body to take an interest in the Watergate matter was the House Banking and Currency Committee. Every attempt was made to use executive power and influence, not to legitimately reduce fact to investigate the Executive Branch, but rather to obstruct, block, and actively mislead it. The executive branch had sole possession of critical evidence necessary to the investigation. Its efforts attempted to undermine the Committee's work were therefore of great significance.

A different type of obstacle to the exercise of the investigation and was not only an effort to obstruct, block, and actively mislead the Committee, but an attempt to prevent the testimony of people from the White House, efforts to influence members of the Senate Committee conducting the investigation, and the compiling of campaign financing data from those members' past campaigns in an effort to embarrass them. The attack group, a group of high-powered attorneys, was directed to meet with people from North Carolina thought to have embarrassing information about the Chairman. Members

133 See, testimony of Senator Lowell Weicker, Jr. Hearings on Warrantless Wiretapping and Electronic Eavesdropping, supra, p. 131.
139 Testimony of Senator Lowell Weicker, Jr. Hearings on Warrantless Wiretapping and Electronic Eavesdropping, supra, p. 131.
144 Testimony of Senator Lowell Weicker, Jr. Hearings on Warrantless Wiretapping and Electronic Eavesdropping, supra, p. 131.
147 Testimony of Senator Lowell Weicker, Jr. Hearings on Warrantless Wiretapping and Electronic Eavesdropping, supra, p. 131.
of the administration were used as clandestine contacts with Republicans on the Com- 
mmittee for the purpose of obtaining information on what facts the Committee possessed. John Dean was suggested as a liaison with the Committee after he had ad- 
mitted that he had been involved in the coverup, 144 and efforts toward having a "White House" mini- 
nority counsel were put forward. 145

The Ellis case also encompasses Article III, the judiciary. Here again, the ex- 
cutive subverted the Constitutional balance. As an example, on September 15, 1972, in the Oval Office in the Oval Office, the President was told by Mr. Dean that ex- 
parte (out-of-court) contacts had been made with the judge in one of the Watergate-re- 
lated civil suits. 146 These contacts were for the purpose of obtaining an advantage in the 
case by keeping apprised of inside infor- 
mation, and they could well be unethical. 147

There was no evidence that the White 

House took any steps to stop that activity.

Still another abuse of the separation be- 

between the executive and judicial branches, was a contact made with the presiding judge in the Ellis case. That judge was advised that he would be interested in becoming the head of the FBI. Significantly, the offer was 

made in that he was made in rather clandestine circumstances, at a time when the Ellis case was being tried, and at a time when it was becoming ever more possible that the break-in at Ellis- 

berg's psychiatrist might become known to the judge and jeopardize the case against 

Ellsberg. 148 A contact under such circum- 

stances, by one of the top White House offi- 
cials and confidant by the President himself, 

once again threatened the concept of mutual independence intended by the sepa- 

ration of powers.

To leave the report for a minute, why is it that with such a record of abuse, not just by the President of the United States, but also by the Internal Revenue Service, the Treasury De- 
partment, the Commerce Department, the Justice Department, the Federal Bureau of Investigation, the Central Intelligence Agency, the Federal Communications Commission—the why is it that the people of this Nation should 
give to the Government the power to put this free election process, this 

process would be free from tampering,

Turned mark it as a profoundly important state -

ment on the ITT 

of individual freedoms that are fundamental to de-

cocracy.

The First, Fourth, Fifth, and Sixth Amendments are the bulwark of the sub- 
stantive guarantees in our Bill of Rights. They were drawn up to deprive those who speak out, to the real opportunities for 

obtain hecklers," to be used to disrupt the speeches of Democratic presidential candidates. 155

Senator Kennedy was not only subjected to the Baldwin surveillance. He was also a target of Anthony Dacy, Mrs. Caul- 

field, who investigated his political con- 
tests, his accident at Chappaquiddick, and a trip to Hawaii on official business. 152 Howard Hunt was asked by Mr. Colson 
to get information from a Kennedy friend in Rhode Island, and was provided with a CIA 
diagram for the operation. Mr. Haid- 
eman, according to multiple testimony, asked 
that Senator Kennedy be subjected to 24-hour surveillance. Literally dozens of cit- 
izens who spoke out in opposition were tar- 
gets of the investigations, which were 

conducted outside law enforcement 

channels, because legitimate law enforcement 

was not involved.

The Watergate break-in itself, according to Jeb Magruder, was an attempt to find 
enormous information about Lawrence O'Brien, because 'Mr. O'Brien had been a very effective spokesman against our posi- 
tion on the ITT case." 156 Magruder testi- 
fied that because of O'Brien's effectiveness 
in speaking out, "we had hope that informa- 
tion (from the illegal break-in and wire-tap) might discredit him." 157 This is an interesting 
use of the power and influence of the presidency, in light of the First Amend- 
ment. It has what is often called, in Su- 
preme Court, First Amendment cases, "a chilling effect." To the extent government 

press freedom of speech, they violate the Constitution.
The broader tactics used against the press included meetings between Mr. Charles Colson and media representatives. In a summary of his meetings with the three network chief executives, he observed that they were terribly nervous about the Federal Communications Commission. He stated that, "I think they wanted to discuss this in a careful, it was obvious. He ordered them to CBS and NBC the more accommodating, cordial, and almost apologetic they became." He concluded by observing that "I think we can dampen their ardor for putting on 'loyal opposition' type programs." 161 One of the most sensational was a high official, using the credibility of government power not be used as prior restraint on the content of news.

Individual newsmen that were apparently intimidated. One such newsmen, Daniel Schorr of CBS, was investigated by the FBI. When the investigation became known, the false story that he was being considered for a high administration position was put out, and Mr. Malick took the blame for the investigation, although it had been ordered by Mr. Haldeman. 162

Newspapers and reporters that uncovered the Watergate story were publicly attacked and ridiculed. For example, Mr. Haldeman, entitled "The Shooting of John Riggins," set out a plan for influencing news coverage of the White House. It gives some idea of the executive branch concepts of our free press.

Among the specific suggestions was a recommendation to "utilize the anti-trust division (of the Justice Department) to investigate various media relating to anti-trust violations. Even the possible threat of anti-trust action I think would be effective in changing their views." Such a recommendation from an official press spokesman for the White House is striking.

Another recommendation in "The Shotging of John Riggins" was that Internal Revenue Service as a method to bring into the various organizations that we are most concerned about. Just the threat of an IRS investigation will probably turn their approach." It would again be illegal. And in the Rebozo story, the newsmen in charge of the Pentagon's official version of certain official actions had been used to counteract the specific request of the White House. 163

Newscaster Chet Huntley wrote a piece in Life magazine, containing what were considered unfavorable remarks. The suggestions for retaliation against Huntley, in a White House memo by Mr. Higby, contained a telling statement of broad philosophy: "What we are trying to do here is tear down the institution." 164

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who prepared him were in a position to know, or in fact knew, that his statements were untrue. The President himself missed this point, and the Senate's and the White House's statements, as to the investigation, its results, and the substance of evidence involving Watergate matters, were false.

The Fourth Amendment fared no better. It guarantees the "right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures. . . ." 182 It was expressly violated by burglaries and warrantless wiretaps.

As an example, this constitutional safeguard was at the center of illegalities contained in the so-called 1970 Intelligence Plan. In a colloquy during the course of this Committee's hearings, the Chairman and Mr. Dean discussed the elements of that Intelligence Plan. It was described as recommending 1) techniques for removing limitations on electronic surveillance and penetration, 2) the use of mall coverage, 3) a technique designated as surreptitious entry, 4) development of campus sources of information, and 5) the use of military undercover agents. The Chairman rightly noted, and the record clearly recorded, that resort to burglary, electronic surveillance and penetration without a court order is a clear violation of the Fourth Amendment.

Nevertheless, on July 5, 1970, a memo written by Mr. Haldeman indicated that the President of the United States gave his approval for the Intelligence Plan. There is clear evidence that events took place which closely parallel the recommendations in the 1970 plan. In contrast with the evidence that the plan was approved, there is no documentary evidence that the plan was at any time officially withdrawn, although one witness claimed it was. 183

The instances of burglaries and wiretapping have been well-documented. They include the break-in at Ellsberg's psychiatrist's office, the possible break-in at publisher Hank Greenspun's office, the four attempted and two successful break-ins at the Democratic National Committee headquarters, the plans to break-in at McGovern's campaign headquarters, proposed penetrations of the Patomac Associates and The Brookings Institute, questionable wiretaps of newsmen and government officials, wiretaps of Spencer Oliver, Lawrence O'Brien, and Walter Reuther. This pattern of intelligence for the Fourth Amendment proceeded in spite of apparently severe warnings and objections by one of the most experienced figures in the course of this nation's history, J. Edgar Hoover. 184

The Fifth Amendment was likewise violated. However, it was more comprehensively camouflaged along with the Fourteenth Amendment in the next section examining Due Process of Law.

The Sixth Amendment guarantees the right to a speedy trial, the right to the evidence of witnesses, and the right to subpoena evidence from witnesses, 187 an important principle in our system of justice.

While the Ellsberg, the McGovern, and the Kefauver investigations were the most publicized of the cases involving Watergate, there were others. The McGovern investigation, it became relevant in excluding information that attempted to destroy his public image, which comports with the deepest notions of the President's closest advisors has been sought by means of a warrantless break-in, the use of military undercover agents, and presumably knew of its political consequences. Watergate came to a fair trial was also jeopardized by tactics that attempted to destroy his public image, in an opposite sense, the Sixth Amend- ment's guarantees of a witness' testimony were again subverted when counterlawyers were undertaken against Democratic officials purely to use the power of taking witnesses' depositions for its confrontation. 189 Here the tactic was to put political opponents under oath and use the circumstance and power to elicit confidential information from their own, could not apparently resist enforcing and invoking the Sixth Amendment's guarantees when it came to their opponents.

D. DUE PROCESS OF LAW

The concept of due process put simply means the right to fair and just treatment under the law.

It is rooted in Chapter 39 of the Magna Carta, in which King John declared that "no free man shall be taken or imprisoned . . . except by the lawful judgment of his peers or by the law of the land." 190

Recent Supreme Court cases have described due process, which is guaranteed by the Fifth and Fourteenth Amendments, as embodying "a system of rights based on moral principles so deeply imbedded in the traditions and feelings of our people as to be deemed fundamental to a civilized society as conceived by our whole history." 191

Due process has been even more succinctly described by the Supreme Court as "that which comports with the deepest notions of what is fair and right and just." 192 It is the backbone of justice in America, and it was dramatically missing in the evidence of not only the Watergate criminal proceedings, but in the Edmunds case, involving Watergate cases with political overtones in the period directly leading to Watergate.

The particular phrasing associated with due process was used when Watergate was brought in for the Watergate defendants has already been documented. In addition, those defendants were subjected to prejudicial public statements that they were "third rate burglars," "blackmailers," and even "double agents." The important point is that the accusations came from the White House, and that the White House was in a position to remove those labels by following its legal duty of providing all relevant evidence.

Perhaps of even greater significance is the vast number of cases involving those accused of conspiracies against the United States. The improper use of wiretaps, agent provocateurs, and in the 11 gambling, narcotics, and bribery cases in Miami it was illegal wiretaps. A warrantless break-in, when anti-trust actions were generated on the basis of political considerations, when income tax audits were ordered because a newspaper was critical of the White House did not like, when an enemies list was compiled so that the laws could be applied more strictly or to the disadvantage of opponents, when White House staff members had access to FBI files pertaining to their own investigation, when they were given special treatment before a grand jury, when the intelligence gathered by the various agencies of our government was collected, one witness, could not apparently resist enforcing and invoking the Sixth Amendment's guarantees when it came to their opponents.

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evaluated, and distributed in apparent violation of the agency statutes, when the military was impinging on American citizens working for the Democratic Party. All of this violated the Fifth Amendment and, in some cases, the Constitution. It was not only a violation of Watergate and its predecessor intelligence activities violated one of the broadest principles of our system of laws, a concept so fundamental that the Federalist Papers established it in the Constitution.

Nevertheless, there are numerous indications that the objectives, methods, and results of the Intelligence Community were pursued in the legal and constitutional manner. In the case of the financier of the Intelligence Community, the objectives were pursued in the legal and constitutional manner. In the case of the financier of the Intelligence Community, the objectives were pursued in the legal and constitutional manner. The military was used to spy on American citizens working for the Democratic Party. All of this violated the Fifth Amendment and, in some cases, the Constitution.
Mr. Caulfield rejected the Sandwege plan, and it was apparently replaced with an operation that came to be known as the "Plumbers." In the meantime, Caulfield developed a relationship with a counterintelligence agent and took over fund raising for the "Plumbers." The post that Caulfield occupied on the White House counsel's staff, functions that properly belonged in the agencies, if anywhere.

Caulfield was, for example, to develop political intelligence on Senator Kennedy, including instructions from the Assistant Attorney General to obtain certain information about the travels of Mary Jo Kopechne. When he took the job, he told Mr. Ehrlichman that he would hire an ex-New York City policeman to do investigative work.

Mr. Usasewicz was then used to collect information on various enemies, political, ideological, and personal. A sample of his activities reveals not only why intelligence should not be outside the checks of a professional organization, but also the rather serious personal nature of the information that was at hand.

His investigations included such things as Richard Nixon's old apartment in New York, a Kennedy official trip to Hawaii, name checks on White House visitors, the President's brother, political contributors to a dozen Senators who opposed the administration, the Korean bureau in Philadelphia, Louis Harris Polls, the Businessmen's Education Fund, the House of Mercy home for unwed mothers, the U.S. Conference of Mayors, a anti-segregation Bishop in Philadelphia, Louis Harris Polls, the Businessmen's Education Fund, the House of Mercy home for unwed mothers, the U.S. Conference of Mayors, an anti-segregation Bishop in Philadelphia, Louis Harris Polls, the Businessmen's Education Fund, the House of Mercy home for unwed mothers, the U.S. Conference of Mayors, and Executive Staff. And that is just a sample of the much larger number of his investigations. Many of them are clearly the responsibility of established agencies, if they are anybody's responsibility at all.

Eventually, a semi-official unit, the Plumbers, was established within the White House, with a combination of police and intelligence duties. It conducted what Mr. Mitchell referred to in his testimony as the "White House horrors." According to Mitchell, these operations were so wrong that the President had heard about them, he would have "lowered the Boom", even though there is other evidence that the President did know about them and didn't lower any boom.

The legitimate intelligence agencies were used to support this operation, specifically the Secret Service people and the CIA technical services people. General Cushman of the CIA testified that after a personal request from Mr. Ehrlichman, CIA technical services people were used. Cushman and Director Helms considered merely a face-saving move and rejected. Later demands were made for a tape recorder in a typewriter case, a camera in a todbacco pouch, for film development, and for an additional alias and false papers for another man ("probably Liddy").

After Hunt's additional demands and a subsequent request for a New York address and phone services, Cushman and Helms decided Hunt's requests had exceeded his original authority. On August 31, 1971, Hunt made a final request, for a credit card, which Cushman and Helms agreed to.

Mr. Young of the Plumbers unit asked the CIA to do a psychological profile of Dr. Ellsberg. It was clearly a domestic project, the only item for the time being the targeting of the New York Times. According to Gen. Cushman of the CIA, who also testified that such profiles are reserved for foreign leaders. Nevertheless, it was done, but Mr. Young considered it unsatisfactory, so another profile was prepared and sent. Other projects spanned a broad range, such as a search for a smear campaign against the newly installed President in the New York Times. In the meantime, Caulfield was championing the Plumbers, and the staff was so impressed that Caulfield was invited for a discussion with the Plumbers to see if there were other ways of using their people. Mr. Mitchell testified that he personally introduced Messrs. Krouth and Young, who headed up the Plumbers to the heads of various agencies, such as the Secretary of Defense, the Attorney General, and the Director of the CIA.

Members of the Plumbers eventually went on to similar work for the Committee to Re-Elect. Although they were clearly outside the government, they again used the legitimate intelligence agencies. Ellsberg was not the only man recruited on the basis of their loyalty to the CIA. National security responsibilities were misused. Mr. Darker was even told that the interests of national security he was serving on were not the same as the interests of the Plumbers. Mr. Mitchell testified that he personally introduced Messrs. Krouth and Young, who headed up the Plumbers to the heads of various agencies, such as the Secretary of Defense, the Attorney General, and the Director of the CIA.

On March 22, 1973, the day after Mr. Dean told the President of the Watergate-related White House involvement in the "plumbers" scandal, the White House staff on April 8, 1969, as a liaison with the Supreme Court, and subsequent trip to Denver to question the President about the ITT affair. To bring the influence of the White House to bear on this extraordinary activity, Mr. Ehrlichman testified that he personally introduced Messrs. Krouth and Young, who headed up the Plumbers to the heads of various agencies, such as the Secretary of Defense, the Attorney General, and the Director of the CIA.
In the end, the wake of Watergate left a distorted intelligence community whose historic professionalism had been badly damaged.

### B. LAW ENFORCEMENT AGENCIES

The primary responsibility for law enforcement was that of the Department of Justice. To the extent that White House political considerations interfered with that responsibility, it interfered with a critical part of our government.

There was considerable evidence of White House contacts, including pressure and interference, with respect to the Watergate investigation. If it had a short-lived effect after the break-in, with a request to the Attorney General that he try to obtain the release of Mr. McCord. In the following days, he was warned about an "information" charge investigation, he was warned in mid-1972 that Magruder might have to plead the Fifth Amendment. He was asked to provide raw FBI files on the case, and he was asked to be the White House secret contact with this Committee. As noted earlier, an agreement between the Justice Department, on the one hand, and the FBI, on the other, was what the House investigation turned into.

The White House counsel testified that he in March received information from the Justice Department and the FBI on the Watergate case. Mr. Dean stated that he was asked by Mr. Mitchell, after Mitchell had left CRP, to get the two reports of interviews with witnesses, and that Mr. Haldeman and Mr. Ehrlichman also thought it would be good to have them. Mr. Mardian, attorneys O'Brien and Parkinson, and Mr. Richard Moore all viewed those files after Dean obtained them. Dean pleaded guilty to an "information" charge in October 1973, which charged included a conspiracy based on White House access to those files.

There were similar pressures as to the whole Ellsberg matter. When Assistant Attorney General Petersen advised the President that Ellsberg should not be treated as a "spy," the President had a knowledge of that, and the Attorney General rebuffed this request. Testimony of Jeb Magruder Vol. 2, p. 766.

Between July 7 or 8, Ehrlichman called Kleindienst to tell him that Petersen had refused Ehrlichman's order to "not harass" Secretary Stans with respect to interrogations. Kleindienst told Petersen to never again give orders to U.S. Department personnel, and if this was the President's desire, then Kleindienst would resign as Attorney General. Testimony of Kleindienst. Mr. Dean stated that he was contacted at the Burning Tree Country Club, while playing golf, by Mr. Liddy and Mr. Powell Moore, to "see if there was any possibility that Mr. McCord could be released from jail. The Attorney General rebuffed this request. Testimony of Jeb Magruder Vol. 2, p. 766.

In July, 1972, Mr. Sullivan, Associate Director of the FBI, informed Mr. Mardian of the existence of some very sensitive national security Valley logs that were not ... manuscript of the President's announcement. This was... to the Watergate break-in. The FBI set up the so-called Kinsinger wiretaps outside channels, effectively insulating them from routine discovery and accountability, and at the President's instructions, Mr. William Sullivan (who had supervised the wiretaps) turned over all evidence of them to the White House when it was reportedly related to what Director Hoover might use them to preserve his job. The FBI ran an investigation of CBS newsmen Daniel Schorr, in what was a White House tactic to embarrass him, according to one witness.

Mr. Ehrlichman testified that he was instructed after the Watergate break-in to see if the FBI investigation did not uncover the Ellsberg break-in or get into the Pentagon Papers episode.

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The Anti-trust Division of the Justice Department received requests, which have been reviewed earlier as to the media, to go after the milk producers.

After the association of milk producers pledged $2 million to the President's campaign, the association was halted by the Attorney General.

Nevertheless, anti-trust violations were allowed to be pursued as a civil, as opposed to a criminal case. The anti-trust suit was in fact brought in February, 1972, in spite of much White House concern by Messrs. Colson and Haldeman. The milk producers discussed their anti-trust suit with Treasury Secretary Connally in March, 1972, resulting in a call to the Attorney General, but contact with the Attorney General were made on behalf of the milk producers, and an attempt was made to give additional contributions in return for dropping the anti-trust suit.

A similar pattern of efforts to obtain favorable treatment from the Attorney General in an anti-trust matter followed the transfer of Mr. Hughes to a friend of the President. The Hughes Corporation was involved in anti-trust problems, including one in Las Vegas and an airline corporation.

The money being transferred, a representative of the Corporation met with the Attorney General. The anti-trust problems were subsequently resolved.

The grand jury system, an essential element in the anti-trust process, was subverted by members of the administration and the CAP, even to the point of special favors for such officials when they were to be called before the grand jury. According to one witness, Mr. Ehrlichman attempted to prevent former Commerce Secretary Stans from appearing before the grand jury by directing Assistant Attorney General Petersen not to call Stans. Stans' testimony was eventually taken in private, as was the testimony of Messrs. Colson, Kerhii, and Young.

It should be recalled that the Attorney General doubled as a campaign manager from 1970, until his resignation in April 1972. When asked if it wasn't improper "for the chief law enforcement officer of the United States to be involved in, or indirectly, managing political activities," the Attorney General responded, "I do, Senator, but there are income tax discrepancies involving the IRS that it could be used against political opponents such as Clark Clifford."

The IRS was not only required to respect individual cases, it was also the focus of a central White House intelligence unit. One of these policies was to "punish" groups, tax exempt groups in particular, who were thought to hold ideologically views the President felt were unhealthy. There was no evidence that these organizations advocated or did anything illegal or unconstitutional, or that they in any way violated the law that "if there is an informer's fee, let me know." Vol. 4, Ex. 45, p. 1686. It is worth pointing out that none of the official duties of Mr. Colson at the White House would legally justify him having access to citizens' tax returns, except upon specific request of the President.

Sensitive cases, such as the President's friends, large contributors, or prominent political figures, were sent to the White House. Testimony of John Dean, Vol. 4, p. 1539. Roger Barth, Assistant to the IRS Commissioner, would also call John Ehrlichman directly, and the Secretary of the Treasury would contact the President directly, in the process of bringing Special Case Reports to White House. Testimony of John Dean, Vol. 4, pp. 1539-1540.

The anti-trust suit was the only major Teamster official to be cleared by a federal jury. The IRS was not only required to respect individual cases, it was also the focus of a central White House intelligence unit. One of these policies was to "punish" groups, tax exempt groups in particular, who were thought to hold ideologically views the President felt were unhealthy. There was no evidence that these organizations advocated or did anything illegal or unconstitutional, or that they in any way violated the law that "if there is an informer's fee, let me know."
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tax laws. Nevertheless, they were singled out for challenge as to the tax exempt bene-
fits they received. The Internal Revenue Service, which was reviewing the tax
laws, was questioning the legal basis for the tax exemptions enjoyed by the
Foundation.
A second example of the political process was the impeachment trial of
President Clinton in the Senate. The trial was held in March 1999, following
his impeachment by the House of Representatives in December 1998.

The political process is complex and multifaceted. It involves the interplay
of various actors, including governments, political parties, interest groups,
and the media. The process is shaped by a variety of factors, including
historical contexts, cultural values, and economic conditions. Understanding
the political process is crucial for effective governance and democratic
practices.
Mc Cord testified that he took part in Watergate partly because he was "afraid even in the White House" had participated in the decision to undertake the operation. 297 His statement that "nothing was after executive were made, as has been detailed earlier. The effect is well summed up by Mr. McCord's testimony that he was told the President had some sort of "working party" of meetings offering him payoffs and clemency, that the results of the meetings would be conveyed to the President, and that at a meeting that morning the secret message from the President himself. This supplemented threats that "the President's ability to govern is at stake," "and the government may fall" if Mr. McCord did not follow the "game plan." 298 Mr. Caulfield confirmed that when he met with Mr. Dean that Dean wanted to transmit the message to McCord that the offer of executive clemency was made with the proper authority, and that this made such representation to McCord. 299

Not only were the department functions abused, but the executive power of appointing department officials was likewise used. It was Herbert Porter who testified that he reminded the White House of the things he had done in the campaign when they were discussing a bill for Frank Church's re-election. 300 Mr. Gordon Strachan likewise was employed as a liaison to CRP, while being paid as an assistant to the White House Chief of Staff. Political advertising was supervised from the office that was supposed to be White House Chief of Staff. 301

The executive department diverted a substantial portion of government's money and power into non-governmental activities. Mr. Frederick Malek, for example, held an official position at the Committee to Re-Elect the President as of June 1972, while on the White House payroll until September 1, 1972. 302 Mr. Gordon Strachan likewise was employed as a liaison to CRP, while being paid as an assistant to the White House Chief of Staff. 303

By June 1972, Mr. Malek reported he had reviewed the program with each Cabinet Officer (including the heads of the key Agencies), and "had them name a top official who would be the political contact for this program," as well as "educate loyal appointees ... thus forming a political network in each Department." 304 Aside from abuse of federal laws, there are numerous indications that this program violated the Hatch Act. 305 That Act specifically prohibits against politicizing the government, and makes such efforts criminally illegal. In addition, much of the Hatch Act's purpose has been to ensure the government's neutrality in political campaigns. Mr. Lincoln Mitchell,for example, held an executive position at the Committee to Re-Elect the President as of June 1972. 306 Mr. Gordon Strachan likewise was employed as a liaison to CRP, while being paid as an assistant to the White House Chief of Staff. Political advertising was supervised from the office that was supposed to be White House Chief of Staff. 307

Mr. Malek sought "to minimize any direct links to the President," and therefore proposed "we stop calling it politicizing the Executive Branch and instead call it something like strengthening the Executive Branch." 308 It was then recommended that someone was needed to lead in the program to politicize the Department and Agency processes. 309

On January 13, 1973, Mr. McCord met with Mr. Caulfield and another message was conveyed to Mr. Gray, along with statements that the President's ability to govern was at stake, another Taped Dome scandal was possible, the government may fall, and everybody else was on the track but McCord, who was not following the "game plan," and who should get "closer to your attorney" and keep silent. Testimony of James McCord, Vol. I, pp. 290-91.

On December 23, 1971, memo to Mr. Haldeman noted that "this program, even if done discreetly, will represent a substantial risk. Trying to pressure 'non-political' civil servants to partisans support the President's personal or re-election goals is publicized and undoubtedly backfire. Consequently, the strategy should be to work through the top and middle-level political appointees to influence the decisions of the Departmental decisions and actions." 300

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have especially good reason to recall our founding fathers' warnings against the "danger of factions." History teaches us that no matter how much a President may insist otherwise, an incumbent begins to measure poll results, and decide on his re-election and wieldpower in pursuit of his most advantageous position.

Those who achieve this, but without question there is a line that cannot be crossed if the process is not to be abused. The best way to observe how this happens is to examine it in three component parts: the political party, the electoral process, and the democratic system.

POLITICAL PARTY

Political parties in America have their own life and status. They were expressly excluded from our Constitution, yet they have persisted since the nation's first generation.

The party has come to serve as a link between constituencies and men chosen to govern. They serve a valuable function, drawing power forces to seek the reconciliation so essential to intense issues. When the parties do not function well, individual citizens feel a loss of control over their lives and things go badly for America.

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The hiring of personnel for the Committee was "cleared by Mr. Magruder (CRP), Mr. Mitchell (Justice Department), and Mr. Mitchell's assistant in the White House who was looking over for Mr. Haldeman's (White House) interest in the clearance process." 322

The Assistant to Mr. Haldeman was even well briefed on the plan long before the break-in, and in fact was called on June 17, 1972, to alert him to the pending break-in.

The temptation and opportunity to abuse executive power thus existed, and the fact that such abuses took place has been demonstrated earlier in the report. For example, the use of government agencies to seek politically embarrassing information on individuals who were thought to be enemies of the White House, which was testified to repeatedly, was certainly facilitated by the presence of White House and agency staff within a non-party campaign committee. These tactics extended beyond the departments and agencies. Mr. McCord testified to phone calls and personal contacts to the effect that between the Executive branch and the political party. The use of personnel that had little or no experience in the intelligence gathering area. Candidates and campaign organizations have collected intelligence for political campaigns who, as intended to develop questionable facets of their opponents. The White House intelligence system had a budget of at least partial responsibility. Money was raised by the President's personal attorney. During the 1970s campaigns, he was directed on three separate occasions by the White House to disburse funds from a trust fund in his control at the Chase Manhattan Bank in New York. He successively took $1,000,000, $200,000, and $100,000 from a safe deposit box, on which one of the signatories was Mr. Mitchell's family. Mr. Mitchell's control of the White House Chief of Staff. 322

It is interesting to contrast Mr. Ehrlichman's description of discreet investigations, as intended to develop questionable facets of the personal lives of those being investigated, with the Government's actual intelligence gathering. Drinking habits, personal social activities, and sexual habits. 325

Somehow Mr. Ehrlichman tried to make a distinction between alcohol use and the type of undercover plying into private lives of Ulassawicz and his "own knowledge" of Members of Congress, who were "on the floor of the House. . . ." of at least partial inelligence. 322

Not only did Ulassawicz not investigate the behavior of officials while performing their public responsibilities, but Mr. Ehrlichman offered no evidence to substantiate his "own knowledge." When Mr. Ehrlichman then testified that it was proper to have ad hoc investigators going into sexual habits, drinking habits, domestic problems, and personal social activities and then provide that information to the electorate, this Senator responded, "You definitely have two different conceptions of politics in this country meeting head on." 322

Significantly, the American people passed judgment on this Secret fund-raising. When the nucleus of its activities were set up, financial records were destroyed, on a number of occasions. 324 People with no campaign responsibility were receiving and distributing financial contributions that were given to CRP and accepted. 325

Even though CRP represented itself as a Presidential re-election organization, it gave $25,000 to a congressional candidate in Maryland. 326 It gave $50,000 to a Vice Presidential donor in Maryland to make it appear that a Vice Presidential fund-raising unit was the successful contributor. In what turned out to be an illegal transaction, 327 Mr. McCord's salary from the Committee was continued from July 1972, to January 1973. January 1973 witnesses understood that in Governor Wallace's national campaign in Alabama, Mr. Kalmback provided Wallace's opponent with $20,000 and $30,000 and what should be or has been about.

The second area in which CRP took over normal party functions was campaign financing. Money was not properly raised. Instead, it was allegedly raised by Mr. Rebozo, a friend of the President, who had no official campaign responsibility. The money was raised by the President's personal attorney. During the 1972 campaigns, he was directed on three separate occasions by the White House to disburse funds from a trust fund in his control at the Chase Manhattan Bank in New York. He successively took $1,000,000, $200,000, and $100,000 from a safe deposit box, on which one of the signatories was Mr. Mitchell's family. Mr. Mitchell's control of the White House Chief of Staff. 322

The administration's relationship with the milk producers association was a $100,000 contribution to the President's attorney to gain "access" to the White House and to lay the groundwork for favorable treatment in certain specified ways for the milk producers and the dairy industry. 323

321 Id., at 7739.
323 Testimony of Robert Odle, in reference to the arrest of Mr. McCord, Vol. 1, p. 29.
324 Testimony of Jones and Gordon Liddy. This refers only to employees of CRP.
325 The McCord, Liddy, Jeb Magruder, John Mitchell, Herbert Porter, Robert Mardian and Fred LaRue. This again refers only to employees of the Committee.
326 Mr. Kalmback delivered these funds, left over from the 1968 campaign, to a man he did not know, but who could identify means of clandestine signals at the Sherry-Netherlands Hotel in New York. Testimony of Herbert Kalmback, Vol. 5, p. 2142-44.
327 Mr. Kalmback stood the $100,000 contribution from AMPI in 1969 to be tied to "access" to the President and administration approval of new farm legislation. Mr. Kalmback testified that he received $75,000 for legal fees and a continuation of his contribution to be used. Secret funds were set up. Financial records were destroyed, on a number of occasions. 324 People with no campaign responsibility were receiving and distributing financial contributions that were given to CRP and accepted. 325

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Electronic surveillance of Senator Muskie’s campaign was a future Democratic strategy, according to McCord, but instead an office in an adjacent building was leased under the false name of John B. Hayes. The strapped telephone lines were available to the Committee to Re-Elect. The person transcribing the wiretaps was paid by payroll check from the Committee.

A secretary on the CRP payroll typed up illegal wiretap transcripts, assisted Mr. Liddy in organizing “dirty tricks” operations against Muskie headquarters, and eventually took part in the shredding of illegal intelligence documents.

CRP built a capability to intercept and photograph memos in the Muskie campaign, and infiltrated not only Muskie’s campaign but the McGovern campaign. 347 The Democratic Convention and Senator Humphrey’s campaign (with an infiltrator known as Sedan Chair). CRP became a group that had a .38 snub-nosed Smith and Wesson revolver in its files that it handed out to one of its spies, that was purchasing spy equipment from a machine to microfilm machines for viewing its stolen documents, that was falsifying credentials, and shredding incriminating documents. Expensive checks were used to display funds to buggers, burglars, and the like to the Attorney General. After that briefing, Liddy reported that Mr. Dean had asked him to destroy them, but because the charts were so expensive, Liddy decided not to. It found itself with an arrangement for two attorneys, Mr. Caddy and Mr. Rafferty, to appear at the second precinct following the Watergate arrests, when the participants did not return home from their night’s work.

At one point the Committee was even instructed by the White House to hire a shaggy person to sit in front of the White House wearing a McGovern button, but .43 This could only be matched by the hiring of counter-demonstrators for the funeral of Senator Edgar Hoover. 440 hardly a political event.

The Committee to Re-Elect the President not only undermined the national Republican Party, but the proper functioning of the Democratic Party as well. The intelligence functions previously described were designed, among other things, to influence the choice of the Democratic nominee for President. As part of the effort to have an infiltrator, the illegal or unethical capabilities that were set up were consistently focused on the strongest contender. The early effort of Senator Kennedy—one of the strongest contenders—was subverted. It shifted to Senator Muskie. Muskie’s strength diminished, instructions came from the White House to shift the attack to Senator McGovern. This was not just intelligence, but the so-called dirty tricks operation as well.

The attempts to undermine the Democratic Party were largely subverted. A memo entitled “Counter Actions” and dated September 11, 1972, noted that depositions could be taken in a civil suit against Larry O’Brien and others from Lerner, who stated that O’Brien’s sources of income while Chairman of the DNC to certain sexual activities of employees of the DNC. They should cause considerable problems for those being deposed.

Mr. Dean recalled Mr. Haldeman telling him that he hoped O’Brien would be the bogus McGovern campaign manager, “because we have some really good information on him. (Dean) believed he was referring to tax information in his hand.” 352

A whole range of activities during the 1972 campaign, including so-called dirty tricks, were aimed at the voter. To the extent that improper or illegal methods were used, they interfered with the electoral process.

The task of influencing the final vote for President had its beginnings early in the campaign with a complex operation, not simply questionable tactics to get people to vote for Mr. Nixon. Rather, its thrust was negative, to get people to vote against Senator Kennedy.

To take away votes from Senator Muskie in New Hampshire, Mr. Colson (stating that he had the President’s approval) drafted a letter urging a write-in campaign for Senator Kennedy. Between 150,000 and 180,000 of the letters were sent out, a press conference was staged in support of the bogus campaign, along with appropriate advertising. All at a cost of some $10,000, paid for by contributors to a Republican President, not by the President’s campaign funds.

The President’s campaign funds were also given to Democratic contenders Eugene McCarthy and Shirley Chisholm.

Along with the project to finance the candidate for the Democratic nomination for Governor who was opposing former Governor George Wallace. This was to be Illinois Governor Henry Haggerty, known as the 1968 campaign, which Mr. Haldeman testified that he “requested or approved . . . for funding support to a candidate for Governor in Alabama.” 353

Mr. Haldeman also approved “the funding of Donald Segretti.” 354

The story of Segretti and his henchmen illustrates more dramatically than anything else the efforts of the White House in the 1972 election to subject the voting privilege of American citizens to gutter politics. Whether Segretti had any significant or measurable effect is not the question. It was an example of the White House of the worst in American politics.

It included informers planted in opponents’ campaigns, stinks bombs unleashed against editors and voters after a telephone bank operation and inside a campaign headquarters, a letter on a replica of Muskie stationery accusing McGovern of sexual improprieties in the most vile language, flyers inviting voters to a nonexistent open house at Muskie headquarters, a flyer saying to call a number with a free drink at Humphrey headquarters, a small plane circling the Democratic Convention advertising “Pot, Peace, Promiscuity, Vote McGovern,” a Secret Service protest against the cancellation of a Muskie fund-raising dinner, printed cards with “if you like Hitler, you’ll love Wallace—Vote for Muskie,” stinks bombs thrown into a campaign headquarters, a forged letter on McCarthy stationery urging McCarthy delegates to switch to Humphrey, a letter on Tarry stationery blaming the McCarthy letters on Tarry, hired hecklers, pickets, and informers to disrupt, infiltrate, and spy on Senators Humphrey, Muskie, and Jackson, a false press release with the information that McGovern was suing several typewriters and Federal employees not on leave of absence, a series of false anti-Muskie advertisements in the University of Michigan campus newspaper, the local Cuban newspaper, and on the local Cuban radio station insulting the Cuban people, a false press release on Muskie stationery with a vague stand on aid to Israel which did not go over well in Miami Beach, a flyin­ ing Mske Muskie favored busting while sending his children to private schools, rats and birds released at a Muskie press conference, a naked woman to run in front of Muskie headquarters yelling “I love Muskie,” a flyer falsely advertising the appearance of Lorne Greene and Mrs. Martin Luther King at a Humphrey rally, hundreds of dollars’ worth of flowers, chicken, and pizzas delivered to Muskie headquarters, a set of invitations to Black Panthers, the Gay Liberation Sedan, the Front, the Hare Krishna movement and African diplomats for a Muskie fund-raising dinner, a chauffeur for the Muskie campaign, and other unnamed names. A dozen would turn over documents being delivered so they could be surreptitiously photographed, and eventually shown to Mr. Mitchell, a rented office in Muskie headquarters, a set of facsimile copying of documents, a group of infiltrators in Muskie headquarters in Wisconsin, Humphrey headquarters in Philadelphia, McGovern headquarters in Los Angeles, Washington, and Miami, a ploy to get campaign workers to drink beer and skip work, and an operation to switch phone-bank call sheets so the same people would be called repeatedly or the wrong message would go to selected groups. 355

This is not to mention similar operations by persons known as “Sedan Chair 1” and “Sedan Chair 2,” and “Ruby II.”


346 Alfred C. Baldwin operated as an employee of the Committee to Re-Elect the President, was paid by payroll check from the Committee and was given an identification pin by the Committee. Testimony of Alfred Baldwin, Vol. 1, p. 393.


349 Mr. Baldwin was given a .38 snub-nosed revolver, Smith and Wesson, from the first or second source of the Committee to Re-Elect the President. Testimony of Alfred Baldwin, Vol. 1, p. 393.

350 Robert Reisner believe it was Charles Colson instructed Magruder to hire a shaggy person to sit in front of the White House with McGovern button. Vol. 2, p. 512.

351 Robert Reisner believe it was Charles Colson who approved the counter-demonstration to the Hoover funeral. Id. Hunt testified to enlisting the aid of Mr. Barker and associates during Mr. Hoover’s funeral. Hunt was informed by Liddy that in conjunction with demonstrations, an effort would be made to decorate the catafalque of Hoover in the Capitol. Vol. 6, p. 3712.


353 Id.


356 Testimony of John Dean, Vol. 4, p. 1386.


358 This was compiled from the testimony of Donald Segretti, Vol. 10, pp. 3980-4054; Martin Kelly, Vol. 11, pp. 4560-4643; Robert Bennett, Vol. 11, pp. 4405-4434; and John Buckley, Vol. 11, pp. 4435-4477.


360 Testimony of Marc Lacritz, Vol. 11, p. 4686 describing the activities of Thomas Gregory, a student at Howard Hunt.
It was nothing short of a massive operation in which information about Democratic candidates for President. It was significant not so much as an attack on politicians, but as an attack on voters and their opportunity to cast a fully-informed vote. Dirty tricks were not the only means used to influence the electoral process improperly.

Misleading the voter by official conduct and statements was equally in evidence. This kept critical information hidden from voters, when there was a legal obligation to disclose it, thereby preventing a proper judgment of the incumbent administration.

The Watergate break-in was called a “third rate burglary at a time when the White House knew better, based on its briefings and discussions, including a discussion of executive clemency with the President in July 1972.”

Mr. Mardian testified that he even complained to Mr. Clark MacGregor, who had succeeded Mr. Mitchell as campaign manager, that statements being made regarding non-involvement of campaign personnel were untrue, and that he unsuccessfully attempted to brief MacGregor about the tremendous exposure of certain people in the campaign.

On August 29, 1972, the President assured the nation that an investigation by John Dean had cleared the White House of any involvement. This statement was made in spite of the fact that the President had received no report from Dean, and never, ever talked with Dean about Watergate.

In mid-September 1972, the President discussed possibly unethical out-of-court contacts that had apparently taken place with the judge in one of the Watergate lawsuits, to decide how to handle news reports about Watergate should take. We settled upon the following sequence:

1. We would emphasize the known in order to impress upon the reader the importance of its implications rather than ex- ample new facts. We would convince White House strategy was (is) geared to numb America past concern by inundating America with one White House horror after another.

2. We would report within a framework of principles and institutions rather than people.

3. We would opine and editorialize but separately from the factual presentation.

4. We would recommend remedial legislation.

- We wouldn’t try and resolve conflicting testimony.
- We wouldn’t make judgments on individual guilt or innocence.
- We wouldn’t cite “shaky” material as proof.

If what you’ve read up to now in these pages is not new, neither is it susceptible to argument.

The indisputable ugliness of Watergate is of such scope as to categorize it as a sheer insanity; either for those who participated in it or have since defined it.

I don’t know, except as the courts have already passed judgment, who is guilty or who is innocent.

But I do know that to accept the White House version of your Constitution, your government and your politics is to counterfeit America.

UNDERSTANDING WATERGATE

Alright, what to do with the raw data of Watergate? Unless positive understandings and actions emanate from this negative sequence, then it seems to me nobody really was caught breaking into Watergate.

The gut question this summer is what do Americans now know and what are they going to do about it? By way of dramatic emphasis, the need for a proper answer to that question, let me cite the following example. I recently received a critical letter which read:

“Really, Senator, all is fair in ‘love and war’.

American elections—war?
Member of another party—enemies?
Politics—fear?
Is that the lesson America is taking home from the Watergate? Because if such is the case, then a whole new era in American politics will have dawned and Gordon Liddy will be recognized not as peculiar but as a visionary. Also at such time we of the Select Committee would have failed. Though a year has gone by between the time of the Senate Watergate hearings and this Senator’s Watergate conclusions, it is a matter of Constitutional life and death that the American people make a connection between those two events.

What about the Constitution? Is it up to our time? Certainly it never before has obtained such visibility. But how about acceptance?

§ 1. THE CONSTITUTION

Later in this section I intend to editorialize on the abuses to our governmental and political institutions. However the pivotal story of Watergate is between men who play for the moment and look upon the Constitution as a 4th of July interruption to their own charter and men who play for to God and understand that the Constitution has given America success beyond America’s natural abilities for success.

Never first in population, land or natural resources, why have we attained a national greatness and personal affluence beyond that achieved by any country or people?

Because we perjured? Because dissent was disloyalty? Because justice was political? Because our concern was developing fear? Because we thought the worst of each other?

Or, because Americans are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness.

Or, because “Congress shall make no law . . . abridging the freedom of speech or of the press; or the right of the people peaceably to assemble, to petition the Government for a redress of grievances.”

Or, because “No person shall be deprived of life, liberty or property without due process of law.”

Or, because “In all criminal prosecutions the accused shall enjoy the right . . . to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor . . .”

Or, because “No president . . . shall take the following Oath: ‘I do solemnly swear that I will faithfully execute the office of President of the United States and will, to the best of my ability, preserve, protect and defend the Constitution of the United States.”

I catch none of the “everybody’s doing it” or “transcripts” spirit in any of those words. Our Constitution is the embodiment of the American people’s political and spiritual promise to the world and to their own charter and men who play for to God and understand that the Constitution has given America success beyond America’s natural abilities for success.

American Constitutional democracy is not the tidiest, most orderly, most efficient, most expeditious, quietest political system on earth. It is in fact raucous, off in a thousand directions of concern, involved with millions of individuals rather than a mass, revolutionary and querulous. But what
some deem as flaws are preciously its genius. For those who have made it, it’s a pain. For those who disagree with them and threw due process away again as a dodge of responsibility.

Our greatness will always be in direct proportion to our freedoms. Yes, that includes the freedom to be wrong.

The White House record on using the government as a weapon of vengeance? In light of the facts already presented, the greatest danger is that it will be forgotten in an apathetic society.

Remember what Pat Gray said?

"I said early in the game that I thought that Watergate was conceived in an ignorant spirit. The differ­ence reflects human behavior.

It is the answer we give to that question for America?

The word "stonewall" has been used to describe the President’s defense. Believe me, it has been and continues to be a “human wall.”

República

Obviously this has been rough duty in a Republican sense. However, from the outset the Special Committee on the Investigation was the best politics. I couldn’t change the facts. I couldn’t silence those who knew the facts. All I could do was to make sure that a Republican spoke the facts
if not before, then simultaneously with a Department.

On page 103 of the "Transcripts", President Richard Nixon is talking to John Dean: "I don't know what we can do. The people who are making all these phone calls are not doing this (unintelligible) are the (adjective deleted) Republicans. A lot of these Congressman, financial contributors, let alone the people who are highly motivated. They're not being paid. They're not being paid. They're not being paid. They're just sort of saying, 'ex- deletable' fun and games.'" Richard Nixon understood the strong base of sentiment that is a Republican heritage. Because he rejected it then it is no reason for any Republican to do so now.

Because the Republican National Committee and its Chairman, Senator Robert Dole of Kansas, were in the traditional Republican mold of decency and honesty is exactly the way the Committee to Re-Elect the President. At an executive session of the Select Committee held on Wednesday, June 19, 1974, I inquired of the staff and the Committee whether after one year of investigation there was evidence of wrongdoing by either the RNC or Senator Dole. The answer was a clear-cut "no" in both instances. Republicans who now state that "everybody does it" dishonor the men and women of their own official party organization. Probably not a single person who didn't do it and wouldn't have done it.

One last comment. The record establishes that:

1. The White House took a dive on the Congressional races of 1972 insofar as many Republican candidates were concerned.

2. Democratic candidates were actively assisted in some instances.

3. The White House expended considerable resources and energies zapping Republican Senators and Congressmen.

4. The Justice Department was consulted as to how to keep a Republican off the ballot. "Chairman do whatever he can under the law to keep McCloskey (Rep. McCloskey, R-Calif.) off the ballot."

5. Make all nominations for Federal elective office by direct, primary elections without ill-illuminated voters free to participate in the party primary of their choice.

6. Establish a joint congressional committee, with complete investigative powers and rotating membership, to monitor domestic intelligence-gathering and law enforcement activities throughout the executive branch, and be able to safely safeguard, to obtain and provide access to relevant materials requested by any Member of Congress. Similar changing classified information with any department or agency as to any privilege asserted by the President with respect to the Congress or Federal law enforcement agencies, thereby making the Supreme Court the final arbiter.

7. Subject senior White House staff, or persons with access to classified information, to the jurisdiction of the congressional committee, along with a description of which instance in which the authority is used.

8. Draft a code of candidate responsibility, with appropriate disciplinary rules and grievance procedures, to be enforced through a Federal elections commission.

9. Provide for "accredited campaign representatives" of a candidate to be submitted by February 15 of each year, for the calendar year preceding, for publication in the CONGRESSIONAL RECORD. This to supersede any present statutes making recommendations, inquiries, or exchanges classified information with any department or agency as to any privilege asserted by the President, which authority shall be immediately transmitted to the appropriate congressional committee, along with a description of which instance in which the authority is used.

10. Require Federal candidates and office holders to fully disclose all sources of income and assets or liabilities over $1,500, to be made mandatory and uniform.

11. Require campaigns for the presidency, after a nominee is selected, to be run by the party of the nominee.

12. Require that campaigns for nomination or election to Federal office, to be accorded the privileges of travel, interviews, and news releases granted to accredited press representatives, to be enforced through a Federal elections commission.

13. Designate election day as a Federal holiday, in order that the voting franchise not be restricted by competing concerns about jobs.

14. Require that candidates for Federal elective office report all collections and expenditures two weeks before election day, with no collections thereafter.

15. Prohibit candidates for Federal elective office from accepting cash contributions over $50 or spending more than $10,000 in personal funds.

16. Restrict candidates for Federal elective office to only one campaign committee.

17. Open all hearings and sessions to the public, except with respect to national security, proprietary information, or personally defamatory matters. The present rule, leaving such open sessions up to each committee's discretion, should be made mandatory and uniform.

Thank you.

Ms. President, I now want to leave the recitation of this report, which has been provided to the Congress in its entirety, to once again examine what is that is being debated here on the floor.

What is being debated is to, in effect, have the Federal Government intervene in our free election process. It has already been done so in terms of Presidential elections. And we have seen how even in the course of that narrower exercise, abuse has already taken place.

What do you think it does for the moral fiber of this Nation and the definition of truth when the young people read article after article as to how spending limits are meaningless, are violated day in and day out by the candidates can spend more money and everybody gets away with it.

How many times have they seen candidates, and I put that in the plural, that merely have campaigns out there with no appeal in terms of the substance of the campaign, but are out there to collect Federal campaign funds who in say that the interminable process that we are being put through now is good for the democratic process. We have a real problem, and do not think we are not impacted by it on the Senate floor.

Our problem specifically is that the American people are getting tired of politics, tired of the election process, dispirited and discouraged by its failings and its illegitimately. As they are being turned off, they do not vote, and they do not vote. More and more of the people's lack of participation in the elections is that is being debated here on the floor of the Senate. Rather, the Senate has been reflecting those narrow, one-issue candidates and candidates.

I do not worry about how the country will fare, as long as everyone is participating. We will have high-quality individuals serving. We will have high-quality laws, high-quality rules. But the problem does exist, in other words, here in the U.S. Senate. It is a direct reflection of how the American people's lack of participation in the process finds its way into this Chamber and the Chamber down the way and the building down at the other end of Pennsylvania Avenue. This is the problem we should be addressing. How do we stimulate the-
merging religion and politics. Do you both institutions are failing. The con­

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To digress for 1 minute, I will give you a good analogy. It concerns another issue which I have stood on the floor and talked about, this business of merging religion and politics. Do you know what that is? It is the attempt to merge religi­

process, and it eventually is what is going to bring us to our knees. This country can do many things, but you cannot put it on automatic pilot. As Franklin put it, the people rule, and we are in good shape as long as they are ruling, but they are not ruling.

They feel that they have no stake in the process or in the outcome and they are going away in droves. What we do not need is a subsidy of wretched

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politics that both parties have been practicing over the past decade.

I would be delighted to work with any of my colleagues on a campaign reform bill. I think it would be just great. But to come at it by trying to turn the American system into a national act? You have to come on the stage in the first moments of the first act.

Mr. President, I would hope that the pending legislation be defeated. I might add that as someone seek to finance, but we discuss or socialize politics, we do not think they have done it in any particularly dignified or edifying way. I do not think we have to go and arrest Members and I do not think we have to stand here and talk after seven clouthe votes. We have spoken. The Senate has spoken. The American people, therefore, have spoken. It is going to be defeated again on Friday.

Certainly, I think everybody has the opportunity to push their point to the limit. I have been in that boat too many times than to try to deny it to anybody else. But, you know, you win some and lose some and maybe in order, so that everyone has a chance to speak on issues that concern themselves and their constituents.

How do you think we look? We have used weeks and weeks of time on ourselves, on the subsidization of ourselves, on the socialization of the political process, while some other people have some rather important problems out there that need resolution.

For years I had to plead for Grove City to come to this floor. It finally did. Even now we have AIDS legislation out there for those who are suffering and dying and in fear of this disease and it cannot come to the floor. I realize the prevailing attitude around here in the last several years is you have to win them all or you will bring everybody to a grinding halt. Maybe a little live and let live might be in order, a little win some and lose some might be in order, so that everyone has a chance to speak on issues that concern themselves and their constituents.

I think enough time has been spent upon ourselves, if we would go ahead and make the decisions that are imposed upon us by circumstances and by law we would not have to worry about how to finance campaigns. The American people would take care of it.

They are disinterested in a rather lackluster performance and I do not believe it.

I am not prepared to go ahead and socialize politics in America, and I am not willing to subsidize mediocrity, and I am not willing to go ahead and enhance the power of the Federal Government which, on occasion, can run amok itself.

I spent the better part of my early years in this Senate revealing the facts of a government run amok, and participating in the decision that was against any sort of Federal financing of election campaigns. I revere that spending and the expense of candidates, too much to come around to the year of 1988 and deny it all by virtue of this legislation.

I have great respect for those who are the deriders of legislation, those who have been pushing for it. But enough. But enough. Neither history nor the votes as they now sit on the floor of the U.S. Senate auger well for the passage of this legislation.

Hopefully, we will be able to get on to other business.

Mr. President, there are some people I have a high respect for in this body. I am not engaging in either hyperbole or sarcasm but rather in the reality of the situation.

I think the distinguished Senator from Maine has been a great positive voice for good in this body. He has the courage of his convictions and has impressed them many times on the floor. When I talk about mediocrity, I am afraid that too much of it associates with the body, but there are individual flashes of brilliance, and an example of that is the man who I understand will now speak to the issues involved.

Mr. President, I yield the floor.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER (Mr. Daschle). The Senator from Maine.

Mr. MITCHELL. Mr. President, I thank my friend and colleague, the distinguished Senator from Connecticut, for his kind words, and also for the very interesting and informative discussion in which he has engaged for the past 2 hours.

It is not easy for anyone to stay awake from 3 until 5 in the morning, but for those of us here who were engaged in this Senator's comments, he did keep us awake and, as always, he did so with a combination of intelligence, wit, and informed discussion.

I do not agree with the Senator's conclusions, but I respect his view and the orderly processes of mind which led him to it.

I do not believe the issue is public financing. I believe the issue is whether or not there will be limits on the amount spent in election campaigns for the Senate. Indeed, it is clear to anyone who reviews the pending legislation that the public financing aspect of it is limited to the absolute minimum necessary to permit the campaign spending limits to be constitutional within the framework established by the Supreme Court in the landmark case of Buckley versus Valeo.

The likelihood, indeed the probability, if not the absolute certainty, is that if this legislation were adopted there would be little or no public funds expended. And so while my distinguished colleague's argument was interesting, it did not go to what is the heart of the problem. That is made clear if one reviews just a few numbers.

Total campaign expenditures in elections for the Senate between 1972 and 1986 lie bare for all to see what is the crux of the problem before us.

In 1972, candidates for the U.S. Senate spent and will run out all numbers I use—$30 million; in 1974, $34 million; in 1976, $44 million; in 1978, $85 million; in 1980, $102 million; in 1982, $138 million; in 1984, $170 million; in 1986, $211 million. Thus, in the space of 14 years, there has been a sevenfold increase in total campaign expenditures for the U.S. Senate, from $30 million in 1972 to over $211 million in 1986. If that same rate of increase continues into the future, the first American Senate election this century will see the expenditure of nearly $1 billion to $1.5 billion in campaigns for the Senate. It is that which must be checked. It is that which must be controlled. It is that which we must do. It is that which this debate is about.

Let no one be confused or deceived or misled by the rhetoric we have heard by opponents of this legislation over the past several days. There is at bottom one issue before us, whether the Members of this Senate wish and have the will to control the amount of money being spent to be elected to the Senate. There are very few public policy issues which have been debated as much as this one. The bill before us has been thoroughly considered by the Senate in 14 days of debate last year. The Senate has voted seven times to cut off debate on this legislation which a clear majority of the Senate supports. Seven times the Senate has voted for campaign finance reform, themselves a minority of the Senate, have defeated the will of the majority by means of a filibuster. The American people should know that a majority of the Senate agrees with a majority of the American people that something must be done about the cost of Senate campaigns. But a willful, determined minority, using the weapon of the filibuster, succeeded in preventing the will of the majority of the American people and the will of the Senate from prevailing.

The bill has undergone major modifications on the floor to respond to every argument that opponents have raised about campaign finance reform. The willingness of the majority to modify the bill has exposed what is a fundamental objection of opponents. They simply do not want a limit on campaign spending. That is the issue now before the Senate. It is the only issue now before the Senate.
The method by which we finance campaigns for Federal office goes to the heart of our system of Government. While the authority of our Government is based on a written Constitution, the observance of Government power depends ultimately on the continuing trust of the people in a democracy.

If the American people do not have faith that their Government fairly represents them in the overall best interest of the Nation, the authority of Government will be undermined. There is no more certain way for Government to lose the public confidence and with the substance of its authority than for Government to appear to be holding to narrow, special, and favored interests separate from the common good.

Nowhere do we risk eroding public faith and undermining public confidence more than in the manner in which we finance election campaigns.

With each successive election cycle, the public and Members of Congress alike see less consensus in the process. The system is out of control. The modern campaign for the Senate has too often become virtually a nonstop fundraising effort. It is a spectacle that erodes public faith in both the election campaigns as contests based on issues and ultimately in the legislative product as well.

Each year, Senators must devote more and more time to financing campaigns for ourselves and for our colleagues. The process is disliked by all participants—Members of Congress on whose time fundraising imposes enormous demands and denies them and their public office, voters who now wonder whether that small contribution or volunteer effort or even their vote means anything at all, and even the lobbyists themselves will force the bill. This situation raises new and growing demands for reform in the process. Something must be done to reform the manner of raising funds and most importantly to control the costs of running for elective office in America.

The legislation before us today offers a fair and effective solution which, I believe, I have ever read. But under our system, it is the law of the land, and therefore, we must observe and obey it unless it can be changed through accepted procedures. But as a result of that decision, campaign spending limits can be imposed only on a voluntary basis. That leaves us with only one alternative—to provide public financing of campaigns as a way to control the costs.

Opponents of this legislation have consistently decried the use of any Federal funds, no matter how minor, no matter how speculative, in the Senate election process. That argument ignores the substantial Federal funds used in the Federal election process financed from the voluntary income tax checkoff.

In my opinion, the nominal funds which may be required to publicly finance Senate election campaigns would be well worth the cost if they were essential to restoring public confidence in our election system.

Nevertheless, in an attempt to meet, in good faith, every objection by opponents of this legislation, the bill has been changed to remove all public financing from Senate campaigns unless an opponent violates the spending limit in the law. Even this minimal cost, speculative in nature, would be fully financed by repealing certain preferential mailing rates for political parties. Therefore, the tears we have seen shed here for the taxpayers are crocodile tears, because this bill will not cost the taxpayers a single penny.

Opponents of the legislation have raised the false argument that it is somehow designed to keep the Democratic Party a majority in the Senate.

This argument is based on the belief that the Senate is almost times as large as the House and the arguments many times that the public financing of Senate campaigns will protect incumbents. I hesitate to even legitimize these arguments by responding to them, but they are so fallacious, so contrary to the evidence, that they cannot go unanswered.

Public financing of congressional campaigns enjoys widespread and bipartisan public support, and it has for years. Senator Democrats, myself included, have worked for years to put in place a system of public financing that would limit spending for certain campaigns. We did this while we were in the minority party in the Senate, and we continue now that we are the majority party. Why? Because public financing is in the national interest.

There are a number of Senators on the other side of the aisle who agree that public financing has a role to play. But the leadership to stay away from this legislation—not because the bill would confer some special advantage on the Democratic Party, but because they perceive that it would limit an advantage the Republican Party now enjoys from its wealthier contributor base.

The argument that public financing of Senate campaigns is somehow going to protect incumbents is offered as a way to oppose campaign finance reform. And it has been used over and over again. In theory, that could be true if the limits on campaign spending were set so low that challengers could not have the ability to get their names across. But that is not true in this case with this legislation.

In many States the spending limits have been set so high that some observers have questioned whether the bill goes far enough to control the costs. I would like to see more stringent spending limits, but I recognize the importance of giving challengers sufficient funds to mount a challenge.

Under the current system, incumbents have an overwhelming advantage in raising campaign funds, with PACs they are their challengers. Every PAC in Washington can attest to that. They are simply reluctant to give contributions to challengers running against incumbents who vote almost every day on legislation affecting the interests of their PAC; and the numbers, the evidence, by which that has been so noticeably lacking in the arguments of the opponents of this legislation bear that out.

In the last Senate election, in 1986, incumbents raised almost twice as much as challengers in total campaign receipts. Incumbents raised almost twice as much from PACs as did challengers, who only raised almost half what they raised in each election campaign. Thirty-nine of those forty-two Members of Congress, only...
Of the 42 incumbents running for the Senate, 31 spent more than would be permitted by this legislation. In other words, 74 percent of the incumbents would have been limited by this bill in the amount they could spend. This would have put a permanent cap on the amount the 26 nonincumbent challengers, 23 percent, would have been limited by the bill. That is less than 1 in 4.

So, if the bill had been in effect in 1986, 3 out of 4 incumbents would have been limited in the amount they could have spent. Only 1 in 4 challengers would have been so limited.

The conclusion is inescapable: The spending limits in this legislation will not protect incumbents. Rather, the legislation will restore a balance to the election process by imposing far tougher limits on the spending of incumbents than on the spending of challengers.

I would like to make a prediction here: The Republican Members of the Senate have repeatedly argued, on and off the Senate floor, that if this bill is passed, it will return the Senate to a minority.

I say that the surest guarantee that they will become a permanent minority is if this bill is not passed, because what we are seeing is the Democratic incumbents, have been able to establish themselves and, in the enormous fundraising advantage that the incumbents have, they have virtually ensured their continued reelection. I predict that if this bill or something like it is not passed, there will not be a Republican majority in the U.S. Senate again in this century.

The singular feature of the current system of campaign finance, the most notable effect of the current system, is the enormous advantage it provides the incumbents over challengers, and that advantage will increase as the costs accelerate rapidly. Therefore, I believe that the members of the Republican Party are acting contrary to their actual interests.

That is not without precedent. Democrats did the same thing a decade ago. It stems from the almost institutional inability of political parties and other human institutions to see beyond their narrow immediate interests as defined by the recent past.

In the late 1970's, Democrats controlled the Presidency, the Senate, and the House. They regarded themselves as in a position of competitive advantage, and they were. They thought that comparative advantage would continue into the foreseeable future, but they were wrong. It did not. A few years, half a decade, the comparative advantage was lost, and Democrats found themselves in the minority. The refusal of the Democratic Party to look above its narrow political interests to the broader national interests a decade ago led them to make a grievous error for themselves and for the American people. By an ironic twist of history, the American people are doing the same thing. Having learned nothing from history, they are intent upon repeating the mistakes of their opponents, because they are viewing the political process only through the very narrow prism of their political self-interest. But they are handicapped, as were Democrats a decade ago, by the inability of humans to predict the future, by the almost unfailing regularity with which we expect the immediate past to be repeated in the immediate future, despite decades and centuries of history that tell us that the contrary is true.

So I appeal to my Republican colleagues to consider their true self-interest; and if they do, they will support this legislation. I have no hope and expectation of persuading them. But I present my prediction: If this bill or something like it does not pass, we will see a Democratic majority in the Senate for the remainder of this century. Costs will escalate rapidly. The enormous advantages which incumbents possess in fundraising will increase, and a decade from now the error being made today will be made, as clear as the error of a decade ago by Democrats is today clear.

Opponents of campaign finance reform have proposed alternative legislation which they claim represents true reform. Those substitutes have been offered to give opponents what they are proposing the exact opposite.

The substitute purports to eliminate PAC contributions to candidates while requiring the full disclosure of soft money contributions. One measure proposed by the Senators from Kentucky and Oregon purports to solve problems with the current system which, in fact, it would further liberalize. The PAC contribution ban in the McConnell-Packwood bill purports to eliminate the bundling loophole by counting bundled contributions as soft money. Neither claim is accurate.

Soft money is money donated by individuals, PAC's, corporations, and labor organizations to State and national party committees which is used for certain exempt Federal election activities or non-Federal election activities. Such money is exempt from the contribution and expenditure limitations and restrictions of the present campaign finance laws.

The Packwood-McConnell purports to reform this area by requiring that all soft money contributions be reported to the FEC. In fact, it would open up major new loopholes for the national party committees by exempting from the law's restrictions their administrative-solicitation costs and by extending the present volunteer activity exemptions to the national party committees.

Their proposals would require that such contributions be disclosed. That is appropriate; S. 2 would do the same and, in fact, go much further by re-
quiring such disclosure for all party committees including those at the State, local and national level. The McConnell-Packwood proposal, however, would only require that soft money contributions to the national party committees. This result was carefully designed to minimize the impact of the proposal because the bulk of such contributions would flow to State party committees. Thus, under the substitute, most soft money would not be disclosed, Senate Rules Committee staff said the very opposite of what the proponents of the substitute say is there intention.

Another part of their proposal would open up a major new loophole by permitting soft money to fund the administrative and solicitation costs of political parties. In other words, for the first time a national political party, or a State or local committee of the party, could accept unlimited contributions from any corporate, labor or individual source to fund its general operations.

This would severely undermine the current contribution limits for individuals and PAC's, the flat ban on corporate funds in Federal campaigns that has existed since 1907, and a similar flat ban on labor union funds that dates back to 1947. These bans were enacted to reduce the potential for corruption posed by the direct use of corporate or labor union funds in Federal elections. This proposal represents an unprecedented invitation to corporate and union support for party organizations, and it will further contribute to an accelerated level of spending through national party organizations for Federal election purposes. The disclosure requirement will not sanitize this major new loophole.

For the last several months there has been considerable debate about the merits of the proposal reported out by the Senate Rules Committee. The modified bill now before this body is an attempt to respond to every argument raised by the opponents. In my judgment, S. 2 is a good bill that will restore confidence in our election system by removing the taint of undue influence.

It is a carefully constructed proposal that represents many months of hard work to produce a balanced bill which is politically neutral.

Campaign finance reform enjoys widespread and bipartisan public support, and it has for years. Yet, there has been this filibuster on this bill. It is an attempt to prevent enactment of campaign finance reform even though a majority support its enactment.

Why? Not because the Members of this body aren't in agreement that the current system is out of control and badly in need of change. But because each of us perceives this issue through the prism of our personal interest or what we believe to be the interest of the political party of which we are Members. Rather, because the stakes are so great, there is a fear of change.

But this issue demands more. For once, we should put aside our self interest and consider the true national good. We have an opportunity in this 100th Congress to restore public confidence in the election process. We ought not again let that opportunity pass.

Mr. President, during the course of the debate we have had several arguments against S. 2. The organization, Common Cause, which has been a leader in the fight for campaign finance reform, recently distributed candidates from free-spending opponents of those arguments and responding to them. And I would like now to quote from that publication: Argument:

Taxpayers' dollars should not be used to pay for political campaigns, especially given the Federal deficit.

Response:

A system of campaign spending limits and public financing is the best investment our country can make in the health and integrity of our country. Nevertheless, the current version of S. 2 pending in the Senate has minimal costs and would have no significant effect on the Federal deficit.

Under S. 2, if both candidates agree to abide by spending limits, no public financing would be provided. Candidates who accept spending limits would be eligible for reduced mailing rates; these benefits would be paid for by repealing preferential mailing rates for political parties. The public financing provisions of S. 2 are, as the Washington Post said, "an insurance policy" to protect candidates from free-spending opponents. They only come into play if one candidate agrees to spending limits and the candidate's opponent does not accept spending limits, and then makes expenditures in excess of the limits.

The original version of S. 2 would have cost $30 million a year—less than the amount the military spends on marching bands. The new version will cost far less. Exact estimates of the cost of S. 2 are not available, but I know that the Debate Committee, which has been a leader in the fight for campaign finance reform, has stated that 47 of 48 major party candidates have agreed to spending limits since the system became law.

If a similar percentage of Senate candidates agreed to the spending limits, the costs of the public financing provisions would be provided. Mr. President, I digress from the publication from which I am quoting to respond further to the repeated suggestion made here that the Presidential campaign finance system is a failure and, therefore, ought not to be repeated in congressional campaigns.

First, I strongly disagree with the assertion that the system used to finance Presidential campaigns is a failure, but I note significantly that all of the arguments made against it are based upon the experience in the Presidential primary process in which one candidate must compete in several States and the problems that stem from enforcing the law relate primarily to allocation of limits to the various States.

There has been very little criticism of the general election system used in Presidential campaigns. The proposal suggested in S. 2 is more closely analogous to that system than it is to the primary system in Presidential campaigns. So I think the criticism is not well taken on two respects: first, its characterization of the Presidential system as a failure is incorrect. Although that primary system clearly has deficiencies which must be corrected, I do not believe it can thoroughly be characterized as a failure.

And, second, because the more close analogy is between general election campaigns for the Presidency and this bill, I will return now to the Common Cause document citing opponent arguments to S. 2 and responses.

Argument: S. 2 is an incumbent's protection bill. Spending limits will prevent challengers from mounting a viable campaign.

Response: S. 2 is an incumbent's protection bill. Spending limits will prevent challengers from mounting a viable campaign.

Arguments: S. 2 limits on aggregate spending in general elections are not constitutional.

Arguments: S. 2 would be unenforceable. It would not vest the Federal government with the power to decide who can spend money in campaigns.

Arguments: S. 2 limits would create a "straw man" system in Federal campaigns.

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Arguments: S. 2 would be "unfair" and would distort campaigns.

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The spending limits in S. 2 would allow both Republicans and Democrats, challengers and incumbents, to run competitive campaigns. The argument that the bill would disadvantage Republicans in the South is not supported by the evidence—indeed, there is evidence to the contrary. In 1984, 47 Southern Republican Senate candidates—all non-incumbents—won election to the Senate while spending far less than their opponents. Indeed, when inflation is taken into account, in 1986, three of those Senators sought re-election as incumbents. Each Senator spent substantially more than the S. 2 limits and each Senator lost.

More importantly, the “Southern Republican” argument is spurious. It is an argument which essentially tells the American people that the nation must tolerate and preserve the present corrupt campaign financing system in order to allow Republican candidates to make unlimited expenditures in Southern states.

If I may again digress from this document, once again we see that the arguments advanced by the opponents of this bill are unsupported by any evidence, and where there is evidence, where there has been experience, where empirical data is available, without exception it contradicts the view. Where there has been experience, where there is evidence, and where there is evidence, I would say sometimes thankless jobs of having to go out into the field and raise the funds necessary to conduct not only his reelection but to help assist, as the chairman of the Senate Campaign Committee, to raise money for all the Democratic candidates in the last cycle.

I would say to the distinguished Presiding Officer that the Senator from Louisiana has benefited from this chore and the endless hours of help and assistance in raising money that the Senator from Maine provided me and so many other Members of my class of the 100th Congress.

So when he speaks on campaign reforms, he knows of wherein he speaks. His tireless effort to try to bring this message to the people of the United States is one that we owe him a deep debt of gratitude for. We thank him for the completion of his task.

A colleague of ours yesterday told me of a story of coming to an early morning breakfast yesterday morning. He walked into that breakfast and he was weary-eyed and red-eyed and looking somewhat disheveled. And he told in response to what happened to the group he was speaking to at an 8 o'clock meeting that he had been up all night on the Senate floor. This group of Washingtonians who make their living here in the city by following the work of the House and the Senate said, “What are you doing up all night?”

He said, “We are filibustering.”

They said, “What are you filibustering?”

He said, “We are filibustering campaign reform.”

My colleague was astonished that this group of distinguished Washingtonians did not even know what we are doing here. What we are doing over here is trying to bring a message to the people of the United States that something is wrong in Washington, something is wrong in how we get here. And that is really why we have been talking about and most of them do not care what you are talking about.

To a certain degree, that is very true. People in Louisiana, I guess, are concerned about agricultural problems, farmers losing their family farms, with very little hope of optimism about things improving in the very near future. People in the oil and gas industry are concerned about the literally thousands of Louisianans that have had to move to Atlanta, to Memphis, and to Nashville and have had to leave our State because this administration has no energy policy.

The average small business owner is worried about bankruptcies. People who are engaged in banking, art savings and loan institutions are worried about the record number of defaults.

So, yes, it is true that there is not a tremendous lying awake at night in Louisiana agonizing over the question whether the U.S. Senate is going to give us a campaign reform bill titled S. 2. There is not a lot of interest.

I dare say that most States like Louisiana, my home State, are finding the same thing. There is not a tremendous amount of mail or telephone calls or telegrams or do we have any lobbyists sitting outside of our offices urging us to get on with this crucial piece of legislation.

The new Governor of Louisiana who takes office in a couple of weeks said during the campaign that if in life we are what we eat then in politics we are what we get our money from.

I think that there is a certain amount of truth to that, and one of the reasons that I think this bill is so critically important is because money has become a qualification for holding public office.

You know if you look at the Constitution, or the rules of the House or the rules of the Senate or even indeed, of course, the qualifications that our Founding Fathers put into the Constitution as being the qualifications to hold public office, guess what you do again? What you do again is very clear, age limitation, you have to be a certain age, 25 or 30, to be in the House of Representatives or to be in...
the U.S. Senate. You would assume that among those qualifications, including being a citizen born in this country for the Presidency, assuming other qualifications that we foresaw others were thinking about, you would think the qualifications of talent, education, of integrity certainly of honesty, but nowhere in any of those qualifications that I have ever looked at do I ever see a qualification or a requirement that says you have to raise a lot of money.

But is there a Member of this body or of the House of Representatives or of the Presidency of the United States that would not tell you, having been elected, that one of the qualifications today is in fact the ability to raise money?

I know when I considered running for this seat after the retirement of our distinguished former colleague, the former senior Senator from the State of Louisiana, Russell Long, the first thing that I had to consider and ask the people of Louisiana why you could be a good Senator and Representative the interests of our State in this body, the qualifications of talent, education, integrity, honesty and ability.

The reason I was in all of those cities was because I was not independently wealthy. I did not have access to millions and millions of dollars of funds. So I have to travel throughout the United States like a person with a tin cup. I really felt like a person who passes the collection basket in church as I traveled to all these cities and met with people who are very sincere and thank goodness for them. I had to go into hotels and living rooms and fancy homes all over the United States and tell these people that I needed them to give me money so that I could go back to Louisiana and campaign and ask the people of Louisiana to support me.

My opponent did the same thing, a good fellow who I served in the House with.

It was a well-run campaign, I think, on both sides. We would be criss-crossing the United States, running into each other in cities that had little to do with my home State of Louisiana, doing the same thing, raising money, running around the United States with a tin cup in our hand saying that we needed money so that I could be elected to the U.S. Senate.

Why should money be the main criteria is the point I am making. There is a message here and the reason we are at this ridiculous hour and have been here all night with people, the officers of the Senate and the employees of the Senate, we are here more so because they have not been relieved, why are we here, because like my colleague when we walked into the room at 8 o’clock, what are you doing here, it is 2 to 1. I am trying to make is what in the world does the ability to raise money, the millions of dollars that are now being required before you could even run, what does that ability have with the real qualifications to serve in this distinguished body, the qualifications of talent, education, integrity, honesty, and ability to understand the legislative process? Those are the qualifications by which we should be judged. Those are the qualifications which by our people should select the best and the brightest, not the richest or the wealthiest. And that is what this legislation tries to do.

I said time after time during my campaign that this is not an auction. It is an election. It is not a question of who has the strongest financial statement, or who has the best bottom line as far as money is concerned. It is not an auction. It should be an election process. That is what S. 2 attempts to do.

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Go, and Miami, and people would say, well, you are not going to get elected in those States, in those cities. What are you doing? Why are you all over the United States, are you supposed to be running and tell the people of Louisiana why you could be a good U.S. Senator and Representative the interests of our State in this body?

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It attempts to bring it back to an election process and get away from the idea that we are only going to be successful if we can raise millions and billions of dollars.

The process is broke. The process needs fixing.

I am interested in the arguments from my colleagues in the minority party. If you would listen to what they are trying to get outside of this Chamber to the American people, I would say that what they are trying to get out is that this legislation is an attempt by the Democrats to destroy the Republican Party.

Now, I was interested in that argument, and I said, know, what this legislation must have if their argument is true. It must be that the bill only applies to Republicans, and lo and behold, I looked up the legislation and it does not apply to Republicans. The same rules, the same regulations, the same spending limitations, the same everything applies to the Members on that side of the aisle as it applies to Members on that side of the aisle. Republicans are treated exactly like Democrats and Democrats are treated exactly like Republicans and independents would be treated exactly all of the rest of us. The legislation is across the board. There is no different treatment of the Republican Party.

Our Republican colleagues who make the argument, and I think they have done so well, that we spend too much money. Well then why should they be against an effort that tries to put some reasonableness back into the process of running elections?

What do they fear with this legislation that treats us exactly as it treats them with regard to spending limitations? There is nothing sinister about this legislation in that sense. We establish aggregate limits for PAC contributions. We do not eliminate PAC contributions in this legislation. It establishes limits for Republicans and for Democrats aggregate limits on the total amount of contributions which candidates can accept from PAC’s.

I am one person who participated in the process as aggressively as I possibly could and will continue to do so. I do not think that PAC’s are inherently wrong. PAC’s are people. PAC’s are citizens of this country who, through the political action committee process, perhaps for the first time in their lives have been able to contribute to candidates who agree with their philosophy of government. I certainly see nothing wrong in accepting $1,000 from an agricultural political action committee for instance any more than accepting $1,000 from some individual person who has an interest in agricultural matters before this Congress. In fact, if you want to make the argument of money influencing votes and people trying to buy access by money, can you not make a legitimate argument that would say that a Member of Congress is going to remember more the individual that walks up to him and says, “Here, Senator, I would like to give you $1,000 and I want you to do what is right on agricultural matters because we are going to do this, or that.”

I am going to remember that person probably more than I am going to remember the XYZ PAC that sends me a contribution from some innocuous post office box thousands of miles away from Louisiana. I am probably not going to see that person. But I will be contacted probably by the individual who gives me the $1,000.

So if the argument is influence, I see the better side of the argument, that there is certainly nothing wrong with the PAC’s contribution. It has allowed millions of people to become involved in the process for the first time. I think that is good.

This bill does not eliminate political action committees. But it tries to put some restraint on them. They should not become the determining factor in raising money for political elections. But they should not be eliminated and excluded.

To our colleagues on the other side who work with PAC’s very well, as some of us on this side do, I would say this legislation clearly protects the political action committees and what they can do, but it also tries to put some limits. Let us be reasonable. The proliferation in growth of PAC’s is growing even faster than the Federal deficit, I would say, which is not a small achievement. So what we have tried to do with this legislation is to put some restraints, and I would say the restraints are reasonable.

For Senate candidates, limits would vary on the size of the State of course; again a degree of fairness. Candidates in California would not be subject to the same limits as candidates in Rhode Island. It makes sense; fairness, nothing wrong with that.

Are we giving PAC’s a limit that is reasonable? Good heavens. This is what we have here. For Senate candidates the limits would vary on the size of the State ranging from $190,000 for the smaller States to $825,000 in larger States.

The House candidates’ limit would be $100,000, $225,000 from PAC’s, is that not enough to make a dent and input and be still involved in the process? This $225,000 is not an insignificant sum of money, and I think that, or at least should be, is an acceptable amount to consider a fair amount.

Some people have said, well, you know, out there we should not have people with millions and millions just to be able to come in and purchase a Senate seat or a House seat. I agree with that. The seats are not for sale and should not be. Persons of tremendous individual wealth, legal gain, should not have an undue advantage over other candidates. So the legislation in the largest State, establishing a limit on campaign spending and the use of personal wealth. I think that is good.

Spending limits. For our colleagues on the other side who have some reservations, and again we believe there should be some spending limits, the bill does that in exactly the same way for Republicans as well as Democrats. It is not an effort by establishing spending limits not to pertain to both sides of the aisle. That certainly does not reflect an effort to eliminate the Republican Party. I do not see how they can make that argument.

But limits we have, in general elections, would go all the way up to $2.75 million for the largest States in the primary election plus an additional $5.5 million in the general election. I would say that a sum approaching $8 million is enough to get your message out to the American people, $5.5 million being the cap, of course, for the largest States.

That is for the general election. The spending limit for primary elections would go all the way up to $2.75 million for the largest States in the primary election plus an additional $5.5 million in the general election. I would say that a sum approaching $8 million is enough to get your message out to the American people, $5.5 million being the cap, of course, for the largest States.

Candidates are restricted under the legislation to $20,000 in personal funds to finance their election. That would not be a problem for me, I know, and probably not for the distinguished Presiding Officer. I am not a person of tremendous personal wealth. I do not have any problem with having a limit on my own spending. That, of course, is not the reason to say that it is a good idea. I think it is a good idea because people in this country would like to see everybody represented.

The Senate and the House should not become a club of millionaires, not to say that it is moving, in that direction, but certainly there is an incredible advantage, I would say, to a person of immense personal wealth when he or she says, “I will use and spend whatever it takes to buy this seat.”

The message is that seat is not for sale. And the steps that have been
taken in this legislation to try and put a sense of fairness into the process I think merits our favorable consideration and strong support.

Candidates who agree to abide by the rules Republicans and Democrats alike, get some other assistance that helps them deliver the message because the message is what we should be judged by, not by the balance check. The fact that this bill provides is that if you are a candidate and agree to these spending limits we are going to make it easier to run your campaign, to get the message out so that you do not have to run around the country with a tin cup. Candidates who agree to abide by the spending limit and to limit their own personal wealth are entitled and would be eligible for substantial reductions in mailing rates, and the lowest unit rates for television and radio advertising. That is an important feature I would say to this legislation. What that simply means is when we put this new set of rules into being which will affect Republicans and Democrats equally, that in order to encourage candidates to abide by those limits we are going to sweeten the pot by making it easier for them to get their message to the people.

Those who say “I don’t like spending limits” I will answer that, “Well, if you agree to abide by them you will have more time to spend addressing the issues, and we are going to make it cheaper and less expensive for you to get your message to all of the people.” How and the way we do it by requiring in the legislation that there be a substantial reduction in mailing rates and the lowest unit rate for television and radio advertising, the principal medium by which we get our message delivered, which is radio and television by far.

So we are encouraging people to follow the law and to participate in the spending reductions and restrictions by saying we are going to give you a little extra. And that little extra is how we determine your rate for television. So you have more time to get your message across and in essence will be getting a bigger bang for your buck.

I think that is a very important feature of this legislation. It provides that public funds would be available. This is a controversial part of the legislation, and I had people who said “You know, I support those spending limits and I think we are having to spend too much money and I think the system really needs to be fixed and, man, I want to have it fixed but I sure don’t like that public financing.”

And I want to say this morning that that has been a portion of the bill that has given me a little concern myself. I took a poll in Louisiana, and I daresay many States are probably the same, that said, “Would you like your tax dollars to be spent to help political candidates?” “Not a good idea,” I would think that many people would respond in a time of $1 trillion, long-term results, and I know, what with the budget continues to be so far out of balance, at a time when States and Federal legislative bodies are having to consider and to discuss tax increases and reductions and revenue. To pose the general question, “Do you want to open up the Treasury to candidates?” The answer generally comes back from the people that I represent “No.” But that is only a part of the question. The question is more detailed than just do you want to open up the Treasury because this bill certainly does not, will not, cannot and should not do that.

The bill provides that public funds would be made available to candidates who agree to campaign spending limits if their opponents refused to accept the spending limits, and actually make expenditures or raise funds which would exceed the spending limits. I bet you that if this bill went into effect that we could see a changed way of doing business in America with regard to the industry of getting elected to public office. I say it is an industry because a multimillion dollar effort is indeed a business. When you pay thousands of dollars to people to tell you how to look and talk on television, when you pay thousands of dollars to people to tell you how to deliver your message, indeed it is an industry. And I would say that the industry of getting elected has dramatically changed because I would predict and I think many will join me in this prediction that when candidates agree to publicly say “I am willing to limit my spending under the Federal law” there is not going to be a multimillion dollar effort to tell you how to look and talk on television, and spend thousands of dollars to people to tell you how to deliver your message.

What that will mean is that if all candidates agree to abide by the spending limits under this legislation there indeed is no, repeat, no public funding. There is no crack in the door of the wall surrounding the Treasury. There is no outflowing of public funds in any sense whatsoever if indeed all the candidates abide by the spending limits. I predict that is what is going to happen.

I tell you what. I would love to have an opponent that would run against me in a Federal election with this rule being in effect that would say I am going to spend whatever I want. I am not going to abide by the standards, the principles and the philosophy behind the Campaign Reform Act pertaining to this legislation. I would need to do a lot more than that or do a lot more than have the opportunity to keep providing information to the people of my State that this candidate refuses to abide by these set of standards and principles that have been agreed to by the majority of the Members of the House and the Senate that I have the privilege to serve with.

So I would predict that when the legislation goes into effect, there will be minimum, if any, public financing involvement, because I think the candidates will agree to abide by these in number. It seems to me that the candidates would agree to abide by the spending limits if, if, and only if, their opponents refuse to accept the spending limits and in fact go out and they say, “I will not participate in something that I disagree with so totally”?

I think that is a good question. I think that is a question that must be asked, because if the system is so con­ceived that we have to open up the Treasury to candidates that is only a part of the question. But I think it is a little bit inconsistent to say how terrible the system is and to be one of the first to stand in line to participate in the system. If there is a matter of principle here, should not they say, “I will not participate in something that I disagree with so totally”?

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reporting requirements and a new and tighter definition of when an expenditure is in fact independent. Candidates who agree to the spending limits would be required to keep detailed payments made to enable them to respond to significant independent expenditures made in opposition to them or in support of their opponents.

Independent expenditures are something that we have to deal with very carefully because there is a first amendment that is the law of this land that protects freedom of speech. And it is inappropriate, improper, and probably unconstitutional in the United States to say to citizens of this country that they cannot speak freely for candidates for public office. That is a right of free speech, a very essential right of free speech. There is probably no clearer right of speech than the right to speak in the political process for candidates that we happen to think are important.

One of the reasons we left Europe to locate in this country, and had a revolution, and had a Constitution, was so that we would have the ability to come from where we have no ed, coming from where we have no idea that no one in the public knows where it came from or who is responsible for it; money that was given to the State party, the Republican Party, that was used to finance their political activities which were aimed at and geared to defeating me.

The Louisiana Democratic Party, I would say, in order to be completely fair, also sought and received and spent this "soft money." Not nearly as much; not nearly as much. I wish we had the ability to try and equate the amount of soft money being spent. But let me tell you what we were able to do, what we were able to do. Nothing; not hundreds, not thousands, but millions—of dollars were spent in this category of soft money; money that was raised throughout the United States that no one in the public knows where it came from or who is responsible for it; money that was given to the State party, the Republican Party, that was used to finance their political activities which were aimed at and geared to defeating me.

This legislation addresses the soft money issue and does so by requiring the disclosure of the soft money expenditures by the political action committees and by the political parties—a major improvement, addressing something that was a major cause for legitimate concern by anybody interested in improving the process.

The legislation also closes the bundling loophole in the current law. Now, bundling is a system whereby we encourage people to give to candidates, whereby they can exceed the limitations on their contribution amounts. This legislation closes the bundling loophole by requiring that the contributions made directly or indirectly to a candidate through a political action committee or some other conduit be counted toward that contributor's limitations on how much they can contribute, as well as the contribution limit of the original contributor. It is an abuse. It is not right. It violates all principles of restricting how much an individual can give through the use of this bundling process.

You know we write a rule or a bill in Congress and the next day there are literally hundreds of attorneys, accountants, CPA's in this city that are looking for legitimate ways to get around what we have done the day before. And, boy, are they effective. They are talented. They are paid extremely well to find the loops and the loopholes and the ways to do something that the law was trying to do. But, I say that you cannot do. And bundling is one of those little carved out exceptions whereby they figured, "Hey, they missed this one. We can get something to give a whole lot more money than the law allowed, because they can give by using the bundling process."

So, yes, this is one of those cracks in the wall or holes in the dike, if you will, although I think it should be closed up. And this legislation does that with regard to the bundling process.

So all in all I would say that the package that has been put together by our distinguished authors, that this package that has been conceived and compromised and compromised in order to meet the arguments of the Members of the other party, is a good piece of legislation.

Is this the piece of legislation that is being debated outside of the Halls of Congress? Not really. Is it being debated within the corporate offices and labor halls within the Washington community? Of course it is.

If I walked down the streets of the average town in my home State and ask people how they feel about S. 2, I am not going to get a lot of people telling me how they feel. It is not that type of issue. It is not an emotional issue. It is not an important top five issues that they are concerned about, they will probably tell you no. But if they understood, and as they understand more through the process of this debate and through the process of education that we are trying to provide by these long and tedious discussions, I think that the American people will demand that we do something to change the system; that when they totally understand what is now at the heart of getting elected—money—that they will march to Washington and say, "Do a better job in reforming the system than you
have;" that they will sit outside of your offices and lobby as hard for campaign reform as they lobby for farm programs, education programs, health and welfare programs, and all of the other endeavors that we are constantly being lobbed for by our constituents and the people of this country.

I opened this year and would note that the Presiding Officer serves with me on the Democratic Senate Campaign Committee. It is a privilege and an honor and I am pleased to do it. I am pleased to try and help make it easier for all our candidates like I was in 1986, to have the funds to deliver their message. But it should not be that the message will be delivered by the person who has the most money. It should not be that the person who gains access to this Chamber as a Member is the person had the best balance sheet of all the candidates.

As a member of the Democratic Senate Campaign Committee, I and all of the other members of the Democratic side of the United States, putting on these fundraisers—and thank God there are people there who are willing to contribute their time and their effort and their talents to doing it. But why should we be required as we are to travel all over the United States and meet with people we barely know and impose upon their generosity, so that we have the privilege of serving in this body? I think that is wrong.

The fundraisers for which, every day, I sign my signature to have a fundraiser for someone in this city than I can keep track of. It is like alphabet soup and it is like that on both sides of the aisle. There is the RNC on their side; there is the DNC here; there is the DSRC here; there is the Republican counterpart over there. There is the DCCC on the House side. There is probably the RCCC on the House side.

There are friends of this and friends of that; supporters of this and supporters of that. At the bottom line, it is all a funnel. At the bottom line, it is all a big basket that we carry around with these initials saying: throw the money in here and we will filter it down through the funnel so that some person may have the right and privilege of serving in the United States Senate or the House of Representatives.

Is this a novel approach that we are advocating today? Is this system of campaign reform and campaign financing that we are asking our colleagues on the Republican side of the aisle to support a radical or an extreme, untested procedure that we are asking them to blindly accept? The assumption is wrong. There is a way out.

No, it is not. It has already been tried and it has already been tested and it is in effect. That is how we run our Presidential elections. The standard has already been tested and it is working.

Is there any Presidential candidate, Democratic, Republican, independent, who has run under the system of public financing for Presidential elections who has ever stood up, one time in their campaigns, in this election cycle or in the last election cycle when the law was effective, and said that this system does not allow me to get my message out? The answer to that is no.

The candidates who have run for President, Republicans and Democrats alike, have agreed with the system because they have participated in it. They all are seeking limited public financing from a voluntary checkoff. They all have agreed to abide by spending limitations in order that they have a test of ideas, a contest of intelligence and ability and persuasiveness rather than a test of money.

The system that is in place for Presidential candidates is working. The system that we are asking our Republican colleagues to accept today is one that is patterned after the system that we have in effect for the Presidential candidates, a tried and tested, proven system of running our election campaigns in a different manner, a manner that truly brings back a bell and a contest of ideas, rather than a test merely of who can raise the most money.

If I have to predict the outcome of this effort; I will say that we will probably not get cloture when we vote to cut off the filibuster of the Republican Party, when we vote tomorrow. And that will be a defeat. But I think that it will be a defeat only in the sense of losing a skirmish or losing one of the battles. But I will say that we will not lose the war, because while we may lose the cloture vote, as Republican Members say that we do not want to bring this legislation up, I would say that we have made strides in winning the larger question and that is the war of trying to do something about campaign reform.

I say that because I think gradually the people of America are beginning to understand a little about the cancer that is engulfing the Congress of the United States, a cancer that requires us to spend more time raising money than thinking of new ideas, a cancer that requires us to travel throughout the United States in areas that we do not directly represent rather than spending the time with the constituents who have problems that are our first priority.

So, while the cloture vote may go down despite the great efforts of so many who have been far more involved than I, while we may not win the battle tonight, I think that we have gone a long way toward winning the ultimate war which is that elections should be a contest of ideas and thoughts and standards and principles rather than a contest of who can borrow the most money, who can raise the most money, who is the wealthiest candidate that we can possibly find.

So, at some point there will be additional efforts. Perhaps there will be an effort to say that we should limit, just simply, how much we spend. Why worry that the issue framed clearly that amount that would we agree is sufficient to allow adequate public debate? How can the Republican Party, as an institution with the traditions that they have stood for, object approach that perhaps needs to be the same for both sides? Are they bankrupt of ideas, that they have to supplement the lack of ideas with huge sums of money? I am not willing to make that charge at all. But I think that those who would say spending limits are not fair even if they are evenly applied are admitting that, given the same amount of money, that their positions are not as strong as the other side. I think that that some day we, perhaps, will have an opportunity to vote again on this question.

Perhaps the issue can be framed so that we can really see how people feel by having the issue framed clearly that we are spending too much and that there should be a way of restricting the amount that is spent. Just a clear question: Are we willing to say that we will all spend less? That is an approach that needs to be brought before the Senate so we can say that there is a clear-cut question of whether all of us are willing to join together and to say that all of us, equally, will be limited by the amount that we spend in Federal elections. I think perhaps that that is an approach that needs to be brought before the Senate so we can say that there is a clear-cut question of whether all of us, equally, will be limited by the amount that we spend in Federal elections. I think perhaps that is an approach that should be brought before the Senate so we can say that there is a clear-cut question of whether all of us, equally, will be limited by the amount that we spend in Federal elections.

We have heard arguments here about how this is an effort to abolish the Republican Party. We have heard arguments about how we do not like public financing. I think the clear reading of the bill answers all of those questions clearly and precisely with the restrictions on public financing, with the across-the-board applicability of the spending limitations, with the way that PAC's are treated. All of this clearly adds up to equal treatment.

The other side would try, I think, to make the argument that we on this side are engaged in an effort to give ourselves an unfair advantage. How can you argue that when the document that will apply to Democrats is the same document that will apply to Republicans? The same words, the same limitations, the same spending limitations, the same individual contributions? The way we report the funds are identical for the
Republicans and the Democrats. Yet the facts are that there has been no point as to why this bill is not appropriate range from the fact that we are trying to eliminate the Republican Party in the South, trying to eliminate the national party. I would like very much to see how can that argument be made when we treat Republicans exactly as we treat Democrats with regard to every provision that is contained in this legislation. I do not like it.

Going back and reviewing what we have all been through, every one of us has been elected to this body or to the House of Representatives, all of us have been through that same process and all of us, really, I think, dislike it. I do not know a lot of people that thoroughly enjoy raising money.

Oh, maybe there are a few. We have had some great fundraisers in this body. Some from my State were absolute masters of the ability of raising funds and I respect their ability. But I daresay that if we took a poll of Members of this body and of the House of Representatives, all of us have been through that same process and not all of us, really, I think, dislike it. I do not know a lot of people that thoroughly enjoy raising money.

But there is the least enjoyable function of your office? the answer would be: "Raising money."

I do not like calling up some of my friends and saying send me $1,000. I about fainted when they told me I had to start calling people and tell them to start sending $10,000. Where you say you need $10,000 to send to the DSC, DCCC, or XYZ, man, that really takes gall. It is really frightening to have to start calling people for $10,000. Members of the Congress have had to start clubs. We have to form breakfast committees. We have to ask people to pay to have breakfast with us. Is that not ridiculous? What does that have to do with having the qualifications of being a Member of the U.S. Senate?

But that is how far we have come, what I am heading out in the hustings to do something about it. The point that I make is that the candidate would be willing to pay to have a better fundraiser. The candidate would be willing to pay to have a better fundraiser, to get a better fundraiser, to become a better fundraiser.

I dare say that some would say well, I have to keep it going because of political advantage, perhaps. But I dare say that everybody would like to see it changed, that everybody would like to be able to stand up and honestly say that elections are contests of ideas, and not contests of balance sheets, that the real challenge is to show that a candidate can be a better Senator instead of just being a better fundraiser. I know that the previous speaker is aware of the number of witnesses provide their testimony. There is more discussion about what committee do you serve on? How can it help?

Then I have to tell my staff that I am heading out in the hustings to spend my recess when I really would like to spend it doing a lot of other things. There are a lot of things I would like to do in life other than raise money. But I have to say: well, plan the first week in March, I have to be in California and be on the circuit with tincup in my hand because I have to start raising money for my 1992 election—1992? I have to raise money in 1988 so I can have the right to run for public office in 1992? I am having to give up weekends, and weeks, like everybody—I am certainly not implying that I am any different. I am running into my colleagues in airports carrying their tincups to the same cities that I have just left. Everybody has to do it if you are going to survive in the process.

The point that I make is that the process is broken and that we should not have to raise the millions of dollars that somebody has decided is necessary to serve in the United States Senate or the hundreds of thousands, of even millions, to serve in the U.S. House of Representatives.

We have corrected the problem in Presidential elections and it is working well. Why is it that one party refuses to allow the Congress of the United States to make the same corrections that apply to you? You know, the Congress seems very good at making laws that affect somebody else. We are very good at applying labor standards or working conditions that apply to other people and exempt ourselves. In essence, that is what we have done with campaign finance reform. We have made it apply to Presidential candidates but we have not made it apply to Members of the body.

I honestly believe that not a single Member of this distinguished body, Republican or Democrat, really like what we have, really think that it is a good system.

And unless and until we adopt a campaign reform bill such as contained in S. 2 it will continue to be an auction, that it truly is an auction.

And unless and until we adopt a campaign reform bill such as contained in S. 2 it will continue to be an auction, it will continue to be a process whereby we run around airports in the country with tincups in our hand, when no one thinks the process is working but a majority is not willing to do something about it.

I would hope that the effort that we have made that the majority leader has made that so many have participated in at ridiculous hours does not go unnoticed by the American people, that there is an effort in this Chamber to improve the system, that while it may not be successful tomorrow, it eventually will be, a venture that we can look to the qualifications of serving in political office as having eliminated being the richest or having raised the most money as one of the qualifications.

I notice that my distinguished colleague from the State of Colorado who has contributed so much and given so much of his time is here once again to engage in presenting the case to the American people and I will be pleased to stand ready to go ahead and yield the floor at this time.

The PRESIDING OFFICIAL (Mr. Fowler). The Senator from Colorado is recognized.

Mr. WIRTH. I thank you, Mr. President.

I thank the distinguished Senator from Louisiana and associate myself with his remarks and also associate myself with the experience that he has had in many long years in the House of Representatives and now as a new Member of the U.S. Senate.

Those of us who have been through the battles over campaign finance laws are much more aware than ever before of the extraordinary need to change this system to reform the way in which we finance campaigns.

I think it is fair to say that this is a new issue by any means. At times during the debate here in the last few days, the impression was created that people are startled to discover this issue again is current, and are surprised that it has not been possible to work out an acceptable compromise of issues in contention.

This issue has been around for a long time, and this issue, I suppose, has been somewhat polarized for a long time as well.

I know that the previous speaker is as aware as I am of the number of pieces of legislation in which we have tried to change the current system of financing campaigns since 1975 when I think the first piece of campaign finance reform legislation stimulated by the Watergate revelations was considered in the House. Every 2 years thereafter, at least once such bill has been introduced in an effort to find the formula which would remedy the growing problems in our system of campaign financing and secure sufficient support to pass both Houses of the Congress and gain enactment into law.

Today we find ourselves in something of a partial crescendo of this issue. We have been debating this issue in the Senate for just over a year. I think it has been shown repeatedly that a majority of Senators favors a system of public financing tied to voluntary spending limits. More than half of the Members of this body want to change the system.

The bill with which we started a year ago was reported by the Rules Committee after the committee heard numerous witnesses provide their views on the subject of campaign finance. That legislation was carefully constructed to be fair to all, and yet the committee reported to halt this appalling, staggering spiral of growing campaign costs, to limit the role of moneyed special interest groups in
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campaigns in order to regain the public's trust, and to reengage ourselves in the process of the governmental rather than just to engage ourselves in the processes of begging for money.

Most distressingly, I think the public perceives that the corrosive influence of money has been the central component of the political process and, overall, skewed the outcome toward the benefit of those who possess a little more influence because they happen to have a lot more money.

That kind of perception by the public certainly is not something with which we could be comfortable. That kind of public perception—plainly, simply, starkly—is a cancer on our precious democratic political process. This cancer will not extinguish our political system overnight. Its deadly work often is barely visible. But the perception that influence in our democratic institutions is for sale slowly, surely will eat away the confidence and trust in our democratic system because the eventual result of failing to get rid of this cancer is that the people's trust in their Government is going to erode to an even greater extent.

That is a pretty frightening prospect and that is pretty strong language, but is not hyperbole. Our system of campaign finance is an integral ingredient of the stability of our political process, which in turn is such a critical, irreplaceable component of our way of life and the guarantor of freedom which is its bedrock.

Let us look at S. 2, S. 2, the legislation before us, was devised as an antidote to the poison of eroding trust in our system caused by the effects or the perceived effects of special interest money on both the political process and its outcome.

S. 2 admirably addresses the most distressing sources of the public cynicism that surrounds campaigns and candidates. Here is the key statement, our distinguished colleague from Oklahoma, Senator Boren, and our majority leader, and all other Senators who have contributed to the version of S. 2 now before the Senate, are certainly to be commended, and I am proud to associate myself with them in support of this legislation and to be a cosponsor of this measure, as I have been a cosponsor of many of the measures addressing political campaign financing. The key sponsors, to be commended, and I am proud to associate myself with them in support of this legislation and to be a cosponsor of this measure.

The principal objection raised by opponents when S. 2 first was taken to the floor by the majority leader was to the public financing. It is with regard to the cacophony of screams and yells about this legislation. The opponents claim that they could not support using tax dollars for Senate campaigns, even if those funds were voluntarily allocated for that purpose by candidates themselves. Even if those funds were voluntarily allocated, there were screams that this was a "raid on the Treasury." They claimed they could not support using tax dollars for Senate campaigns—even if those funds were voluntarily allocated for that purpose by the taxpayers themselves. The opponents also said we could not afford the projected cost, even though it amounted to less than .25 cents per U.S. citizen per year.

We did the best we could in trying to rebut the arguments that this was an enormous "raid on the Treasury." But when their opposition remained, in good faith we tried to figure out a way to take care of their concerns. As a result, a compromise proposal was put forward which utilized a matching fund system, and cut back on more than half the cost of the public financing provisions. The new proposal also cut the maximum proportion of the total 6-year election cycle costs that candidates could receive in public funds to less than 25 percent. Were we willing to compromise? Were we willing to move?

Of course, we were. We did our best to try to assemble a different kind of construct. It was our hope that a least some of those who initially had been opposed would meet halfway those Senators who were supporting S. 2.

Was our effort to compromise successful? No. It was at that point—in the summer of last year—that the Senate Republican conference, in a step that many thought was ill-advised and ill-considered, took a firm stand against any legislation containing any provision for campaign spending limits or any public financing. They rejected any kind of limits on campaign spending and rejected any kind of public financing. This is especially interesting when one realizes that every Republican Presidential candidate but one since the Presidential campaign finance system was reformed prior to the 1976 elections has accepted that reformed system's spending limits and public financing, as have all the Democratic candidates in the same period.

In addition to rejecting the fundamentals of true reform, this action took a large and ominous step toward turning what should be a nonpartisan determination to address a nonpartisan problem, and turned it into a mean partisan construct. It was at that point that the majority leaders and other leaders of participating candidates when such expenditures are made during the primary period and by providing a compensating payment to participating candidates when such expenditures are made during the general election period.

This addresses the debilitating, often nasty, and unaccountable, independent expenditures which pay for ads telling you and your neighbor how to vote, often in a negative fashion by castigating a candidate rather than by indicating support of a candidate.

Continuing with the central features of this legislation: It will establish the voluntary spending limits if a constitutional amendment is ratified, permitting the establishment of such mandatory limits. At that time the provisions for the matching grants, which are intended to serve as incentives for candidates to abide by the voluntary limits, will disappear. In
other words, there is a trigger in this. If and when we pass a constitutional amendment to bypass the Buckley versus Valeo problems, to permit the Congress to establish spending limits for congressional campaigns, then all of the incentives that I have described above will disappear.

The proposal in front of us also contains a full offset for even its very slight potential cost by ending the current preferential mailing rates for political parties. Earlier I noted that opponents have claimed this is a raid on the Treasury. Nonsense. The Republican Party, the Democratic Party, State parties, and other parties are already receiving support from the public. Let us not fool ourselves and suggest that is not there. Republican Party mailings and Democratic Party mailings already receive a preferential mailing rate. What we are doing is transferring that to candidates who agree to abide by spending limits. And we actually save the Treasury a little money in the process. Quite possibly we can see out of this a reduction in the Federal budget deficit if all candidates live within the spending limits for their States.

Those who sponsored this legislation have tried in every way that we know how to move meaningful campaign finance reform legislation on a nonpartisan basis. We have reached out, as I have described, again and again to our colleagues on the other side of the aisle to try to forge a way in which we can break this terrible upward spiral of campaign spending. Yet, our opponents, as far as I can acknowledge the problem, they do not mind watching the American political system be put up for sale to the highest bidder, or they are just unwilling to invest the energy and effort to devise a method of controlling campaign spending.

I do not think campaign spending is uncontrollable by any means. I firmly believe that the American public, a large majority of the American public, rejects the conclusion that we are helpless. It rejects that conclusion and wants us to move on this issue.

If some of the opponents of spending limits fail to see or fail to acknowledge the problem, they ought to take off their blinders and open their eyes. If they believe it is proper and acceptable for public offices in this land to be sold to the highest bidder and for those who occupy the offices to be beholden to moneyed special interests, then they should admit it and face their constituents. I think we know what their constituents would say in response.

I hope the opponents are not simply too preoccupied to devise a means they find acceptable for controlling spending in congressional elections. We are here to this body to face and resolve national problems and this is one of the most distressing.

Let us face it and call it what it is. Whether out of ignorance or laziness or conscious determination, those who are the "principal opponents" of spending limits effectively are proponents of absolutely unlimited, sky-high spending in campaigns.

The illogic of all this is something to behold. I cannot believe that there is not some amount of money that each Senate candidate would agree is too much to spend on a Senate campaign in his or her State. Even conservative analysts looking at this situation are saying that campaign spending is getting out of control. I want to refer to the February, 1987 issue of Conservative Digest which, as the distinguished Presiding Officer knows, we all spend a good deal of time reading and analyzing very carefully. The Conservative Digest reported that, according to current projections, when the new class of Senate freshmen—of which the distinguished Presiding Officer and I are privileged to be a member—runs for reelection in 1992, the average Senate campaign will cost $9 million. The average campaign will cost $9 million. Based on the Conservative Digest's number, in the 1992 election a Senator seeking reelection from an average State will have to raise $125,000 every month, $28,000 a week, $4,000 every day, Saturdays and Sundays and holidays included, and $171 every hour of every day, 24 hours a day, 7 days a week for 6 straight years—$9 million for the average Senate campaign for 1992.

Is there no limit that we ought to place on this? Of course there is. The idea that we should allow this kind of thing to continue is outrageous.

While I think S. 2 incorporates a fair, desirable methodology for determining what State-by-State spending limits should be, I am prepared to agree that there surely can be different levels. The fact that opinion concerning what level spending limits should be set, and what methodology should be used to set them, I cannot believe that willing people could not negotiate acceptable compromises on levels and methodologies.

But, Mr. President, one cannot negotiate anything if one side will not even come to the table. By rejecting on grounds of principle even the concept of spending limits, the Republicans have ended the conversation before it begins.

When I first ran for the House of Representatives in 1974, I spent approximately $135,000 and won and that was well above average for that year. In just a 12-year period of time that $135,000 escalated to $600,000 to $700,000. This is for just one House district, albeit a contested, highly competitive House district. It is nothing that justifies a fourfold increase in campaign spending there in 12 years. Then, looking at the election of 1986 in which a number of us were fortunate to win, I see nothing that justifies the amounts of money spent in those campaigns also were out of control.

Further, the amount of time we candidates spent fund-raising escalated dramatically. Unavoidably, we had less and less time to engage in discussions with our constituents. Is that good for the process? I think not. Many of us got to know major fundraisers and their telephone numbers a lot better than just about any other people or any interest groups involved in the campaign spending cycle rolled on: I spend dollars, so you spend dollars, so I spend more dollars, so you spend more dollars. Everybody tries to neutralize everybody else, and what is the result? It is the result I was not, I was not looking for. It is fatigue on the part of the voters who watch this process unfold.

Our system of financing campaigns certainly is fouled up. It needs change. It needs to be done. I hope that my colleagues would recognize the need to break into the never-ending spiral of costs to make the change that we and the American people know ought to be made. That is our responsibility, not to sit back, not to do nothing, not to allow ourselves to be paralyzed by this, but to change things for the better.

Mr. President, I see that our next distinguished speaker is here, the junior Senator from the State of Montana, with whom I had the privilege of entering the House in 1974, whose experience is not dissimilar to that of so many of us who arrived in that time of reform and change when there was a wonderful spirit that in fact the legislature could make a difference. And we did make a difference on a lot of issues.

Before us is another issue in which a lot of difference still has to be made. That difference can be made if we pass the legislation in front of us.

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

The PRESIDING OFFICER. The Senator from Montana, Mr. Baucus.

Mr. BAUCUS. Mr. President, I want to thank the Senator from Colorado for his statement. He, frankly, touched on a point which I think is
very critical and central to this issue. In 1974, a good number of us across the country ran for the U.S. Congress in large part because of the aftermath of the Watergate era. Some of us felt that it was our time to contribute what we could to public service and I, along with others, particularly the Senator from Colorado, ran for Congress that year.

I must say that when I arrived in Washington, DC, I was overwhelmed by the degree of dedication to public service, and the degree which the group that got elected—I must, to some degree, except myself from this category—want to serve their country.

I will never forget that we stood around in a room, all of us who got elected in 1974, and each of us went around the room and explained for 3 minutes why he or she ran for Congress that he or she intended to do. The Senator from Colorado was in that room and I could think of lots of Members in the House now, most of them are still there, some have run for the Senate, some have run for Governor, some are Governors. But when each went around the room, I was awestruck by the degree to which each of these people, wonderfully intelligent people, was going to help make this a better place.

I had assumed, like a lot of the American public, that Members of Congress were a bunch of buffoons. They do not know very much. They go to cocktail parties and they do not even care. Does that make any sense? Money is supposed to be contribution; it is very complicated. I do not profess to have the precise answer. But it is clear, to me anyway, that we spend much more and more of our time, unfortunately, on the periphery of what is really going on in this country and really not trying to use our time to solve some very basic problems. I am not saying we do not spend money. But at best we do not spend the gut core of our time on the very basic problems facing this country—education, international trade, energy, the Middle East, Central America, you name it. We basically, in the number of hours we spend in the debate on the floor of the Senate, the number of hours we spend in committees, tend to spend time on peripheral little amendment snipets on the edges that do not really have much to do with what is going on.

I think that is in large part due to increases in the communications technology in our country and the world experience. We know so much about everything; we would like to think we do. But the fact is we have so much access to so much information and the groups therefore have tremendous access to us. It is very complicated. It is not very good nor is it very constructive.

Many speakers have indicated how much money has increased over the years, the cost of the campaigns have increased. I do not have the precise figures from my campaigns, but I know that since I first ran for Congress in 1974 and for reelection in 1976 and the U.S. Senate in 1978 and re-election in 1984, that the cost of my campaign has gone up, I would guess, three or fourfold just in those few years. But the national figures are even more alarming. Mr. President, as you well know. I think House races since 1972 increased in cost six times and Senate races on the average have increased seven times—a sevenfold increase since 1972. And the cost of campaigns is therefore increasing at not only a rate much faster than the Consumer Price Index or the cost of living in America, but at drastically faster rate.

What does all this mean? First, it means that there is a great proliferation of political action committees, called PAC's. In 1972, I think there were 4,000 political action committees. Now there are about 4,000 political action committees today. That is about a tenfold increase since 1972. Why? Because basically most of us in the political arena are aware that when we work hard, do our very best to try to earn enough money to get enough contributions so that we can get reelected. The same with the challengers. They will go out and get as much money as they possibly can and spend it on the TV ads or whatever because they want to get elected. Most of them, by far, for the right reasons. They want to serve America.

The First Amendment says there is no limit on expenditures so we go ahead and we work as hard as we possibly can. Well, that has had several effects in my experience. One is that it takes so much time away from our job. Mr. President, in my experience around here, we spend more and more of our time, unfortunately, on the periphery of what is really going on in this country and really not trying to use our time to solve some very basic problems. I am not saying we do not solve many, but at best we do not spend the gut core of our time on the very basic problems facing this country—education, international trade, the Middle East, Central America, you name it. We basically, in the number of hours we spend in the debate on the floor of the Senate, the number of hours we spend in committees, tend to spend time on peripheral little amendment snipets on the edges that do not really have much to do with what is going on.

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voters for a lot of reasons. One is that they just smell a problem brewing. I personally believe that where there is an excess of money there is a scandal brewing. That is what happened in Watergate. There were a lot of reasons for Watergate, but I strongly believe that one of the causes of Watergate was all of that money. The Nicholls committee found that that election at that time just had so much money. And when there is so much money, that money is going to go someplace and somebody is going to do something with all that money. And when there is an excess of money, there is a scandal brewing.

Mr. President, as sure as I am standing here, I know that if the present system is not checked, if the present system continues, if there is exponential increases and the number of dollars continues to grow in congressional campaigns, mark my words, there is going to be a campaign finance scandal in America. Unfortunately, it may take the scandal to finally get the voters’ attention enough to put enough pressure on our recalcitrant Members of the Senate who are delaying an filibustering this legislation to get some result. I hope that is not the case, but as I grow older and get a couple of gray hairs and start looking at life, sometimes little bits of optimism and realism creeps in once in a while about human nature. And there is that part of human nature that you have to get hit in the head with a sledgehammer before you realize something is happening, something is going on. I hope that is not the problem we face here. I hope we do not have to have a crisis. But all of this money that is slushing around in the political system I think is going to cause a scandal. I do not know when it is going to happen, but, if left unchecked, I guarantee you it is going to happen and here we have an opportunity to try to prevent it and do something about it.

There is another effect of all of this money. It discourages good candidates from running for office.

Not too long ago, 3 or 4 years ago, I helped the Senator from Maine, Senator MITCHELL, who was then chairman of the Senate Campaign Committee, to try to recruit good candidates to run for the Senate. I made quite a few phone calls scouring various States to see who might be interested in running for the Senate. It was a very interesting experience for a lot of reasons, but one that particularly strikes me is that we found a lot of super people, a lot of good people, who wanted to run for the U.S. Senate because they had a burning desire to try to help make this a better country. They were all charged up and excited. I can think of several right now. We talked about it. Sure, there were a couple of little questions they asked. Sometimes their families were not sure they wanted to move to Washington. We talked about that for a while, the pluses and minuses of family life in Washington, DC.

Then we would get to how much this campaign is going to cost. Well, first, they know those large numbers were a problem, but more often than not the reason that most of them just did not decide to run for office compared with how much the other side automatically had, because we all know the campaign committee on the other side of the aisle maxes out so early and has all those additional dollars. It has a whole treasury there of dollars for the candidate on the other side in the Republican Party. The Democratic challengers began to recognize this and they started to back off and were not sure they wanted to run for the U.S. Senate.

There is that foreboding, awesome task of trying to raise money in the face of all that money on the other side. That not only caused them to back off a little bit, Mr. President, but I can tell you among all the candidates I talked to, I would guess about 70 or 80 percent of them said no. They are not going to run. And it is because of money.

These are people who are not millionaires. These are people who are not wealthy. They are average American citizens who would like to serve their country. And most of these people decided not to run for office, not to run for the U.S. Senate because of all the money that the other side is automatically going to have; how hard it was going to be for them to raise the money.

Mr. President, I do not think that is a system this country wants. More important, I think that that is a system that tends to undermine the basis fiber of our country. There is a small part of this, too, in that this bill that is before us also limits the wealthiest persons from going into their personal wealth to run for office. I think any American should run for the U.S. Senate who wants to, whether he is a millionaire or not. But I also think a millionaire should not be able to buy an election, and that is a trend that is happening in the Congress. That is, the wealthiest people can dip into their own personal treasuries and run for office but other people who are not so wealthy, sure, they can dip into theirs. Their treasuries tend to be bills or mortgage payments or house payments or tuition payments for their kids. They do not have the personal wealth to run for office and that is not right.

This country is based on equality. It is one of the basic principles in our country and it seems to me if we truly believe it we have to have a system where anybody who wants to run has a pretty good chance to run for public office. That is not the case today because money greatly tilts the present system away from average Americans with just average incomes.

Mr. President, there is another peril not to effect of this present system that we have and that is for other people to talk. That is the wealthiest contributors, that is the largest contributors to a Senate campaign, have more access than do other Americans who have not the means and therefore have not contributed as much to a particular Senate candidate.

I know all of us here think, well, no, we are insulated from all of that; that we Members of the Senate, after we are elected, we treat everybody equally. But we all know that as members we assiduously attempt to insulate ourselves from contributors that there is a tendency for Members of the Senate, for Members of the House, for anyone who receives a major political contribution to at least provide more access to that person than to someone else. That is to listen more readily to try to determine what that person’s political point of view is rather than that of somebody else who has not contributed at all to the campaign.

Obviously that is a generalization. Obviously there are many exceptions to that generalization but I think it is a generalization that, fairly, has a lot of truth to it.

It is even more pernicious, from my point of view, for those Senators from the largest, most populous States. Why do I say that? Because it is easy for me as a Senator from Montana, a thinly populated State, to give absolutely equal access to all people in my State. It is much easier for me than it is for a Senator from a much more populous State.

I have a policy in my office where I take all telephone calls from my State of Montana unscreened. I do not care who it is. I have instructions to my personal secretary, anybody calling from Montana I personally take that call if it is from Montana, regardless of who it is and what the issue is. If it is a Montana call, I take the call.

Sometimes I am not in my office, I am at a meeting, but I have firm instructions to my secretary: Make sure I return that call that day. I can do that more easily than can a Senator from a more populous State because there are not so many folks in my State. Montana is not California with a population of what, 25 million, approximately? Other States have populations over 10 million. But I can do that in Montana and I can do that in my office.

I have another policy. When any group of Montanans comes to Washington, DC, I see them. If it is someone from Montana, if they want to see me, I see that person.
When it comes to both those telephone calls and the folks from my State who want to visit me, it makes no different whether they contribute to my campaign or not. I do not ask. They do not tell me. It is irrelevant. But it is true, because I come from a thinly populated State: States like Idaho, Montana, Wyoming, some of the Western, more thinly populated State. If I were a Senator from a more populated State, I could not do that. It is logistically impossible. I cannot do it.

Therefore, I suspect there would be a tendency for me, as there might be for Senators from more populous States, to try to decide, "Who are you going to see and who are you not going to see? What telephone calls are you going to take and which ones not take?" I am not going to predict or guess as to how Senators make those decisions but I will say I suspect that the larger the contributor is, the more dollars a caller has contributed to a campaign, the more likely it is that person is going to be listened to by a U.S. Senator or the more likely it is that that person from that State who walks in that office is going to be seen by the Senator. I just suspect that is probably the case and it is another effect of money. Money does talk.

Most Americans do not hear the amount of money that some of the major contributors have; again it is a very pernicious effect, I think, that affects America.

Mr. President, this bill before us today. We have to limit the number of dollars in campaigns today. We have to limit the expenditures, is just that. It is a bill that sets limits. I think that is good for a couple of reasons.

No. 1, as we all know, there is just too much money in the political system today. We have to limit the number of dollars in campaigns today. It is clear that with the increases, unless something happens, for all the reasons that I and others mentioned, there are going to be some real problems here.

But there is another reason and that other reason is a symbolic reason. It is a psychological reason. I think too many of us in America since World War II, because our country has been such a wealthy country, have been a little bit undisciplined. It is sort of: live now and pay later. We are an instant consumption society compared with some other countries. We tend, compared with other countries, to be more of an instant gratification society. We think in the short term more than some other peoples. That is true both in private and public life. As individuals we tend in that direction and certainly we know that the Federal budget deficits we have today in our country indicate that is true in public life.

The U.S. Government has borrowed so much money, with no limits on the deficits that face us, that we are now in a position where we are going to have to worry about paying the piper at a very near date.

So it is important to set limits, not only to limit campaign spending but also to begin to set the psychological tone; to begin to set an example; to begin to put in place the symbolism of limits.

You know, most of us are parents. We know when we raise kids there are basic principles that are right and make sense. Basically it is love and limits. We love our children but we also know we have to set some limits on our children's activities and behavior. And we also know that kids want those limits. It is a question of where you place the limits. Sometimes they are placed too strictly, sometimes too loosely. But limits are necessary.

I think that, if we are members of the Senate should begin to limit ourselves; begin to limit the number of dollars that we spend on campaigns. We should begin to show to the American people that we, Senators, cannot only set limits but we can set limits on ourselves. That is, self-discipline.

(At this point Mr. Daschle assumed the chair.)

Mr. BAUCUS. Ultimately it is self-discipline. I think, that determines the worth of a person. It is the degree of self-discipline and it is how that self-discipline is arrived at and how it is exercised.

Mr. President, these limits, I think, would be very, very helpful.

Some criticize this bill for various reasons, and I am not going to stand here and say this is the perfect bill, because it is not. Nothing is perfect. But it is certainly a major effort to try to do something to limit the system. Some criticize the bill because they say, "Oh, there is all this public financing; it is taxpayers' dollars. Not only does that increase the budget deficit, it is kind of an entitlement program," et cetera.

Mr. President, those charges are inaccurate. It is true that earlier versions of this bill contain large components of public financing. But the bill before us does not. The bill before us has very, very limited public financing money in it that is available to candidates; very minimal. It only triggers in when an opponent goes over limits that are prescribed in the bill; only then. In those instances, it is very, very nominal. This is essentially a bill to set limits on the number of dollars raised and the number of dollars spent in Senate campaigns. That is what this bill is about. And only when those limits are exceeded, certain limits are exceeded by an opponent, in that instance are there some public dollars. I guarantee you, they are very minimal.

In fact, this bill is essentially self-financing, too. That is the number of dollars that this bill will cost will be offset by the elimination of the check-off system that is presently on the income tax forms. That loses dollars from the Treasury. That checkoff will be eliminated. Those dollars, therefore, the taxpayers would pay, will go into the Treasury and that essentially finances the minimal amount of public financing here.

But there is a red herring, when people talk about public financing. The chief critical core thrust of this bill is limits on expenditures. Mr. President, we have got to set those limits. We have to. There are a lot of reasons that were discussed all night, last— yesterday, the day before. We know the reasons. I am not going to reiterate them here now. But this bill is essentially a bill to set those limits.

I think it is important to do so for an additional reason I have not mentioned and that is that our system government is a bit different than the systems in some other countries. I am referring here to the parliamentary governments. One reason that campaigns are less expensive in Great Britain is because they do not have a constitutional form of government with separate coequal branches of government. Rather, they have a parliamentary system where the government elected is also the government that is in power in the executive branch. More importantly, they have shorter campaign periods because the parties that is in power will call an election sometime within 5 years after it is elected but nobody knows when that election date is going to be until parliament dissolves and then the election is usually 3 or 4 weeks later. The length of that period shortens campaigns. They are only about 6 weeks. Whereas the America they are getting close to 6 years.

Certainly in Presidential campaigns, and Senate and House races, virtually they are on a 2-year basis. Six weeks is a lot shorter. That effectively limits the number of dollars in political campaigns.

The only point I am making here is we do not have that system. We have an extended, open-ended system and, as a consequence, all the incentives are to spend more dollars, not only because the campaign period is that much longer, but for all the other reasons I mentioned earlier.

In addition to that, Mr. President, we have a weak party structure. That is another reason why candidates have to go out and raise so much money and spend so much money. Both parties, Republican Party and the Democratic Party, is it a fact of the matter, let us be candid and honest about it, have less and less power over the
years. That is the party itself has less power to raise money as a party for the candidate over the years. A party also has less organizational power to get out these dollars over the years, and spending more and more parties in name; less and less parties in fact. It is just a fact of life.

This is due to increases in communications technology, instant access to any information by anyone for anyone. The party structure and all institutions, that is parties, tend to lose their authority because, again, that is part of that instant access to information.

So parties are breaking down. I think they are, and I think everybody will agree that they are. That means that the candidates have to go out more on their own, set up their own organizations, raise their own dollars, and spend their dollars basically in the way each candidate sees fit. That is also happening in America today.

The question then is why we have to set some limits. I do not say set limits so we can strengthen parties. That may be a consequence of limits. I doubt that would actually be a consequence of limits.

What I am saying is due to the system we have, a nonparliamentary system, the advances in technologies, the first amendment right to spend money any way you want to or say anything you want to—say—for all these reasons and because a candidate will do anything to get elected, incumbent or challenger, therefore, raise more dollars to get the message out, all incentives in the wrong direction, more money, less time for the job, discourages good candidates from running. All those lush dollars increase a scandal waiting to happen.

There are all these reasons.

Mr. President, I strongly urge us to take a step. There is a popular slogan, give peace a chance. I am suggesting let us give campaign and campaign finance reform a chance.

President Harry Truman once said if something does not work try something else, if that does not work, then try something else again.

I am not saying it is a perfect bill. Of course it is not perfect, but it is a very honest, legitimate, good faith attempt to try to get a handle on the problem to try to set some limits on these excesses. That is all this bill is.

I suggest we try it and, yes, we are going to modify it as we move along as we experience little twists and turns, but we should not shy away from it because we do not know if it is perfect. We should try it.

I suggest that if we do try it we are going to be surprised and kind of like it. We do not have to go around all these receptions raising money, do not have to spend all this time and money grubbing. The American votes are going to like the psychological message it is sending. Senators are trying to exercise self-discipline and therefore Congress can exercise self-discipline which I think is necessary as we move into the eighties and nineties and next century.

Therefore, modify it as we go along. Mr. President, I am about to yield the floor here and just urge us to give it a whack and give it a try and take it from there.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, good morning.

Yesterday about the same time I was recognized and my colleagues who have spoken prior to my returning this morning obviously have been filled with wisdom and insight as we continue to address the issue of S. 2.

I wholeheartedly agree that reform is needed, but I do not agree that the proposal before us as conceived is by any means the one to do that.

As I have stated before this body, S. 2 would only address part of the problem. Why do we only have to address part of the problem when the problem is far larger than that?

In my opinion, it would create new and more serious problems than those that we currently face. To begin with much of the emphasis of this debate seems to be preoccupied with the large sums of dollars raised by senatorial candidates in order to run a campaign. That is important but our preoccupation is with that point.

Let us try and set the record straight as to just where the money goes in order to run a campaign and why it is necessary for candidates to raise contributions in the first place.

Millions and millions of dollars that go to campaign committees each election do not end up in the candidate's pocket. The money is spent on the media throughout this country, the newspapers, the brochures and the like. Candidates do not determine the price of a full-page ad or a 30-second television advertisement. The media does that. Those large sums of money that are criticized are the amounts that candidates must raise in order to pay the media bills.

One could ask the question, why do candidates have to advertise in the first place?

Various countries have campaign limitation, times in which they can expend funds and limitations on specific type medias that can be utilized. We do not have that situation in this country. Perhaps we should.

But clearly the traditional answer up until this point is that paid advertising is one of the principal ways to get to tell our side of the story.

Now, it may be true and I think we have all had experiences with this, that the news media does attempt to objectively inform the public about the candidates, about the positions, but we have all experienced the occasion when the media chooses to take a side, to promote a favored candidate or a political position. The only alternative for a candidate then is to purchase advertising if he or she wants to be very sure of getting his or her point of view across.

We have all had examples. In our State recently a newspaper ran a series of stories and editorials, panning our Congressmen for missing votes. They also ran a series against the senior Senator from our State on an offhand comment that he could earn more money on Wall Street.

The question is, What options do these elected officials have to defend themselves if they so choose against what they might view as an attempt to degrade their character?

Mr. Baucus, assumed the chair.)

Mr. MURKOWSKI. So I ask you, Mr. President, what options are available when the media decides to get involved in a campaign?

Are there no controls on how much campaigning they can do editorially for or against a candidate and rightfully so our Constitution gives them that privilege.

What we can do as candidates is to buy space to put in our side of the story.

So advertising truly during a campaign is the principal option available to us to correct attacks on our record that we choose to respond to.

Now, I could not agree more than the campaign process has gotten out of hand. Of course, we should put limits on it. However, just capping the dollars contributed and spent as S. 2 would do, as I indicated in my opening remarks, only addresses part of the problem.

Monetary contributions from political action committees, PAC's as they have fondly become to be known as, as well as contributions from individual contributors are, of course, an important part of the successful campaign.

And this is an area that is a bit sensitive with our colleagues on the other side of the aisle. So too are the so-called soft money contributions. The latter category consists of the voluntary efforts that certain organizations can deliver to a candidate, and I emphasize the word "certain" organizations.

Under current law, there are limits on PAC's and individual campaign contributions to a candidate as there certainly should be.

Additionally, candidates and contributors file public record reports on the amount of funds received or contributed.

But what about soft money, should that not also be included in the money limits placed on a campaign? Say, a
labor union turns out volunteers, it
not many who are the so-called benefactors in the fact that are awaiting to be called on a job, it
turns out these volunteers to make telephone calls for a candidate or an advocacy group, again individually vol-
unteers, to address specific mailers, or other organizations goes out and provides door-to-door canvassers.

These usually are not reported as politi-
cal contributions, yet, they very clearly have a monetary value. And the mone-
ty value is what it would cost the candidate that does not have that capabili-
ty to go out and hire people to do that job.

One could quickly calculate what it
would cost to figure a minimum wage
applicable to hundreds of these volun-
tees for a few months before a cam-
paign. Well, we all know, Mr. Presi-
dent, that that value far exceeds a $5,000 check from the PAC or for that matter dozens of PAC checks.

What about what is referred to as
the third party assistance? This is as-
sisted already, and other organizations also included in the general category or reference of soft money. Perhaps a teacher's union, the NEA, mails its
members and runs newspaper ads against one candidate and for another. Should not that dollar value be com-
cputed in the campaign list for a can-
date? This Senator thinks it should, and unfortunately the bill before us, S. 2, is unamendable. It cannot accom-
modate those of us who are concerned
legitimately with these areas of third party assistance, soft money. The Sen-
ator from Alaska would be happy to see the PAC contributions reduced or eliminated, but in doing so, let us bal-
ance the equation.

Why are we so reluctant on the other side to address the issue of soft money, the issue of third party assistance?

Let us stand up to what we have ini-
tiated here in the area of campaign reform and address these concerns too.

Mr. President, what if say the Sierra Club does a fundraising mailing for a
certain candidate and asks members to
send contributions to the candidate? Should not the cost of the original mailing be required to be within the con-
tribution limits set for PAC's or in-
dividuals and added to the total spend-
ing a candidate can make? Should these third parties be allowed to retain tax
exemption and to be able to use special mailing rates for their mail-
ings?

What about the contributions from
the news media itself? Should we try
and structure some way of placing a dollar value on the obvious campaign-
ing that a media outlet conducts during a campaign?

Further, Mr. President, one would
ask whether our Constitution intends
that we place limits on freedom of
speech for individuals and groups of
individuals or PAC's that print exempt news-
paper publishers? We are not here to debate the constitutional merits. I am
simply laying before my colleagues the inconsistencies that are in existence as we
consider campaign reform under S. 2 and any other legislation. The reasons
obviously are free as they should be to
express their opinions but indeed their opinions have political conse-
quences, political consequences that oftentimes are the differences between
one candidate successfully achieving an election and another in defeat.

I do not know about this. But these are certainly legitimate questions that
deserve more consideration by the
American public.

S. 2, as I have stated time and time
again, ignores the soft money contrib-
tions, and I do not believe that is the best approach. We have heard
time and time again that the Republi-
cans are the ones that are holding up
campaign reform, we are the ones fighting S. 2. And I have heard the suggestion, which to me is incredible,
that the reasons may be because we have some sort of advantage by being able to raise more money than our Democratic colleagues. Well, I would
ask the question: If this assertion were true, would not the Republicans be in
the majority in the House and the Senate? They certainly are not. In
other words, might it be that the soft money advantage enjoyed by our Democratic colleagues offers more of
an advantage than the dollars that the Republicans raise? I am not going to
attempt to answer that question in
any more detail, Mr. President, but I
think it is obvious that the allegation
has no foundation. And as I say, if it
did, why one would assume that Repub-
licans would control both the House and the Senate, and we know, of
course, that is not the case.

Is it not possible that if S. 2 were to
restrict the Republican ability to raise
money, while at the same time do
nothing to restrict the other side's ability to get their volunteers, that ult-
imately we could see ourselves drift-
ing into a one-party system? I think
after observing the activities of the last several days, my colleagues would
agree that that certainly would not
provide a stimulating atmosphere in
this body such as we have seen.

Is this really something that Amer-
ica wants? The Soviets, of course, have
a one-party system. We have seen its
activities, its actions, we have seen its
application on the public. They are
citizens, true. They get to vote. They
vote for the one person the party selec-
teds. Of course, we do not want to
emulate that system. I would urge my
colleagues that we send S. 2 back to
the drafter and give them a chance to
work for amendments, and that we restruc-
ture it. We can do collectively what we
want to do to address the inconsisten-
ties in S. 2. If we agree to set limits on
campaigning, fine. But let us at the
same time form an open door of Government for all the money that is spent, all the
money that is involved, both the hard
cash and the soft money.

I have not mentioned yet all the rea-
sons that one can challenge the bill.
Mr. President, I have not even given
to my feeling that the bill would initi-
ate a system for using as its base tax-
payers' money to fund Senate elec-
tions. I abhor basically that concept. I
think it is the worst possible direction
that citizens and general can take.

We are experiencing the use of
public funds for the Chief Executive race of our Presidents. But is it appro-
priate that Americans want to fund
their broad base elected representa-
tives that way? We all live with this
growing bureaucracy. We are all re-
sponsible to the difficulties that it has
because of its size to respond to the
individual citizen. We all have many,
many friends in Government, dedicat-
ted people, people that we respect.
We know that they work hard, but
generally because of the nature of the beast Government agencies get a C or
C-minus, or maybe a B-minus, and a
few of them get a B for really meeting,
the minds of the people, the needs of
the people. I do not think we have
dwell on that. That just happens to be
the nature of the political system.
It generally equates to a level of both
capability and general can take.

Let us look up and recognize another
reality we have in this country. That
is associated with an example of public perception of whether we think the
IRS, say, is being fair or unfair, or
other agencies taking too long to pro-
cess applications, or whatever. There
is very little that the citizen can do about that. We get our letters. We
have our case work. Oftentimes, the
average person, if he becomes discour-
aged, form an opinion of Government.

We, of course, are happy to help those
constituents who come directly to us.

The point I am making, Mr. Presi-
dent, is we in the legislative branch
still have a handle over the executive
branch because we control their
budget. That is how basically each
Member of this body is able to effec-
tively go into an agency and say, "Hey,
I have a request from a constituent
that hasn't been answered, or there
was an answer but it did not really ad-
dress the concerns of the problem." It
did not indicate how to make the par-
ticular constituent response a positive
response. It was more structured that
on the one hand or the other hand
with an additional filing, an additional
application, your request will be con-
sidered.

Well, Mr. President, we have that le-
verage going into that agency be-
cause we do control the executive
branch budget. And they do respond
to us. And that gives us leverage. I
think my colleagues would agree a good deal of our work is similar to that of an ombudsman. Of course, that is the person that helps individuals solve problems through the Federal bureaucracy. I am concerned about what might happen if tax money were used to fund these congressional races because whether it is cash or soft money, candidates of both parties have to appeal to the public to charge or theory special interest groups to get support. That means really the candidates have to be responsive to the people who help elect them. If we change this process and allow instead the Government to take the money from public in the form the taxes and then distribute to candidates running for office, one has to ask what kind of elected officials we would eventually end up with and one would have to ask to whom would they be responsible? Then where would the private citizen go to turn for help?

Mr. President, I think these are some shortcomings. Think about the inequity as well of placing an arbitrary limit on Senate races based on the population of a State. Alaska is the 49th State in population. Yet, we are 2½ times the size of Texas, we are one-fifth the size of the United States.  

But as I was coming down, I thought, isn't it great to live in this country? You know, we had a major dispute here last evening. This is the crucible of democracy. And we have had the minority delay and thwart for the time being the desires of the majority to pass legislation which some of us feel is an important thing. But let me first start off, Mr. President, by saying on the way down here today, and I might say it is due to the kindness of my friends that I was not here during the early hours of the morning of last evening because I caught a cold. So I have been given the opportunity to have a full night's sleep and see if I can get over my cold.

Mr. STEVENS addressed the Chair. The PRESIDING OFFICER. The senior Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I am pleased to be here this morning to follow my good friend, my longtime friend from home, Senator Muskie--I know he has stated a position with regard to this bill as it affects those of us who try to campaign in a State that is one-fifth the size of the United States as compared to those who campaign, say, in Rhode Island and have the same limits and the same rules apply to all Senators from all States as far as expenditures are concerned.

It is an interesting thing. But let me start off, Mr. President, by saying on the way down here today, and I might say it is due to the kindness of my friends that I was not here during the early hours of the morning of last evening because I caught a cold. So I have been given the opportunity to have a full night's sleep and see if I can get over my cold.

As I was coming down, I thought, isn't it great to live in this country? You know, we had a major dispute here last evening. This is the crucible of democracy. And we have had the minority delay and thwart for the time being the desires of the majority to pass legislation which some national lobbying organizations say ought to be passed.

We had an arrest, but my good friend from Oregon did not go to jail. He is not going to jail, and we do not have any lasting animosity as a result of this dispute.

We have just witnessed, in my opinion, the fullest sense of why we are commemorating the 200th anniversary of our Constitution, the right to free speech and the full exercise of the right of free debate. I think that is something to celebrate as far as our country is concerned.

So I am delighted to have a chance to be among the last of a series of speakers on this side to try to explain to the Senate and to the country why we are opposed to this bill.

Mr. President, I would like to go back to the time during the 99th Congress that my good friend from Oklahoma, Senator Boren, and my other dear friend, former Senator Goldwater presented us with the Boren-Goldwater bill. Senator Boren had first introduced the bill. Senator Goldwater joined him later with some changes. That bill was referred by a vote on the floor of the Senate to the Rules Committee for study, and the Rules Committee did study it.

By the time we came to the 100th Congress, however, it was clear that the majority had decided there was one important feature of the new bill that would have to be added that was not originally part of the Goldwater-Boren bill, and that is the expenditure limitations that are in this bill.

I have a letter--I do not know if my good friend, Mr. Canfield, this morning can find that letter—but I have a letter from Senator Goldwater, who is no longer a Member of the Senate but is my great friend of many years, who told me in the letter that he could not support S. 2. In his letter, Senator Goldwater says that he is not in favor of the public financing and he is not in favor of this bill as it is presented to the Senate. If he were here he would be part of the group of Senators who are opposing the passage of this bill.

Our new Senator from Kentucky, Senator McConnell, presented a statement here last week that I listened to. It is a very interesting statement. I think the Senate as a whole ought to go back and read it. He presented a statement which shows that every Presidential candidate since 1976 through his campaign committee has been charged with violating the existing Presidential limits on spending under the campaign financing law as it applies to Presidential candidates. Now just think of that. Every single one.

In the campaigns since that time, one out of every four dollars that has been contributed to a Presidential candidate has been paid to lawyers and accountants. In the 1980 race alone, $21.4 million of the taxpayers' money was spent on compliance with the limitations under the law. Now I am just thinking, as I listened to the statement, was every major candidate has been cited for a violation of the law and has been attacked in the press. So I think it is my duty as an interested and legiti--I should say--as an interested member who has been a long time on the Committee to discuss what is this bill is doing.

So I am delighted to have the chance to be among the last of a series of speakers on this side to try to explain to the Senate and to the country why we are opposed to this bill.

Mr. President, a winning Presidential candidate makes a profit, but it has been a substantial profit. The profits exceeded $21.4 million. Of course, Senator Goldwater was not in the Boren-Goldwater bill. Senator Goldwater presented a statement which shows that we had the minority delay and thwart for the time being the desires of the majority to pass legislation which some national lobbying organizations say ought to be passed.

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What happens to the volunteers in our campaigns? If we had this type of law applied to the Senate campaigns, if we had the same experience under the current spending-limit system, we would find some way to do it; just like that. We would prohibit bundling. Let me tell you again, Senate Republicans have offered to support and we will unanimously support the most far-reaching reform bill in history, today, if we could get it to a vote. Our proposal would reduce costs. It would lower PAC contributions to the same level as the individual—lower them from $5,000 to $1,000.

We would reduce the impact of million-dollar spending by giving an individual, whose opponent refuses to say that he will limit his personal contribution to his campaign to less than $250,000, the right to raise additional money.

It would prohibit a person who loaned his or her campaign money from personal or family sources from recovering those loans via contributions after the election from other parties.

It would for the first time impose controls on soft money—money that is the money that is out there in the political process that is being spent by corporations, by labor unions, by nonprofit organizations that is not currently subject to disclosure. Soft money is coming to the public how much they are receiving from these various funds themselves.

We would tighten controls on party and special interest campaign activities by requiring full financial disclosure of contributions by national party committees and by candidate draft committees of all receipts, independent expenditures and soft money activity.

Now let me point out that is a tough area, too. Soft money is coming in from a variety of sources. It is corporate money. It is tax deductible money. Soft money is contributed by labor unions under the plans of the labor unions directly to the party committees and national committees and is being spent in campaigns. We know that. It is being spent in get out the vote campaigns and telephone banks that have an impact on our campaigns, and it is being spent to hire people who travel from State to State as campaign consultants.

It is not disclosed. Some of these so-called consultants get paid every year from these funds. They do not have to disclose where they get their contributions or how much money they are making.

These are millions and millions and millions of dollars, totally undisclosed, and we want to disclose it. We want to find a way to limit independent expenditures and we believe we can effectively limit them, again by requiring disclosure.

We would prohibit bundling. Let me tell you, my friends, that is further than Boren and Goldwater sought to go last year when the Senate, rather than take up the bill and pass it as we should have, referred the bill to com-
While I think that it is appropriate
for the rules committee to study it and give it back to the
Senate, that is not what I was trying to do.

We ought to commend Senator Boren.
He was the one that started this. As I said before, he comes from a
different type of State than mine. They have a lot of people who have
money in the industry. As a result of that, I think we have to do it.

Our State has a lot of money in the State coffers but we have very few individuals that have
that kind of money. And they have almost an anti-PAC feeling in Oklahoma.

I think many of us thought, original­ly, that S. 2 was anti-PAC. We under­
stand it better now and while we think that Senator Boren brought a good idea to the Senate last Congress, Sena­
tor Goldwater was right to join him, S. 2 is not what they originally sought to
do. They sought to bring into parity the contributions between PAC's and inde­
pendents.

Mr. President, the efforts of Senate Republicans are not properly viewed, I think, in the Nation's press. We are
viewed now as being against reform. While I think that it is appropriate that the first amendment gives people
the right to say that; as a practical matter, it is wrong. We have proposed
and we are prepared to support, as I said, the most far-reaching campaign
reform bill that has been presented to the Senate to date. However we are
unwilling to deal with limitations on expenditures or Federal financing and I
think it is time for us to give full study to the implications of the re­
search that was done by the Senator from Kentucky.

We are now going into another cam­
aign year. We have already had charges on both sides, and even within each party, of abuses of the Federal Presidential campaign system. That system so far has cost the taxpayers a third of a billion dollars for just one office over the last three elections. This system has turned into a sham. Mr. President, as I said, every Member of the House and Senate, would exceed that cost in
every election. But the principal prob­
lem about it would be that we would create another monster, another
group of people hired by the taxpayer­
ers—and incidentally, the cost to the taxpayers does not include the cost of
hiring all those people who are doing the review of expenditures of candi­
dates in the Presidential system—but we will not have to have a whole
new group of people to survey compliance with this campaign expenditure limi­
tations law and compliance with the voluntary limits. I too, believe in trying to reduce expenditures in cam­
paigns. But I just wonder how big
the people really think I am.

If I am campaigning in a State one­fifth the size of the United States, can I really create a system that would to­
tally maintain the limits that I volun­
tarily accept if this bill passed? Could I say that, for sure? Could I come before the Senate and say that none of the people who campaigned in my behalf spent money that I did not know about and that I had not faithfully
reported within that voluntary limit? I think that we should not go in and take a position that we don't want to be in.

We are saying: Let us try to correct the evils that people have identi­
cified.

Mr. President, I sat through those hearings on the Rules Committee. The proposals that we were presenting in this compromise and that we were willing to support, were supported by Republicans and Democrats. There was not one person that came before us that did not say: Control soft money. That the worst thing in cam­
paigns today, is soft money. They all said control soft money.

How do my friends on the other side propose to control soft money under S. 2? It is just not sufficient. I do think that the impact of the Federal Presi­
dential system is something that we should look at. I will tell you this: If
my party retains control of the Senate in this election and I am chairman of the Rules Committee next year, which
I assuredly would be, we will look at the Presidential system. We will have a new oversight hearings that will be in
depth, and we will find out why that system is not working.

I think it is a smear on our society and our capability to enact laws that are fair, to be able to show that every Presidential candidate since 1976 has had his campaign committee criticized for a violation of this law that we thought was so good and so helpful for the Presidential process.

Again, I ask every Member of the Senate to understand the difference between candidates for the Senate and the Presidency. We are subject to strict ethics rules. I am a former chair­man of the Ethics Committee, and I can tell you there was no小伙伴 of a defeated candidate who would present to the Ethics Committee an allegation of violation by the successful one, notwithstanding the fact that had he won, he would have had the same thing presented against him. Why should we create such a system? Why can we not really reform the system?

I had a discussion last evening with a distinguished member of the press at a social function. It was an off-the­
record discussion, but I tried to explain to him the whole background of our feeling about campaign expenditure limitations. In the first place, the limita­tions always have some way of shifting the burden of the current costs of campaigns somewhere else. If S. 2 were passed, the effect would be, in my State, that the money would have to come from somewhere. It would probably come from the party people or from independent expenditures. It
would come from the soft money trail into Alaska. Currently, I can tell you, my knowledge has never been involved in the soft money trail.

That has not reached out to our State, to my knowledge. It may have through the party campaign activities because of the national system that is developing. But I am sure that we have a full disclosure system. I would much prefer to be able to tell my cam­
paign volunteers, and those we are compelled to hire, that we have to report every dollar we spend and every dollar we know someone has received and someone has spent, and we are re­quired to maintain one campaign ac­
count.

That is much better. When I first came here we dealt with cash. You only had to report contributions of over $5,000. Anything under $5,000 was not even reported. And the whole concept of reform at that time was to bring disclosure and accountability; to let the public know how they were spending their money. In feel I can now go further than that and find ways to bring a greater public support of our system.

I would hope that Members would look at some of the comments that we have made in our minority views to the Rules Committee report. The fact that we would oppose this bill should have come as no surprise to anyone in the Senate. The bill came out of the Rules Committee on a strictly partisan vote. All members of the majority party voted for it. All members of the minority party voted against it.

There has been some surprise ex­
pressed here in recent days that we have been so adamact in our opposi­tion when S. 2 came to the floor. It has not been changed sufficiently to meet any of the objections that were raised in the minority report. We have not been able to have a single vote on a single amendment to try and change this bill in the direction of the proposals that we have made. When the country is so narrowly divided in terms of political concepts, when we have a four-vote difference that would change control of the Senate, it would seem to me that the public as a whole and the majority ought to look at some of the comments we made as to why we were going to oppose this bill. I would call your attention to the record discussion by every Senator. On page 63 we set forth total­ly the outline of our objections. We delivered the opinion of the Depart­
ment of Justice. We dealt at length with PAC contributions and the
congressional record.
CONNELL, concerning Presidential elections. Again, I would urge anyone who wonders why are we opposing this bill to go back and look at the report that was filed almost a year ago now by the minority of the Rules Committee which was unanimously opposed to the bill as it came to the floor.

There is no question that this bill is the wrong solution to the wrong problem offered at the wrong time.

(At this point, Mr. BINGHAM assumed the chair.)

Mr. STEVENS. It attempts to address the problem that is perceived, actually two problems, and they are the role of political action committees and the amount of money that is required expended to be elected as a Member of Congress. As I said before, those are not the problems that need to be solved. The problem that needs to be solved is the change in our over-all national economy and a system that constantly increases to cost of campaigns. Let me point out, for instance, I talked about my cost of flying home.

That is because we are in session prior to elections until at least October. My opponent takes a leave of absence from his or her job probably sometime in August and is at home every single day campaigning.

One of the solutions that was suggested was that we mandate that the Congress not be in session from October on in an election year, that we find some way to prohibit any kind of campaigning for congressional office until the 1st of August. Think what that would mean? We would go home and we would not have to run back and forth every weekend. I might say sometimes I have gone home twice in 1 week to Alaska, 12 hours each way, door to door, and have come back to be in the Senate for an important vote and be home again. Why? Because I had to go to a debate that was lined up by some group that knew my opponent was available and did not see why I could not come up on Tuesday night or be there on Thursday morning, and I either go or I see the reports of an empty rocking chair on the television screen because I could not come to meet my opponent in debate.

Why should not we look at this system and say let us get out of here at the end of July?

Did you know there is a law on the books today that says that Congress should not sit after July 31? Some people who came before us had a lot more intelligence about such matters than we do, but at that time it took them all that time to get home.

My predecessors would have gone across the country by train, gotten on a boat, and gone up to Seattle and gotten on a train, gone again up to Fairbanks. They would have been there about a week or 10 days after they left here. They could not go home twice in 1 week. Those are the changes in our national system, our society, in our economy that have taken place. My immediate predecessor, Senator Bartlett, used to travel home by boat. I have never had that luxury on this side of the Senate. We can look at this system and change it. If I did not have to go home all those times, I would not be spending that money and would not have to collect money from somewhere else to have to pay the costs because that is political transportation, it is not official business.

When you get into the further concepts, let us think of television. We ought to think anew about television.

Every suggestion I have heard so far about television is that we should require broadcasters to give us campaign time, and they say, look, it is out of Europe, that is what happens.

The governments over there own those systems. My little stations in Alaska would not survive if every candidate who has voted for the Alaska Statehood was entitled to time in an election year free. They barely survive now.

We have, incidentally, the best system of communication in the country, if not the world. We have cities of less than 100,000 that have two, three, or four competing media: three television stations, two or three AM, two or three FM, one public station in that market. If we said each one of you have to give political candidates free time, those guys would literally head for the hills and decide to turn into trappers again. They would not be able to survive.

So I have opposed that. I opposed the concept of telling the media they have to give time to candidates. But we all know we have to be on those media if we are going to take our message to the people, and particularly I did not experience it when I was a challenger. I am one of the few people in the Senate who had two unsuccessful Senate races. I know what it means not to be elected after a tough campaign.

Challengers have a harder time raising money, and we know that. If we are honest about it, we know it. On the other hand, they have some advantages, as I said, because I remember when I was campaigning against my late friend, Senator Gruening, he was back here and I was there, and I took time off from my office, as I said, and I was all over the State. I did not need as much money as he did. I did not spend as much. As a matter of fact, I could not collect as much.

But as a practical matter, what we ought to look at now is how to find a way to buy time nationally. We could find a way, and I would add that it is just like the Government buying a fleet of cars. When we buy a fleet of cars for the Government, we get them at a price no one could get individually because we buy so many. Why should we not buy time through some system that is organized and it is available to each of us? If our campaign committees put up the money, we can have our share of it, but buy it on the guarantee that we have a basis rather than mandating by law that they have to give it to us free.

I think there are ways to get that and that is again why I suggested let us get a commission, get some people who have lived through this, get some people who have been finance chairmen, get some of the people from the special interest groups like Common Cause and see if we cannot look at this system and come up with some innovative changes with the full knowledge that probably by the turn of the century the system would have changed so much we have to have another commission to look at to see how technology is developing then. Technology is developing so fast that before we leave the Senate will have direct delivery of Senate television from satellites. I believe we will be able to have messages delivered from our television directly in the homes of the people. I believe we will be able to have a video screen here, and there on that side, and this will be the Republican side and Democratic side, and I can speak to the Senate from Anchorage or Point Barrow, and I could have my debate, have my rights and protect my rights through the use of the electronic media.

The Constitution says I will have to be here to vote and we will comply with that. We will have periods of voting, but we will have the concept former Senator Howard Baker talked about, about "being citizen legislators." We will be able to have two or three periods a year when we are here and the rest of the time we will be home and be citizens of our State and by part of our State and be more knowledgeable about the problems of our State. We try with the system we have now, to have a week every month to go home—and most of us do go home—and we are trying to improve our capability to keep up with our States, but I say, Mr. President, technology is evolving so quickly that we do not even know what the cost of that will be. I would be willing to believe that before I leave we will have systems like that.

Who would have thought when I first got here that you would have a system in the House where you put in a card and vote and they could tabulate the House vote immediately.

I remember sitting in the gallery of the House at the time the Alaska statehood bill passed in the 1960's and
Tokyo. We have some that are going York or Chicago all the way into the situation. Then what will we do with from Dulles all the way into the campaign limitations? We need to try to see if we can avoid to make this system respond to the terms of campaigning. The problems ready have them. We have a plane have extended range planes. We al­

committees that created these bills of the future are going to be great. not so far away.

us into the evils of the past and fails around here one of these days. That is a vote. We walk in here and all vote at the same time.

There will be a different concept around here one of these days. That is not so far away.

What I am saying is this bill, S. 2, tries to bring about reform by locking us into the evils of the past and fails to see the problems of the future in terms of campaigning. The problems of the future are going to be great. "Soft money", is easy to get in the State because most planes on the way to the Orient will stop somewhere in Alaska. Pretty soon we are going to have extended range planes. We al­read­

place now. I was on those conference committees that were in trouble.

Nothing about the political action com­

mittees, the role of special interests. At least a quarter of their income is from nonprofit corporations, far in excess of what we get paid to be Members of the Senate. They do not have to report their contributions and they do not have to report their sala­ries. And their "soft money". Why should someone who is running a non­profit corporation, which we allow to be created under our tax laws for the purpose of providing assistance to the needy, why should they be able to contribute and have it reported. It is just a simple matter of provok­

The concept of public financing that is to be used as the hammer for com­pliance to voluntary limits will not work. Why should we expect incom­

competence and opponents to be more faith­ful to the law than any other Presi­dential candidate since 1976? Why should we expect those who come to volunteer in elections that are State­wide or districtwide to have more abil­ity to comply with complex Federal laws than those who surround a Presi­dential candidate? That is the pre­sumption of this bill, that somehow or other we can find people that will not only live within voluntary limits but will protect the system not only through limits on contribu­tions but through limits on expenditures. Inci­dently, Mr. President, it has been the limits on expenditures that have gotten most of the Presidential candi­dates' committees in trouble.

I think some of us who participated in the 1979's reform that brought about political action committees ought to be more defensive of this system. The comments that have been made even this morning in the paper indicate that we have got to do some­thing about the political action com­mittees, the role of special interests. What do they want to do?

Do they want to go back and give control of campaign committees back to the few, to the wealthy of the coun­try? Would they rather see us go back to the point where we deal with cash? One Senator told me he is no longer here in Washington—of the time when he was a campaign chairman and he had the duty of carrying a briefcase full of money around the country so that the campaign committees' money could be distributed among the candi­dates that were not in Washington. And it was legal money, by the way. It sort of raises your hackles to even think about it, does it not?

How do you think soft money is dis­tributed today? How does the Senate think soft money gets to candidates today? In suitcases, in briefcases, in brown envelopes. It is totally unre­portable. The people who say it a little bit off the top for themselves, or maybe they skim a lot off the top and give what remains to candidates. We do not know. "Soft money" ex­penditures are executive, unreported, and GOP Senators are totally willing, because we oppose public financing and we oppose limits on expenditures, to address that problem immediately.

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Goldwater announced, in the last Congress, we announced again as early as April of last year, "we have two things we will not support: Federal financing of campaigns and limitations on expenditures." I call upon my friends on the other side of the aisle in the spirit of friendship—and they are my good friends—to look at this problem, and before we finish this business to once again come back to a compromise meeting.

We had an interminable meeting Mr. President. I would swear to the good Lord that since the beginning of this Congress I have been in more conversations in more rooms about campaign reform than I have in the previous 18 years in the Senate, despite the fact I served on both of the committees that tried to reform the campaign laws in the early seventies.

The work which we have undertaken ought not to be just forgotten because of this dispute and our failure to reach a compromise that the majority knew we were against, which were not in the original Boren bills, and were not in the Goldwater-Boren proposals. They were not in the Boren-Goldwater contributions that the majority said we needed to study last Congress.

Why should we lose momentum from all of the work we put in, the great work of our staff, night after night, week after week, month after month? We now know the complexities of these problems. We have solutions. I want to say that in these meetings with the negotiators, with the majority party, I feel they agreed on many of our points; I do not think there is a disagreement on soft money.

I do not believe there is a disagreement on the necessity to try to deal with the "appearance" of the PAC contribution problem. I do not think that the cooperation is worse. I think there is an appearance of something wrong because PAC's can give $5,000, individuals can only give $1,000.

Someone suggested that we raise the original contribution level to $5,000; others said no, let us reduce the PAC contribution down to $1,000. Originally our position as a party was raise the individual limit. The majority party said no, let us reduce that. That was the original Boren position; reduce PAC contributions. He wanted to reduce the $5,000 level to $3,000. We have now agreed in our conference to reduce it from $5,000 to $1,000. Did you know that? As a result of all these meetings we have a position where all Republicans would agree that we will reduce the PAC limits from $5,000 to $1,000. We also have an agreement on millionnaire spending.

We also have an agreement on "soft money." We have an agreement on party and special interest campaign activities, I think, pretty close anyway. We certainly have an agreement on independent expenditures and bundling. Bundling is in S. 2, as a matter of fact. We are so close, so close to a fantastic bill but we have vote after vote after vote on cloture.

I do not decry the leader for that. He has obviously united membership on his side saying why can we not get this bill passed? This is what we want. And the Constitution gives the minority the right to say you cannot pass this bill as long as it has these things in it. We just had our little skirmish over that. I think it is going to be fairly sure that this bill is not going to pass with those things in it. But why should not a bill pass that we all agree on?

Again last evening and this morning I was thinking about the fact that we had some real goals for the Alaska statehood legislation in the 1950's; we came to the Congress and asked for a transitional act for statehood. We asked for a limited statehood bill. We asked for a limited bill. The House when we got to the Senate we said please pass the bill as it passed in the House without change. The Senate did.

The following year when Alaska had representation in the House and Senate, we came to the Congress and asked for a transitional act for statehood that contained many of the things that were left out of the original statehood bill. In that regard, I wonder why is it so important that this bill, S. 2, have precisely every thing in it that the majority party wants including those things that are diametrically, just absolutely contrary to the Alaskan position of this side of the aisle?

As a matter of fact, if any political scientists were to weigh this bill, they would agree that 95 percent of the content of the bill is subject to immediate resolution between the parties in this body before the cloture vote tomorrow. If we take out Federal financing and take out campaign expenditures—both of which are used as means to try to achieve the goal of reform, I think we would be in agreement about the goal. We just disagree with those concepts and that they are necessary—just allow us to make one primary addition: that is the bipartisan commission to determine the whole or to look at the whole problem of campaign contributions as relates to Federal elections, and I think we could have a good bill.

Mr. CONRAD. Would the Senator yield for a question?

Mr. STEVENS. Yes.

Mr. CONRAD. Is the Senator's position that if soft money were included in S. 2, if there were a limitation, restrictions on reporting, that the Senator would then be willing to support overall spending limitations?

Mr. STEVENS. No, I am sorry to say. That is not our position. As I said before, it was my original position as well as others and in other words, I thought they needed an articulate spokesman for that position.

During this debate as I have now have come to the conclusion that they are right, because of what has happened in the Presidential elections spending limitations per se breed more problems than they solve.

Mr. CONRAD. Would the Senator further yield?

Mr. STEVENS. Yes.

Mr. CONRAD. I heard the Senator say earlier that he would not consider expenditure limitations until and unless soft money reporting, soft money restrictions were included. I have just come through an election campaign in which on the reporting side I was outspent 2 to 1. I spent about $900,000; my opponent spent about $2.3 million. I do not know on the soft money side. I spent about $100,000 and from what we can see my opponent probably spent three times as much on the soft money side as I did. So I think the Senator makes a very good case.

I think soft money disclosure ought to be included. I think there ought to be some limitations there too. But it seems to me that still will not get at the problem. We have a situation now in which people have been campaigning for a Senate seat with paid television advertisements in my State for 2 years. Something has gone terribly wrong. I do not see any way to deal with that problem. I would be interested to hear the Senator's response.

How do we deal with the problem of campaigns that have paid advertising going over a 2-year period? It is not a particular matter saying it is wrong on both sides. It wears out the electorate, that demeans the process, that leads to all kinds of shenanigans because when you have this money endlessly flooding into campaigns, people look for ways to spend it. You get off into negative campaigns that go beyond the bounds.

I would be interested. How do we deal with that set of problems if we do not have some overall limitation?
Mr. STEVENS. Let me say to my friend, Mr. President, if I led the Senator to believe that there was the potential for a deal to be made between expenditure limitations and soft money, I apologize for that.

I do not use a text as you know and if I have left that impression, I appreciate my friends correcting me because I did not intend to leave that impression. I believe that we can get controls on soft money and ought to be by virtue of disclosure.

As far as the basic question, however, the Senator has, I think, put his finger on the essence of the problem related to campaign expenditure reform.

As I said, I believe that the way to do that is to look at the changes in society that are driving increasing campaign expenditures, not to put limits on the amount of money that a candidate can spend to deal with those problems. Look at the problems themselves.

When I first ran for office, my campaign statewide cost me a little bit more than $30,000. The last campaign in the State cost me $1.3 million. I want you to know that in the original campaign I traveled to as many places, I saw as many people as I did in the last campaign. The differences primarily were based upon three things: electronic media, the cost of travel, and the cost of services that are associated with campaigning.

One of the things I have not mentioned, I say to my good friend, and I am sure he is aware of it, is the cost of polling and interpretation of polls to determine and get ready for the kind of negative advertising that has become so prevalent in our society. And that negative advertising, to a great extent, does not come from an opponent. It comes from independent groups that want to be involved and express their opinion as they have a right to do under our system in the political process. These single issue groups mostly in my State.

Now, I do not think we should limit their right to express themselves. I do not think we ought to find a way to contain the media time. I see no reason why there ought to be a race for the time on television. The only reason to tie up time 2 years in advance is to prevent the opponent from getting key time.

A simple answer to that would be, as far as I am concerned, that the networks could come in and change a time scheduled for one of the key programs and all of that time would be irrelevant to the viewers. I mean, the whole idea of spending the money to get the spots that are closest to the high density viewers is so you can get your message across.

I do think we ought to study the campaign financing system, as I said, to see whether or not we should place some time limits upon the Senate being in session. I am told—I have been here long enough now—that once you are in office for a period of time, you have an advantage of name identification. I can remember those days when I was a challenger and did not have name identification. But name identification is brought down to size if you are in office for a period of time coming from Washington. If I am operating out of my office in Anchorage or Fairbanks or Ketchikan or Juneau, there is a different concept. I still believe we ought to force Members of the Congress to leave this town to go home and start the campaign, start everybody at the same time.

Now, there is a lot of disagreement with that. You know, in the British system, as I understand it, you do not know when the election is going to take place. As soon as it is announced—and that does give the incumbent a little bit of an edge to pick the date—then everybody has so many days to initiate the campaign.

We cannot quite do that. We are not going to vary our system because ours is constitutionally established. But I think we could put an impediment on campaign expenditures before a date, and we could say that neither the House nor the Senate can be in session during that period except for an emergency. We can do major things.

Mr. Canfield reminds me that one of the major increases in the costs of campaigns is the requirement to have attorneys and accountants and computers to comply with existing law. The passage of S. 2 would not decrease that cost, it would increase that cost.

Mr. CONRAD. Will the Senator yield for a further question?

Mr. STEVENS. It just seems to this Senator that there is one way to deal with the myriad of problems that are associated with what is currently happening and that is to put some limitation on campaign expenditures.

Now, I would think the first one to say that we ought to include everything. The soft money ought to be up front. Every dollar ought to be reported, ought to be clearly indicated where that money is coming from, who the beneficiaries are, how it is being spent. That is reasonable and that is fair.

But after going through a campaign—an intense campaign, I might say—I have come to the conclusion that there is only one way to deal with all of the potential for abuse that is out there, and that is some way to restrict the overall amount of money that is being spent.

Now, some of you have made a powerful case for the differences between a State like Alaska and a State like Rhode Island. We have to take note of those differences here in the Senate in terms of the expenditures for each office. It would seem to me we could arrive at some way of determining caps based on differences that exist between States for travel cost and some of the other things.

But that is not to say, absent dealing with overall expenditure levels, how you prevent a 2-year-long campaign. And it is not going to end.

I have had colleagues tell me they are going to spend a lot of money on electronic media in the first year after election to the U.S. Senate. They are going to start with paid media the first year after their election to the U.S. Senate.

That is when I think the American people are really going to get fed up, when they see people start running paid advertising 5 years before their reelection.

If I might ask the Senator one other question. On the PAC question, you indicated there is no way to reduce funds to the same level that individuals can contribute. Is that not just going to lead to five times as many PAC's? I mean, will not the individual PAC's simply go out and form five PAC's so that they can give $5,000?

Mr. STEVENS. Well, Mr. President, PAC's have been proliferating. Originally, the PAC's were primarily associated with national concerns. I think PAC's will continue to proliferate because many have become focused upon local or narrowly defined concerns and I think that there is nothing wrong about that.

Personally, it is even more costly under the system to take those $10, $15, $20 contributions and run them through individual campaigns. It would be much easier to run them through a PAC and have a contribution that is constitutionally established. If anything they would be reported if they came from a PAC of any amount. They would not be reported if they came under $100 from individuals. So PAC's actually give us greater reportability.

But let me go back to your basic comment. The interesting thing about the last election, when we lost control on this side, was that each of you that defeated one of my former colleagues on this side spent less; not more, less. Spending per se did not bring about the result. As a matter of fact, those who say that you need more money to offset the value of incumbency ought to look at those results, because it is not necessarily so. The incumbency carries some burdens, and I have already mentioned them in terms of travel and absence. I could discuss some of those.

Mr. CONRAD. And record.

Mr. STEVENS. Yes. Well, a voting record is often a matter of image when it comes down to electronic media. When someone jumps up on the campaign and says, "Did you vote against S. 2022-A?" The first thing I
to comply with existing law, the whole problem of name identification, so many things are involved. We should see if we could suggest to the Congress, have suggested by the Commission, some changes in the system itself which would reduce the costs and in effect to be spent in a campaign of expenditure that you are seeking. Expenditure limitations in S. 2 that put a limitation on me to the same extent as you, because we have roughly the same population, wouldn't mean that I would necessarily miss about all the votes after July because I could not afford to campaign and be in the Senate at the same time.

Now, I say to you that I do not think a system is fair that is based on a "postage stamp concept" that the cost ought to be the same in Rhode Island or in the Rocky Mountains or Alaska, per voter, in dealing with such complex problems.

Mr. CONRAD. Would the Senator yield for a question on that point?

Mr. STEVENS. Yes.

Mr. CONRAD. I think you make a very good case, but are you further saying that under no circumstances would you accept the notion of some overall limit on campaign expenditures? That is, let us assume for a moment that we could work out a way of adjusting for the differential in costs because of the geographic vastness of your State, the distance from Washington, DC; that we could deal with those differences, that we could find a way to create a formula that would be fair as between the States. Would the Senator from Alaska then be opposed to some overall restriction on campaign expenditures so that your opponent and you would be restricted in some way to the amount of money that a campaign for the U.S. Senate from Alaska and the other States of the Union as well?

Mr. STEVENS. I would say to my friend, in terms of campaign expenditure limitations, based upon my feelings now after this debate that has gone on so long, the only limitation that I would accept today would be one that would say that if the candidates involved in the campaign agree to voluntarily establish and expenditure limitation for that campaign, then there would automatically be expenditure limitations placed upon the independents' expenditures and the soft money expenditures in that State and that candidate would pursue only the remedies available under our systems today if his opponent violated the voluntary agreement.

One of our candidates has asked his opponent to bring about the reducing of the Senate, to sit down and agree to a limit. The difference is that under current Federal law there is no protection for that limit. But it also does not go to the independent expenditure and soft money concept.

I think we could trigger a limitation and I think we ought to do it. I had one of the Members of the Senate on your side of the aisle in the last election come up to me and say: why are you encouraging this independent expenditure? You have been here for a long time. Since you have been here you have not received less than 70 percent of the vote. He said, why should you collect and spend that money?

I told him two things. One thing is in this business you never know, do you? You just never know. And if you are not ready for the uncertain things that might happen, then it would be possible for you to let a lot of people down because you had felt that you did not need to be ready. And, second, when it comes right down to it in a State like mine and yours, strangely enough, part of the electronic media's survivability comes about because every 6 years I bring in money to that State and spend it in the election process. Is not that strange? It is really true.

Expenditure limitations ought to be in response to the basic question of the increased costs of campaigning rather than an arbitrary decision as to what a person should spend to meet those costs.

I still had airplane tickets that cost me $300 roundtrip instead of well over $1,000; or if the costs of a 30-second spot on the television in my State was back to $18 instead of—I do not know, it is well over $3,000 now, I am sure, a 30-second spot; then I would say that the limitations that take us back to the good old days of not spending so much money might be in order.

I still urge you to look at the other side of the coin. Why can we not address the costs? Why cannot we have someone study the costs? Take, for instance, the costs of the computers and accountants and lawyers to file my FEC reports. Those are not just filed in an election year, by the way. They are filed every 6 months for 5 years and then they are filed quarterly and then weekly during elections. The costs of FEC compliance alone is more than my original campaign.

Mr. CONRAD. Would the Senator yield on that point?

Mr. STEVENS. Yes.

Mr. CONRAD. I think the Senator makes a good point. Again I think you make a very good point. I have heard the point made before that we ought to address the costs.

Senator McConnell has made this point. But it seems to me that our side makes a valid point as well and that is restriction on the overall level of campaign funding. For the life of me I do not know how we will end this money chase and how we will end campaigns
that are too long and how we will end
the increasingly negative nature of ca
paigns unless we have some overall
restriction on how much is spent. I
think it is laudable to talk about costs.
It makes good sense. We ought to do
that.
But absent some overall limit, the
money that you save by the costmea
sures will simply flow into some other
type of campaigning. It seems un
avoidable to me.
So we save money on the electronic
media; then the excess funds will
simply flow into some other type of cam
paigning; Negative newspaper ads
or negative some other type of cam
paign.

What concerns this Senator is the spiring cost of campaigns that leads
to what I see as abuse; that is negative
campaigning. campaigning that goes
on over much too long a period and as
a result wear out the electorate. They
wind up having less respect for every
one of us. The system involved in the process
So, again I would just ask the Sena
tor if we have cost savings but no over
all limit, do you not just push the ex
penditure over into some other area of cam
paigning?

Mr. STEVENS. Yes. I think you do.
But I would like us to think anew.
Maybe we ought to think back to the
Constitution.
The original Constitution says, "The Senate of the United States shall be
chosen by the legislature thereof for 6 years."Do you want to cut down the prob
lem? Let us repeal the 17th amend
ment which says we are elected public
ly. We could deal with costs and re
porting and the whole problem.
My State legislature, God save them,
I am sure, would return me and I feel
confident, since I was the majority
leader of the legislature at the time I
came here, that I probably would have
made it at that time, too.
Mr. CONRAD. Which House of the legis
lature would make this determina
tion?
Mr. STEVENS. At the time it was
"the legislature," however it was com
posed. We have one that is unicam
eral, you know.
All I am saying to you is we are hide
bound by the argument now. Take PAC's. I asked my good friend— and I do
want to again compliment Bill Can
field, who has been working with me
so hard on this. He came to the Rules Com
development Committee to request to work on
this issue because I knew what good
work he had done on the Ethics Com
mittee when I was chairman of that com
mittee.
One of the things I asked Bill Can
field to review was this: Who are PAC's? In the 1984 cycle, which was the last one we had available at the
time we did this, there were 4,000 reg
istered nonparty PAC's. Three thou
sand of them contributed to a congres
sional race, 369 made a $5,000 contribu
tion to at least one Senate candi
date. One hundred and seventeen—
only one hundred and seventeen, na
tionally— contributed $10,000, $5,000
each in the primary and general elec
tion.
Mr. CONRAD. What was that number? How many?
Mr. STEVENS. 117.
Mr. CONRAD. Out of the 4,000?
Mr. STEVENS. Thirty were labor,
twenty-seven were corporate PAC's,
twenty seven independent PAC's, nine
teen were connected with trade or
health, three were cooperative PAC's, one was a nonstock corporate PAC.
Incidentally, the record shows that
your side got 62.3 percent of all PAC
money in 1984 and we got the balance.
Now, all I am saying to you is, as I
read in the media about this debate we
are having, it is portrayed that I am
protecting those villainous things, those
terrible innovations on the political
scene, the PAC's. Who are they? I
think it is incumbent on people to say,
who are they?
They are people from all walks of
life that are contributing to an entity
that Congress created in 1972, in the
spirit of reform. In the spirit of reform
we said: Let us limit cash. You have to
report everything. You have to have
centralized accounting. And we are not
going to have any more of this money
coming in from these groups that
come in in the form of cash. It has to
come by check. They have to keep
records. They have to file reports,
where they got the money from and
what they gave it to. We have to file
reports where we got the money from
and where we spent it.
I still think that was reform. Now,
based on those reports we have organiza
tions that say: Do away with PAC's.
Mr. CONRAD. Will you yield on that
point?
Mr. STEVENS. Yes.
Mr. CONRAD. Let me give you an exam
ple from my campaign. I have
the record of contributions, not justified about the
focus on PAC's, frankly. Let me give
you an example from my campaign.
My opponent had a very close asso
liaction with a major corporation. That
 corporation had a PAC. They gave
him $5,000 in the primary, $5,000 in
the general election, which they have
the right to do. That was the limit,$10,000.
But aside from that, they gave him
$24,000 additionally, by officers of
the corporation writing out a check,
family members of the head of that
corporation writing out a check. So,
really he got 2 1/2 times as much from
individual contributions that were as
associated with that corporation as he
did from the PAC.
Really, I frankly do not see much
difference. The bottom line is the
overall amount of money that is
coming from an interest. I think that
is what concerns people. Whether it
comes from a PAC or whether it
comes from individual officers of the
organization or budgeting of members
that belong to some organization that
goes out and raises money, I do not see
the difference. That takes us back to
the central question: Is the bottom
line problem not the total amount of
money that is going into these cam
paigns on both sides? You speak quite
correctly. I think the cycle probably
did better among PAC's than your side,
frankly because of incumbency. In the House side we have a lot more incumbents.
Mr. STEVENS. On the contrary, be
tween 1980 and 1986 we had the ma
jority at the time. We still did worse
with respect to the amount of contri
butions which we received from PAC's
as opposed to the level of PAC support
which was given to your party.
Mr. STEVENS. I am just saying to you look at the House side and the Senate side
incumbents, we have many more in
cumbents on the House side. But total
dollars, I do not think anybody would
disagree, your side has a decided edge.
Mr. CONRAD. You have pointed out in
campaign cycle every Democratic candi
date spent $1 million less, every chal
lenger, spent $1 million less, or more,
than the person on your side.
Mr. STEVENS. That was just the
challengers. If you add it all up, I have
to say to my friend, you really did
spend more. In terms of PAC contribu
tions, as a matter of fact, in this cycle
now, for 1987, PAC contributions as I
understand it for the last year, for
1987, for the total year there were
$7,891,991 for Democratic candidates; $3,687,515 for—those are PAC contribu
tions to incumbent Senators. We are
candidates from the day after we are
elected, as a practical matter. That
is one of the differences of the system
because we have people who are col
lecting money to pay off debts or to
prepare for the next election. So we
are candidates for 6 years.
All I am saying is if you look at this
PAC contribution system, even in this
year, 1988, it is running roughly two to
one in terms of Democratic contribu
tions from PAC's versus Republicans.
I am not commenting upon the total.
I think part of it is the fact that some
people are more active earlier in cam
paigns than others. The real thing I
would like to talk about with regard to
PAC's is that they are a means to
meet the costs. PAC's exist as a reform
to the old system where, more and
more people were bringing more and
more cash into the campaign in a way
that was unreportable, unaccountable,
and left the impression of illegality.
Mr. CONRAD. Is not that the prob
lem? Have you not just put your finger
on what really is the problem? And
that is overall spending? This overall spending has skyrocketed.

Mr. CONRAD. It is overall costs. My friend keeps going to spending. I do not think people spend money unless they have costs.

As a matter of fact, I just asked Mr. Canfield if I think we can state there are more Senate candidates who end up in debt than end up with money in the bank, in terms of their campaigns, which shows the problem I think that we have. We have more Senate candidates under the system of Federal financing of Presidential campaigns having campaign debts from three elections back than we did before we started Federal financing of Presidential campaigns.

For years people used the Presidential campaign as the model, saying should we not do this? Should we not find some way to finance Senate campaigns and House campaigns from a checkoff, for instance?

As a matter of fact, I have to tell you when I was first in the Senate I almost succumbed to that idea myself because I thought that the Presidential system was working.

Now I think that the interesting thing about this year is that we can stand in the Senate today and challenge those of you who disagree with us and assert, and I think we can prove, that the Presidential financing system is not working. If what we tried to do was to correct the abuses of the system by providing taxpayer's checkoff money it has not worked. We have more candidates being accused and committees being accused of violating the law than before. We have more candidates ending up in debt than before. We have more people being accused of irregularities than before.

The system cannot be working, cannot be as good as we thought it was in view of the known facts.

Now my point to the Senator again, and I think we ought to go down to the point where we are both going to yield to someone else, my point to the Senator is I hope that in the time left between now and the cloture vote, we again go back and see if we cannot get a bill. I think we can get a bill, and I would urge it.

I see my good friend now from West Virginia. He always gives me a smile in the morning and I am delighted to see him here. I ask him, let us take all the subjects of the bill and I put two subjects up at the top. Expenditure limitations and Federal financing are not acceptable. You take two other concepts which you oppose. Let us take the remainder of the bill and work it out and I will give you a bill by tomorrow that would be the most historic Federal reform bill affecting campaigns that we would ever see workable. And it will include a provision by which we will appoint a commission to look at the whole system and see how can we bring about a reduction in cost. If we bring about a reduction in cost in the system of collecting the money to meet the costs would be met.

Mr. CONRAD. Mr. President, will the Senator yield for a final question and comment?

Mr. STEVENS. Yes.

Mr. CONRAD. Let me just say when the Senator says campaign limitation is off the table. That really is the nub of the disagreement.

Mr. STEVENS. That is right.

Mr. CONRAD. Because we on this side sincerely believe that you do not have campaign reform unless you have some overall limit.

My final question to the Senator would be on the question of the PAC's versus the individual contributions. What difference is it really when my opponent has gotten $10,000 from the company PAC and $24,000 from the company officers? What difference did it make whether it was in the form of individual contributions from the officers of the company?

Mr. STEVENS. The difference, as I understand it in the PAC's I am familiar with, is that the PAC's have a much broader base of contribution than the individual officers themselves.

My good friend Bob McNamara of Ford was the one who started the whole concept of executive contributions in the 1960 Presidential campaign when he urged members of his executive group at Ford Motor Co. to contribute to a particular Presidential campaign and be identified as such.

Incidentally, the existing limit of $1,000 makes no sense in view of the fact that PAC's can give $5,000. That is why we finally came to $1,000 as a proposed limit for future PAC contributions.

I enjoyed the visit with my good friend.

Mr. CONRAD. I enjoyed my visit with the Senator.

ORDER OF PROCEDURE

Mr. STEVENS. Mr. President, on another matter—and I propose to go into it at this time—2 O'clock—it is not out of order and I ask unanimous consent not to be out of order, I would like to make a statement concerning the trip that Senator D'Amato, Senator Rudman, and I made to the Persian Gulf and to present to the Senate a report that we have already conveyed to the chairman of the Appropriations Committee in early January.

THE PERSIAN GULF

Mr. STEVENS. Mr. President, last month Senators D'Amato, Rudman, and I traveled to the Persian Gulf region under the authority of the Committee on Appropriations. Our objective was to assess the cost of our national policy to provide U.S. naval escort for U.S. commercial flag shipping in the region.

I ask unanimous consent that the report from our delegation be printed for the Record after my statement.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 1.)

Mr. STEVENS. Mr. President, our delegation came away from the trip with a very clear understanding that the U.S. involvement in the Persian Gulf has lent a stabilizing influence to an otherwise volatile area. At an estimated cost of $450 million in fiscal year 1988, the price to pay for this stability is not insignificant. But, given the political and economic significance of this region of the world, our involvement is justified if not imperative, if we are to contribute meaningfully in the international balance.

The attendant risks to this policy cannot be understated. One need only recall the U.S.S. Stark incident last year to be reminded of the terrible price we have already paid in our endeavor to maintain international order in this volatile sector of the world.

Our delegation's assessments and findings are contained in the report, as well as our reservations. It remains troublesome that our policy is not only costly, but seemingly open-ended.

There are, however, indications that tensions in the gulf may be slackening somewhat. Recent reports over the past few weeks would suggest that our European allies are assuming a greater share of the risk and extending their protection in a more concerted manner. Concurrently, the U.S. Navy has begun to reassess the number and capability of ships required to carry out our policy. I ask that a February 18, 1988, Christian Science Monitor article and two articles from the February 21, 1988, New York Times be printed immediately following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 2.)

Mr. STEVENS. In the coming months, the Senate will be asked again to assess its measure of confidence in a continuation of this policy. In the interim we should remain mindful of the
progress which has been made to achieve some stability.

Our unqualified support of the United Nations endeavor to implement an international trade embargo on Iran would be a significant step in the effort to stabilize the situation in the region. Motivation of the moderate Arab States in the gulf to provide for their own defense and lay pressure on Iraq to suspend air strikes on Iranian shipping would equally serve to ease tensions.

In summary, Mr. President, we have found that our continued presence in the gulf serves a very valuable objective. Our assertion and protection of the political equation of the gulf, and our national waters serves notice to any beligerent state that the United States is prepared to protect its interests. Continued encouragement of our international partners to do the same in defense of this common principle assures that we need not "go it alone" in this task.

EXHIBIT 1
REPORT ON U.S. PRESENCE IN THE PERSIAN GULF—COST AND POLICY IMPLICATIONS

INTRODUCTION

The United States has had a naval presence in the Persian Gulf since World War II to protect its own interests, and those of its allies, in the region. Our interests include the maintenance of an unimpaired flow of oil through the gulf, continued security and stability of the relatively moderate states of the gulf and the surrounding region, and a limitation or reduction in the Soviet Union's influence in the region. These interests are likely to outlast any near-term changes in the political equation of the gulf, and our presence, therefore, is likely to continue. The delegation firmly believes that the United States cannot abandon its long-term commitment to the region without serious damage to our interests there and in other parts of the world. There are legitimate questions, however, about present policy in that it relates to operation of the U.S. Navy and the escorting of refagged Kuwaiti tankers, and how the evolution of that policy will affect the long-term interest of the United States and the gulf nations.

The January 3-11, 1988 trip to the Persian Gulf was undertaken based on the suggestion and under the authority of the chairman of the Committee on Appropriations, Senator John C. Stennis. The delegation included committee members Senators Ted Stevens, Alfonse M. D'Amato, and Warren Rudman, accompanied by Frank Sullivan, Keith Kennedy, and Sean O'Keefe, professional staff members of the committee and Capt. Francis Holian from the U.S. Navy. Five other members of the committee has planned to be part of the delegation, but were constrained by other commitments. The delegation visited Bahrain, Oman, Kuwait, Egypt, Israel, and Belgium, and held meetings with the officials listed below:

Itinerary—Bahrain
Shakil Isa bin Sulman al-Khalifa, Amir of Bahrain.
Shakil Mohammad bin Mubarak al-Khalifa, Minister of Foreign Affairs.
Tariq 'Abd al-Rahman Almoayed, Minister of Information.

Yousuf Ahmad al-Shirawi, Minister of Development and Industries.
The Honorable Sam H. Zakhem, U.S. Ambassador to Bahrain.
Rear Adm. M. Brooks, Commander, Joint Task Force, Middle East.
Rear Adm. Harold J. Bernsen, Commander, Middle East Force.
Cmdr. Steve Smith, Commanding Officer, U.S.S. Chandler.
Yusuf bin Ali bin Abdullah, Minister of State for Foreign Affairs.
Air Marshal Erik Bennett, Commander, Sultan of Oman's Air Force.
The Honorable G. Cranwell Montgomery, U.S. Ambassador to Oman.
Kuwait
Saud Mohammed al-Osaimi, Minister of State for Foreign Affairs.
Shahik Ali Khalifa al-Atibhi al-Sabah, Minister of Oil.
The Honorable W. Nathaniel Howell, U.S. Ambassador to Kuwait.
Egypt
Field Marshal Muhammad Abdel Halim Abu Ghazala, Deputy Prime Minister and Minister of Defense and War Production.
Israel
Yitzhak Shamir, Prime Minister.
Shimon Peres, Vice Prime Minister and Foreign Minister.
Yitzhak Rabin, Minister of Defense.
Belgium
Lord Peter Carrington, Secretary General of NATO.
Marcello Guidi, Deputy Secretary General of NATO.
Mack Mattinney, NATO Assistant Secretary General, Defense Support.
The Honorable Alton Keel, U.S. Ambassador to NATO.
Gen. John Oalin, Supreme Allied Commander, NATO.
U.S. NAVAL ESCORT PROCEDURES

Current conditions

Tasks with the responsibility to protect U.S. flag shipping in the gulf, the U.S. Navy evaluated the level of conflict in the region to be an extension of the Iran-Iraq war which had previously been confined to land engagements north of the Persian Gulf. During 1987, a total of 182 ship attacks were recorded. The number of instigators are divided almost equally between Iran and Iraq. The U.S. Navy notes a pattern of Iranian attacks against commercial shipping of various international origin in direct response to Iranian air strikes against Israeli shipping.

U.S. convoy tactic

Based on the seemingly indiscriminate targeting of commercial shipping by the Iranians, the U.S. Navy elected to escort U.S.S. flag vessels in the gulf by convoy. This procedure calls for alignment of commercial and military vessels in a column for transit from the Gulf of Oman, through the Strait of Hormuz, north through the Persian Gulf to within 50 miles of Kuwaiti ports. For the 11 refagged Kuwaiti tankers, the Government of Kuwait agreed to bear responsibility for protection for 50 miles from port of embarkation or destination in Kuwait.

The convoy tactic extends to all U.S. flag ships. Thus far, the only other U.S. flag shipping in the region has been vessels chartered or owned by the U.S. Government carrying cargo under contract with the Military Sealift Command. By circumstance, other commercial shipping in the region have benefited from the convoy procedures by joining the column formation. But U.S. Navy officials in the region assert that not more than two or three foreign flag carriers "go it alone" to the column for each convoy mission.

Through December 1987, the U.S. Navy convoy movement of 23 commercial vessels and a total of 56 ships since July 1987. Other than the Bridgeton mine strike incident which occurred on the first convoy in July, there have been no other incidents of attack on commercial vessels escorted by the U.S. Navy.

Iranian mine-laying operations also appear to have taken a downturn since the seizure of a mine-laying vessel last fall. A senior U.S. naval officer in the region viewed the absence of mine incidents to be an Iranian attempt to "bore us to death." U.S. Navy officials in the region are concerned that the comparative calm not give way to a relaxing of alert and readiness conditions aboard military vessels.

The U.S. Navy's rules of engagement for convoy vessels are clear. If any vessel in the convoy is fired upon, the Navy escort vessels are authorized to respond accordingly. The Navy's preference for the convoy tactic permits timely response to any other attacks. Any foreign flag vessels attacked within range of the convoy are not similarly protected.

Scope of U.S. naval presence

Since convoy operations commenced last summer, the Navy now maintains approximately 36 surface combatants in the region. This includes an aircraft carrier and battle group in the northern Arabian Sea and convoy escort vessels in the Persian Gulf and the Gulf of Oman. By numbers, roughly one-half the vessels assigned are deployed in the Persian Gulf or outside the Strait of Hormuz in the Gulf of Oman. The other one-half of the fleet is deployed in the northern Arabian Sea. In addition to the convoy escort vessels in the Persian Gulf, the U.S. Navy also stations destroyers to patrol particularly active segments of the gulf around the Strait of Hormuz and the northern gulf near Kuwait.

In general, the ships operate on a 6-month rotation schedule which includes 1 month each for transit from and return to home port. For average pre-deployment time at sea, the region will spend 4 months on station.

The following table lists the types of U.S. surface combatants in the region in early January, 1988:

<table>
<thead>
<tr>
<th>Type of Surface Combatant</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aircraft carriers ..........</td>
<td>1</td>
</tr>
<tr>
<td>Battleships ...............</td>
<td>1</td>
</tr>
<tr>
<td>Minesweepers ..............</td>
<td>6</td>
</tr>
<tr>
<td>Guided missile cruisers ...</td>
<td>4</td>
</tr>
<tr>
<td>Guided missile destroyers</td>
<td>2</td>
</tr>
<tr>
<td>Destroyers ................</td>
<td>2</td>
</tr>
<tr>
<td>Guided missile frigates ...</td>
<td>4</td>
</tr>
<tr>
<td>Frigates ..................</td>
<td>5</td>
</tr>
<tr>
<td>Auxiliary landing ships ...</td>
<td>2</td>
</tr>
<tr>
<td>Auxiliary support ships ...</td>
<td>5</td>
</tr>
</tbody>
</table>

Other international practices

In addition to the United States, there are five other western alliance nations operating military forces in the region: the United Kingdom, France, Italy, the Netherlands, and Belgium. The extent of naval presence for these nations ranges widely from aircraft carrier group commitments to mine-sweeping units.

Policies of the western alliance forces communicate regularly, but specific escort tactics are not coordinated. In short, each na-
tions' military presence is dedicated to its continuous deterrence.

The United States is the only naval force which adheres to convoy procedures. Most of the other western alliance forces either agree or disagree with shipping through the most hostile areas, particularly the Strait of Hormuz, or simply patrol sections of the gulf. The U.K. forces frequently station ships within range of commercial shipping in a picket formation. As commercial shipping passes through each sector, reports are sent for protection transitions to each unit.

Few of the other western alliance forces operate continuously in the Persian Gulf. Most transit from the Gulf of Oman into the Persian Gulf only when commercial shipping protection requirements arise. The Soviet Union also operates naval combatants in the region. No particular tactical patterns are evident to characterize Soviet escort procedures. Recent observations include a representative sampling through particularly hostile sectors of the gulf and normal patrol maneuvering.

**Other allied nation presence**

<table>
<thead>
<tr>
<th>Aircraft carrier</th>
<th>1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Destroyers</td>
<td>6</td>
</tr>
<tr>
<td>Frigates</td>
<td>14</td>
</tr>
<tr>
<td>Minesweepers</td>
<td>6</td>
</tr>
</tbody>
</table>

Prior to reflagging the 11 Kuwaiti tankers, U.S. naval presence in the gulf and the northern Arabian Sea numbered 3 to 4 capital surface combatants on average. Since the tanker-refflagging and concurrent decision to escort with combatant ships, the presence has expanded to approximately 30 ships. The number of vessels in the Persian Gulf and northern Arabian Sea will vary depending on the number of tankers within each convoy movement and rotation of U.S. Navy ships between the gulf region and U.S. and U.K. coastal Mediterranean ports.

Similarly, the number of Navy personnel varies depending on the fleet configuration. But as a representative sampling, nearly 10,000 naval personnel were recorded as having collected imminent danger pay in the fall of 1987.

At the start of fiscal year 1987, the Office of the Navy Comptroller estimated costs of $6,000,000 to $8,000,000 per quarter for operation of the Middle East task force operating in the Persian Gulf region. Coincident with the reflagging decision, costs were revised upward. Estimated cost increase for the fourth quarter of fiscal year 1987 was $115,200,000. Of this amount, the Navy Comptroller determined roughly half the costs would have been expended to operate vessels under normal operating schedules regardless of location. Actual incremental cost absorbed within the Navy's operating appropriations account was $66,000,000 for the fourth quarter of fiscal year 1987.

In addition to Navy incurred expenses, the Air Force estimated a cost of $7,700,000 for reconnaissance and refueling aircraft to support convoy operations in the fourth quarter of fiscal year 1987.

An as yet unknown cost which may be substantial is the additional maintenance expense for Navy ships and aircraft operating in the Persian Gulf region. The primary expense will accrue from the accelerated operating time which has been more than three times the rate planned.

Normal convoy schedules include steaming time of usually not more than one-third the days of each quarter. The convoy and patrol duty not assumed by Navy ships in the region require use of continuous operation throughout the quarter. Consequently, the maintenance requirements for ships returning from the region are expected to be much more extensive than under normal operational schedules.

A secondary factor which may add to maintenance costs is attributable to the environmental conditions of the Persian Gulf region. Wide temperature variances and the presence of sand in the air over the region have exacerbated maintenance conditions. Spare and repair parts consumption account for about 20 percent of the incremental costs incurred. This indicator causes some concern to Navy planners that maintenance and repair costs may be understated in the fiscal year 1988 budget.

Based on the fourth quarter 1987 experience, Navy Comptroller estimates for fiscal year 1988 approach $450,000,000 assuming the level of operations remain the same through the year. Of this total cost estimate, the Navy considers $179,000,000 to be the incremental cost estimate above expenses which would be incurred under normal fleet operations. At the time of printing for this report, indications were that this estimate may rise to $10,000,000 or more.

But these initial estimates assume some reduction in steaming time over the year and account for some offsets to the total cost. Based on ship rotation schedules, the Navy expects monthly incremental cost increases of $15,000,000 to $17,000,000 through fiscal year 1988.

The following table summarizes actual fiscal year 1987 and projected fiscal year 1988 costs by element of expense:

<table>
<thead>
<tr>
<th>Incremental Costs (Actual fiscal year 1987 costs)</th>
<th>Incremental Costs (Projected fiscal year 1988 costs)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aircraft operations $1,848,000</td>
<td>Aircraft operations $1,915,000</td>
</tr>
<tr>
<td>Ship operations $1,979,000</td>
<td>Ship operations $2,126,000</td>
</tr>
<tr>
<td>Air $3,603,000</td>
<td>Air $3,837,000</td>
</tr>
<tr>
<td>Mine-sweeping $411,000</td>
<td>Mine-sweeping $459,000</td>
</tr>
<tr>
<td>Other $120,000</td>
<td>Other $120,000</td>
</tr>
<tr>
<td>Transportation $15,000</td>
<td>Transportation $20,000</td>
</tr>
<tr>
<td>Maintenance &amp; repair pay $15,000</td>
<td>Maintenance &amp; repair pay $20,000</td>
</tr>
<tr>
<td>Total $4,041,000</td>
<td>Total $4,197,000</td>
</tr>
</tbody>
</table>

**CONGRESSIONAL RECORD—SENATE**

**POLICY CONSIDERATIONS**

**Increased U.S. Navy presence in the gulf in the perilous period following the U.S.S. Stark and the decision to agree to the request of Kuwait to put 11 Kuwaiti ships under U.S. flag to escort by U.S. warships, ostensibly to assure the free passage of oil down the Persian Gulf through the Straits of Hormuz, and into the Gulf of Oman. With the exception of the Bridgeport's visit to the gulf, the escort operation has been successful. However, it is clear that the U.S. presence in the gulf has been much more expensive than it does with the politics of the region.**

**OIL SHIPSMENTS THROUGH GULF**

The 11 reflagged Kuwaiti ships consist of 1 crude oil carrier, 4 liquefied petroleum gas carriers, and 6 petroleum product carriers. U.S. Embassy personnel in Kuwait advised the delegation that these 11 ships carry approximately 5 percent of total Kuwaiti export volume. The value of petroleum products shipped on reflagged vessels as a percentage of total Kuwaiti exports was unimportant. However, it is understood that the increased presence in the gulf, increased regional stability, and reduced risk to the U.S. flag will provide a very substantial economic gain.

**Supportable losses**

Furthermore, officials of the Sultanate of Oman contended that shipping losses of approximately $250,000,000 prior to the initiation of the U.S. escort operation were supportable in comparison to the total value of the oil economy of the gulf states, and could be endorsed.

The Kuwaitis, of course, do not view the shipments of oil under U.S. escort to be insignificant, and indicated that they would return to other nations, notably the Soviet Union, if the United States were to withdraw its protection. In fact, the Kuwaiti government would welcome the support from members of the U.N. Security Council for assistance prior to the U.S. decision to reflag and escort Kuwaiti tankers. But it is the view of the delegation, supported by officials in other gulf states, that the primary goal of the Kuwaiti Government, and the benefit of the United States involvement, is not economic protection but political stability.

Notwithstanding the different views of the escorting of oil shipments as a rationale for the increased U.S. presence in the Gulf, it is clear that increased presence has been welcomed and is widely supported. Government officials in the gulf states of Bahrain, Oman, and Kuwait, as well as in Kuwait and Israel, expressed the view that the increased U.S. presence has achieved a number of beneficial political and military objectives.

**Improved regional stability**

There is widespread fear, particularly in the gulf states with significant Shia Moslem populations, that the Iranian revolution will be extended to embrace the entire gulf area, and the increased regional stability resulting from U.S. presence has enabled moderate Arab nations to make considerable progress in dialoguing with the Iranian threat. In this context, perhaps the most remarkable benefit of the renewed U.S. com-
mitment to the gulf region was expressed in the flat assertion of Egyptian officials that only the U.S. initiative in the gulf has allowed Egypt to reopen relations with the gulf states. By the time Egyptian President Hosni Mubarak's recent visit to the Persian Gulf region. It should be emphasized that this development is strongly supported by the United States, whose President and Foreign Minister repeated to the delegation prior public statements of Israel's support for the U.S.-sponsored gulf and the resulting stability of the moderate Arab nations.

U.S. RESPONSE

While attacks on tankers and production facilities in the area have diminished, and there have been no attacks on ships escorted by the United States since the Bridgehot mine incident, and there is generally increased confidence in the security of oil shipments in the gulf. The credibility of the United States was further bolstered by the destruction of the Radhout oil platform in retaliation for the Iraqi attack on the Sea Isle City by an Iranian gunboat in October 1987. This measured response is viewed as precisely appropriate to Iranian provocation—effective, but not confrontational.

ROLE OF IRAQ

As much as the moderate gulf states welcome the U.S. presence and its beneficial effects on regional stability, however, there remains a concern that Iran not be totally isolated. In fact, it is often argued that one way to see that, "Iran will be with us for many years to come, but we do not know how long the United States will stay," Government officials noted that of the 162 successful attacks in 1987, 78 were made by the Iranians and 84 by the Iraqis, and the assumption was made in all three gulf states that the United States should do more to discourage Iraqi attacks in the hope that the Iraqis would desist as well. U.S. Navy personnel in the area supported this view in expressing the opinion that Iranian attacks were primarily reactive, and an Omani official declared that he could "guarantee that if the Iraqi attacks stop, the Iranian attacks will stop."

A cessation of Iraqi attacks on shipping in the gulf would clearly trigger the need for an increased number of American personnel and ships in the area. The risk of accidental air strikes is just as significant to the U.S. Navy as premeditated attacks. According to U.S. Navy officers serving in the gulf, "The Iraqi air force in the northern gulf is a major threat to the U.S. Navy, and not only because it has demonstrated a willingness to attack without restraint on the U.S. Stark."

In the crowded conditions of the gulf, there is little time to distinguish friend from foe and determine the intentions of oncoming aircraft. Clearly, a reduction in Iraqi air attacks would reduce the risk to the U.S. Navy, and help temper the conflict in Iran with the gulf.

GULF STATES LIMITED ROLE

A more vivid example of the moderate Arab reluctance to antagonize Iran was made known to the delegation during an official visit. The delegation was informed that the Kuwaitis have an observation post within artillery range of the Iranian Shikhr missile site from which attacks have been launched on Kuwaiti targets, but that to date the Kuwaitis have only watched as attacks have been launched and have made no attempt to destroy the site themselves. The delegation also learned that Saudi Arabia has several new minesweepers that could be deployed in the gulf, but those ships have not been committed to date.

DEPENDENCE ON GULF OIL EXPORTS

U.S. interest and motivation for seeking peace in the gulf is not dependent on the size of its petroleum reserves in the region. The Gulf OPEC states produce between 22 percent of world fuel consumption needs. Last year, 242,000 barrels per day limitation on imports of Iranian oil. This is a decline from an average 300,000 barrels per day imported from Iran in 1987. There is some indication of Western alli ance nation requests for financial support of Gulf activities, but no other signs of Japanese involvement in the region are evident.

BALANCED U.S. POLICY

The reluctance of the gulf states to do more to protect their own interests is frustrating, but their reluctance to prove Iran should serve as a reminder to the United States and the nations of the Western European Union that are involved in the Persian Gulf to pursue a balanced, measured approach. The wariness of the gulf states may also lead us to examine in the present method of operation. If the issue is political stability in the region and not the protection of the 11 reflaged Kuwaiti tankers perhaps we have made such significant resources to that effort? If we are to expand our role beyond, on that of our escorting operation to the protection of all shipping in the gulf, we must be so alert and ready to act in timely, or in cooperation with other nations in the gulf. Most importantly, under what circumstances are we prepared to reduce our presence in the gulf?

OPTIONS FOR CONSIDERATION

The primary military objective for U.S. Navy presence in the Persian Gulf has been to assure protection of U.S. flag carrier shipping. No attacks have been launched against such vessels since the policy was initiated.

The narrowly defined policy has had the effect of limiting U.S. military risk and commitment while indirectly moderating violence in the region overall. The incidents of Iranian attacks on international shipping, and military observers continue to see a pattern of Iranian retaliation only in response to Iraqi air strikes in the area.

While the "tanker war" in the gulf appears to have been contained, without ques-

vion, violence in the region does persist. The existing U.S. policy is achieving the desired results, but continues to be open ended. Expansion or contraction of U.S. presence is dependent on the evolving events, and it is a detail possible alternative strategies for U.S. activities and describe the desired circumstances.

U.S. MILITARY WITHDRAWAL FROM THE PERSIAN GULF

U.S. presence in the region could revert to conditions existent prior to the Kuwaiti tanker reflagging if the conduct and response to the Iraqi air strikes continues. Clearly, a cease-fire between the belligerents could eliminate the need for continued protection of shipping.

Alternatively, a conclusion to the "tanker war" segment of the ongoing conflict would also present opportunities to draw down U.S. naval presence. Commercial shipping attacks seem to have negligible impact for either Iraq or Iran. Despite Iraqi air strikes, Iranian shipping continues to be profitable. Conversely, Iranian attacks on international shipping have registered no discernable impact on the Iraq war effort.

Gulf states now share more responsibility for protection of commercial shipping in the region, this condition could also help diminish U.S. military involvement in the gulf. Representatives to Saudi Arabia to use its minesweeping assets and to Kuwait to actively respond with its air defense emplacements could help ease U.S. responsibilities in the region.

UNITED NATIONS PEACEKEEPING FORCE

Absent a cease-fire in the gulf tank war, each nation with commercial shipping interests in the region must assess its willingness to protect its right of navigation in international waters. Given the universal commitment to this principle, U.S. presence and risk in the region could be altered by an international decision to establish a U.S. peacekeeping force to respond to aggression against any commercial shipping attacked outside the war zone. While philosophically appealing, movement toward such a decision should clearly define rules of engagement against acts of aggression. This is particularly important in light of the nature of any cooperative agreement between western alliance and Soviet alliance nations.

An agreement should incorporate endorsement of an arms embargo to the belligerent nations.

WESTERN ALLIANCE COOPERATION

Under the auspices of the Western European Union, several of the western allies have resolved to establish an active presence in the Persian Gulf region. Expansion of this example to a formal NATO policy appears unrealistic since the gulf problem is out of the NATO sphere of interest. However, a better defined policy among western alliance nations to protect commercial shipping is most likely important in light of the nature of any cooperative agreement between western alliance and Soviet alliance nations.

An agreement should incorporate endorsement of an arms embargo to the belligerent nations.

UNILATERAL U.S. EXPANSION

While a contained policy at present, U.S. commitment to the gulf is not exclusive to U.S. interests. Adherence to a policy of protection of any commercial vessel's right of passage in the gulf means that the U.S. could contribute to a toning of the U.S. policy in the region.

Promising signs of such cooperative agreements have surfaced in recent weeks. The French, Italian, and British governments have increased their mine sweeping coordination effort is further indication of progress in this area.
February 23, 1988

CONGRESSIONAL RECORD—SENATE

U.S. RESOLVE STAYS HIGH IN GULF: MISSION UNCHANGED THOUGH NAVAL FORCE IS REDUCED

Arab side of the Gulf from coming to such a conclusion.

But what does concern the Saudis and Kuwaitis is the unresolved issue of whether US forces will eventually also protect neutral commercial ships under unlawful attack in the Gulf's international waters—as France has announced it is prepared to do. The other naval powers in the region—fearing that they have no far better idea than we do to the idea, stressing that missions are strictly limited to protecting only ships flying their own flag.

Just by their presence, the warships in the Gulf offer as a means of protecting influence, which benefits all shipping in the vicinity. But such spillover protection hasn't prevented the Iranians from stepping up attacks this year against unescorted ships trading with Kuwaiti and Saudi ports.

The Iranians are not expected to gain tactical advantages as a result of the withdrawal of the four US warships.

As described by US Defense Department officials, the redeployment will permit the US Navy to lower marginally its high profile in the region. It will allow the US to reduce the cost—$20 million per month by some estimates—of maintaining the large naval task force.

With the pullout last weekend of the US battle group Truxtun, and two escort ships—a cruiser and a destroyer—today the last month the helicopter carrier Okinawa, the US naval force will stand at 24 ships, down from more than 40 vessels in fall.

The US task force will remain, nonetheless, the most significant and potent concentration of military power in the region.

US officials say that the remaining naval ships will be more than enough to continue protecting Kuwaiti tankers registered last year under the US flag and the small number of other US-registered ships that call in Gulf ports. They note that while the threats of mines in Gulf waters have diminished, US and Western European mine hunters were prepared to resume operations if needed.

Along with the announcement of the US force reduction, the US has announced its intention to iron out an arrangement with the Iraqis to protect vessels under the Iraqi flag.

The warships' crew went to battle stations in preparation to shoot down the incoming missile, if necessary.

The incident was the closest encounter between the US and Iraq to date. The US and Iraqi forces have come within 20 miles of each other on several occasions.

The present commitment to the Persian Gulf began after the Soviet Union sent troops into Afghanistan in 1979; President Carter proclaimed that a Soviet attempt to control the gulf "will be repelled by any means necessary, including military force."

Two years later, the Reagan Administration expanded the commitment when the Pentagon's strategic plan, in a directive calling for American forces to "be prepared to take whatever action may be necessary to assure the free flow of commerce in the Gulf," was translated into a military presence in the gulf.

The Soviet Union must be confronted with the prospect of a major conflict should it seek to reach the oil resources of the Persian Gulf. If the Soviets were to take American forces directly into the region it is clear that costs have risen.

The Center for Defense Information, a research organization critical of defense posture, has estimated that 8.6 percent of annual American military spending goes to protecting United States interests in the Gulf. Applied to the 1988 budget, that would come to $19.2 billion.
spending, estimated naval operations at $1.4 billion a year. Brian McCartan, an analyst at the center, figured that it cost $2.50 to bring $1 worth of oil out of the Gulf.

Some war game exercises were analyzed by Alfonse M. D’Amato of New York and Warren B. Rudman of New Hampshire, all Republicans, toured the region in January and cited $41 billion in direct naval costs for this fiscal year.

The General Accounting Office said costs would be further increased by the need for "expendable" vessels.

When an Iraqi bomber fired a 37-mm. round into the frigate Stark, which is described as "a frigate made for the air," sailors have served there said machinery needs three times as many spare parts because the blowing sand wears them out faster than in other places. In the warm, shallow waters of the gulf, moreover, pumps must be run faster than usual to cool computers and living spaces.

**IRAQI MISSILES FEARED**

Another hidden cost has been operations elsewhere that have been reduced to make ships—or funds—available for gulf operations. "We're coping with this now," said one officer. "But the leadership around here is worried about the future. We're pushing those guys out there pretty hard."

The heat takes a toll and a lack of port calls means less time off during the month tour. The Iran-Iraq war adds to the problems as well.

The heat takes a toll and a lack of port calls means less time off during the month tour. The Iran-Iraq war adds to the problems as well.

Last May, an Iraqi pilot killed 37 Americans when he hit the frigate Stark with a French-built Exocet missile. Another such incident during the Presidential and Congressional campaigns could be damaging to Republican candidates.

The call for an immediate cease-fire and peace negotiations.

**NO CLEAR REPLY FROM IRAN**

While Iraq has said it is ready to accept the United Nations plan if Iran does too, Tehran's revolutionary Islamic Government has refused to give a clear answer one way or the other.

The draft embargo plan being discussed provides for a two-way ban on the sale of arms to Iran by all United Nations members, unless the Council decides to shorten it, diplomats say. The draft also provides for regular reviews of the embargo by the Council and requires its members to agree on steps to insure that it is enforced.

In the past the Soviet Union has said that while it is ready to impose an embargo on arms by Iran, it favors delaying a decision on Iran in principle, it favors delaying a decision on Iran.

The war is against Iran to safeguard its own credibility after many private attempts at persuading Tehran to make peace have failed.

Nevertheless, imposing sanctions against Iran is a difficult decision for Moscow. Western officials said that Moscow has a long border with Iran and is reluctant to damage relations. It may also fear that Iran's fundamentalist Moslem leaders could stir up trouble among the roughly 30 million Soviet Moslems and disrupt Moscow's efforts to make peace in neighboring Afghanistan.

The United States, Britain and France also say they are not getting as much support for an arms embargo against Iran as they would like from some of the Council's rotating members. In particular, they say West Germany, Italy and Japan are reluctant to jeopardize their trade with Iran.

**SENOIRATOR ELECTION CAMPAIGN ACT**

The Senate continued with the consideration of the bill S. 2.

The PRESIDING OFFICER (Mr. SHELY). The Senator from New Hampshire.

Mr. RUDMAN. Mr. President, I was going to proceed for about an hour yesterday. There was some understanding here between the leaders that any motions be made at this time at which point I would be delighted to yield the floor.

Mr. BYRD. Mr. President, will the distinguished Senator yield?

Mr. RUDMAN. I am pleased to yield. Mr. BYRD. If the Senator wishes to speak, I think I have the opportunity to put our case into the record, those who for the bill and those who are against it, and a quorum call serves no such purpose.

I thank the Senator for offering, however, to yield.

Mr. RUDMAN. I thank the majority leader to yield to the distinguished Republican leader.

Mr. CAMPBELL. Mr. President, I thank the Senator from New Hampshire for yielding for a moment.

I would add to what the majority leader has said. The gentleman's agreement provides simply that we come to this hour of 10 o'clock and then go into what is described as regular order of the first order. I would suppose, at this time, and I think until our adjournment time of approximately 5 or 5 o'clock this evening the arena will be free to all the activities that have taken place in the days past.

The Chairman could move to consider the issue, moving the questions. Those in opposition could be suggesting the absence of a quorum. Motions and activity would be taking place. That is all I would add to the activity.

There is nothing concerted here, but some will very likely make that motionaying there is the lack of a quorum, so I think everyone should be alert that there would be rolloff votes surely during the day, even though the debate will remain hopefully clearly.

Mr. BYRD. Mr. President, will the distinguished Senator yield for a brief comment?

Mr. RUDMAN. I am pleased to yield. Mr. BYRD. I want to compliment Senators on both sides of the aisle who remained on the floor throughout the night and concentrated their comments on the substance of the legislation before the Senate—those who are opposed; those who are proponents. I was here a good bit of the evening and so was the distinguished assistant leader. He is the acting leader. He is the leader for all intents and purposes.
at this point. I say we were here and the Senators who were chosen by him and by me understood that the debate would be on the substance. I personally want to compliment them on both sides of the aisle and on both sides of the question for the service that they performed in directing their comments to the bill.

I thank the Senator for yielding.

Mr. SIMPSON. Mr. President, will the Senator yield an additional 1 minute?

Mr. RUDMAN. I yield.

Mr. SIMPSON. I, too, wish to thank very sincerely those who participated from our side of the aisle and the other side, Senators EVANS, Wexler, STEVENS, and MUKROWSKI. They stayed within the subject matter as did those who represented the proponents of the legislation. It was very helpful to us to learn that they gave us some of an opportunity to get a full evening's rest and now we proceed into the activity according with the agreement, and I thank the majority leader for his courtesy an extraordinary willingness to extricate us from what would have been only further delay and further activity and further dazzling things.

Thank you very much.

Mr. RUDMAN. Mr. President, I made the inquiry only because earlier this morning I had been told that there might be a vote here this morning probably, for the sole purpose of getting Senators who are somewhat groggy from the past 2 days more awake by the invigorating walk from the offices to the Chamber.

Since we are not going to have that kind of vote, I would be pleased to proceed.

I was talking to the television critic of the Washington Post yesterday, who called me on another matter, and I asked him if he had been watching C-SPAN II which carries the deliberations of this body and he said he had not. I told him he missed a great deal. I thought the events of the last 48 hours were a curious blend of "Dallas," "Dynasty," "The Last Buece- neer" and the Friday night fights.

But I am glad to see that civility has returned to the Chamber and as far as those matters of procedural due process, I would just make a parliamentary inquiry, Mr. President.

I am curious as to whether or not the questions asked by the junior Senator from Pennsylvania [Mr. Specter] addressed to the Chair yesterday afternoon, which I would describe as procedural due process questions, have ever been answered by the Chair?

The PRESIDING OFFICER. The Parliamentarian is working with Senator Specter on that matter currently. It is my hope that it would be fair to assume by that answer that at some point those questions will be answered so the body would have the ruling of the Chair.

The PRESIDING OFFICER. I am sure that will be done.

Mr. RUDMAN. I thank the Chair because, being a lawyer and a former attorney general, I am interested in procedural due process. I obviously plan to be here for a few more years and, if such events transpire again, I might want to have my defenses ready so I will be very interested in what the Parliamentary advises.

Mr. President, I want to start out my comments this morning with a quote from Robert Samuelson, an economic and political analyst for the Washington Post.

This is a quote from a piece that he had in the Post not too long ago. It is not all that long.

The Founding Fathers are growing in their graves. The Senate is now debating campaign reform with some credentials that the junior Senator from New Hampshire. For those who do not know it, I was the only candidate in 1980 to run without any out-of-State PAC money whatsoever. As a matter of fact I believe when I said that in 1980, the only two Members of the U.S. Senate that did not take PAC money were the Senator from Oklahoma [Mr. Boren] and the Senator from Wisconsin [Mr. Proxmire].

There is a little history as to why I cannot take PAC money in New Hampshire.

I was running against a very good man, a Democratic incumbent, Senator John Durkin in 1980. Senator Durkin had been elected in a highly disputed election in 1974—actually two elections. One was hotly contested, then a second election which he won handily. And then finally he ran for reelection in 1980.

What I am about to say is not a criticism of him because he is a friend. It is a criticism of the system. I noticed, sitting as attorney general of New Hampshire in 1974, something that bothered me a great deal. New Hampshire is not known particularly as a big labor State. Yet as I watched campaign contributions in that election, Wyman versus Durkin in 1974, I found an enormous amount of labor PAC money coming into the State of New Hampshire, a very small State in which that kind of PAC contribution can have a real effect.

I do not know the precise number but I believe that in a campaign that probably cost $700,000 or $800,000, maybe as much as 35 or 40 percent came from labor PAC's and another substantial amount of money came from other political action and the Senator.

Curiously, a relatively small portion of the funds for Senator Durkin's 1974 campaign came from people who resided in New Hampshire.

This is not unusual, I might say, if you look across the entire country. That bothered me.

As I go back to the basic constitutional provisions creating this Congress, and to the amendment in which Senators become popularly elected, it was reached by the media, both paid and certainly represent a national interest and vote on matters that affect the entire country, the Presiding Officer represents the people of Alabama, the majority leader represents the people of Alabama, the Senator from New Hampshire represents the people of that sovereign State. There is something essentially wrong with a system in which the bulk of contributions are coming from political action groups that have little base or interest in the State in which the election is taking place.

My advisers told me back in 1980 that I was probably out of my mind, that it was impossible to run a campaign without PAC money. But I decided to make that an issue. I decided, although I could raise far less money, that the people in New Hampshire, in a State of that size, could be reached by the media, both paid and free, and convinced that they ought to be concerned about the special interest money, is it labor money, business money, whatever, that did not have a community of interest in that State.

I won that election. And I am convinced that that issue had a great deal to do with it.

Curiously, I would just add as an aside something that is a matter of public record. The present executive director of Common Cause, who I referred to in Mr. Samuelson's quotation, came to New Hampshire about 6 months after my election to address a Common Cause meeting in New Hampshire. During the question-and-answer period that followed, he was asked by a member of Common Cause about New Hampshire about my efforts to resist PAC money. Rather than saying anything nice about that, Mr. Wertheimer proceeded to blast me, which became a front-page story in all of the State papers, for not doing more to bring campaign reform to the U.S. Senate.
appeared. I did not react very well to that. As a matter of fact, it occurred to me it was a little like court-martialing Sergeant York for not killing enough Germans. But be that as it may, I have had nothing to do with Common Cause as a national organization since that time. I believe any leadership that happens that to this body, one that ran without PAC money, in his own State is somewhat irresponsible.

As a matter of fact, I would like my colleagues to know that I discussed this bill or a similar bill at a Common Cause meeting in New Hampshire several months ago, I believe it was last fall.

When the Common Cause membership in New Hampshire understood some of the problems with this bill, they suddenly recognized that their national leadership was selling them a bill of goods that I do not think they necessarily agreed with. To say this is a Common Cause bill is an overstatement. This is a piece of legislation that Common Cause at the national level is pushing, and as we all know, we have spent enough time around here, what the national organizations lobby for down here sometimes has little resemblance to what their membership really would like.

So I am not sure the people in Common Cause really want this kind of legislation adopted because, you see, the real problem that this country faces today in elections, in my view, has little to do with the amount of money that is spent and has a lot to do with where that money comes from.

In the last Congress I was a sponsor, very proud original co-sponsor, of the Boren-Goldwater bill. That bill was a bill to curb the power of political action committees. It had strong bipartisan support here in the Senate. It passed in September of 1988 by a vote of 69 to 30. There was an amendment offered to that bill, I might add, which would have eliminated all PAC contributions to political parties. The amendment passed. I would point out that 40 out of 42 Members of the current majority voted against that amendment, which is not surprising considering where PAC contributions go today.

Ironically in the 6 years of Republican control of this body not once do I recall any initiative from the other side's leadership pushing any sort of campaign reform. But now, in the 100th Congress, we no longer have a bipartisan bill. We have a very, very partisan bill in my view. And this bill will not pass. It will not become law. Maybe there will be useful purpose served by the last 3 or 4 days and maybe we will get together and frankly pass campaign reform that is truly reform.

I would point out that I offered, along with Senator Bradley and Senator Eagleton, a proposal for a bipartisan commission modeled after the Social Security Commission to address the whole problem of campaign reform. That bill is still kicking around here. Unfortunately, it hasn't received any reaction. In my view, we will not receive significant campaign reform in this session of Congress and do something in the interests of the country. It is inconceivable to me that the Democratic Party will allow any bill to be passed that will seriously impinge their ability to run their elections. And, it is not any more conceivable for anyone to assume that the Republicans will allow a bill to become law, if they can possibly stop it, if it will impinge on the way they get reelected.

If you want to really talk about campaign reform, I would like to talk about several ideas that are not new. I would certainly hope that the majority leader and the Republican leader might get behind a bill that I have offered which is known to the Rules Committee. If you really want campaign reform, and the first idea of campaign reform is to get more participation in the process and, second, to limit the power of special interests, then I have a solution for you. It is called the 50-30-20 bill. It works very simply. The Rules Committee has heard of this, a lot of people in this body like it, it is not unfair to Democrats, it is not unfair to Republicans, and it is a bill that will move the process.

That bill essentially says that 50 percent of all of your fund can come from individuals, and I raise the personal contribution limit from $1,000 to $1,500 or $2,000 because the $1,000 limit goes back to 1974.

I might point out that the Governor of New Hampshire is limited by State statutes to a contribution of no more than $5,000 whereas a Senate or House candidate can only receive $1,000. It does not make much sense in a State where campaigns could come from individuals. 30 percent could come from the political parties.

Mr. President, I believe if there is one thing that we have in this political system, it is that the Democratic Party as a party and the Republican Party as a party have lost power, have lost the right to have discipline within their parties, and that is because in my view they have lost control of some of the fundraising.

So I say, allow the parties to contribute up to 30 percent of expenditures to the candidates.

I would add that I will allow no pass through money, no bundling, the true and honest 30 percent of the money they raise, of the money that a candidate can spend, could be given by his party and no more than 20 percent can come from PAC's. It seems to me, a $1 million to $2 million to $5 million, that $200,000 worth of PAC money, although I do not happen to like it, probably is acceptable. But $400,000 or $500,000 is not.

So, a 50-30-20 bill, a bill that would be fair to everyone. Somehow, it has not received the support I believe it should. I will give you two or three other ideas if we really want campaign reform. I heard a dialog a couple days ago between the Senator from Alaska and the Senator from North Dakota about the enormous amount of money we are spending on campaigns. Well, that may be true and it may not be true. I want to make a couple of observations.

I spent $700,000 to get elected in New Hampshire in 1980. My colleague on this side of the aisle—I pick him because I know the number, Senator Packwood of Oregon—spent $6 million to get elected to the U.S. Senate from the State of California. You talk about $700,000, nobody gets upset; you talk about $6 million, that is a lot of money.

So, I have to make a confession. I spent 70 cents a citizen vote, and he spent 25 cents a citizen, because California is 23 times larger than New Hampshire. So when we simply talk about money, we are talking in a vacuum. We have to relate it to something.

The real reason campaigns have gone out of sight in costs is the cost of television advertising. I see the Senator from Alabama is presiding. The Senator from West Virginia, and the Senator from Oklahoma are on the floor. I do not know what the rates are in their States. I am going to tell you something very interesting.

In the State of New Hampshire, which is dominated by Boston television, a 30-second commercial on prime time during my 1988 campaign was between $7,000 and $9,000, one commercial, 30 seconds. When the playoffs in the National League Championship were on that year, and we thought it would be nice to buy a commercial just on local television, not on the network, on the break, during that game, and the figure came back $12,000 to $15,000—$13,000.

So let us be honest with each other, and the real reason that the cost of political campaigns have gone out of sight is simply because the cost of advertising has gone out of sight.

I have a solution for that also. I proposed it to the Senator from Oklahoma last year but I do not really recall what his position was on it. But I know others did not like it at all. Here is a little solution for that. If you really want to get the amount of money down in campaigns, I will give you an easy way to do it.

Who owns the television airwaves in this country? The people who have the licenses do not own them. They have licenses to use them. The Ameri-
can people own those airwaves. Let me tell you, those are pretty valuable commodities. I noticed a television station sold the other day for $235 million, one station. And the price is going up, not down.

So here is my proposal. Let us say to the television licensees that they will be required to furnish $ amount of time to any legitimate candidate, and we can qualify a legitimate candidate during the 30 days preceding a primary and during the 30 days preceding a general election.

I am sure that the people in the country and the people in the gallery will say, "That is a perfectly reasonably idea. Why don't we do it?"

I am going to tell you why we do not do it. We are not going to do it because the broadcasting industry is very powerful and they do not want it. Why do they not want it? Because it will cost them money from their bottom line.

I am willing to vote for that kind of a bill. I will vote for an amendment like that. As a matter of fact, I would offer such an amendment. But, if we should vote for cluser, under the rules of the Senate, we will be foreclosed from offering that reasonable amendment. No wonder Republicans on this side are unwilling to vote for cluser and have an up-or-down vote when we are precluded from offering amendments which, in fact, are reasonable and rational.

And if you want to talk about special interests, it is in the interest of the American people to force television licensees to furnish free time to legitimate candidates. It is not in the interest of the television licensees and, who wins? The television licensees. That is what special interest is all about.

And you know, I have heard more talk on this floor about campaign reform during the past 4 or 5 days and I have been trying to find the reform. The legislation before us does not eliminate special interest money. It substitutes a form of public financing for some special interest contributions directly to candidates, and it places limitations on what people can spend.

I want to talk about those limitations because I asked my staff and, I believe, Senator McConnell's staff to look into the statistics of what this is all about. I came up with some startling numbers which I want to relate now because I think they are quite interesting.

Every single Senate incumbent who spent within 5 limits in 1986 won reelection. Everyone. Every incumbent who spent within these limits would be won reelection. Ninety percent of the senators who spent within the limits lost.

Now, let us think about that for a moment. You talk about an incumbent's protection act. I mean, I think the American people ought to be outraged to hear that we are putting together legislation which, if it became law— which it will not, but if it would— would essentially grant immunity for all intents and purposes the incumbency of 100 men and women who sit in the chairs on this floor.

Everyone in politics knows incumbency is a very valuable weapon. We are on television every night in our home States. We are on radio. We have total access to the media. We are on this floor making news, occasionally.

Let us look at the challenger. Let us say the challenger was a very able young person with enormous motivation, not much personal money, cares deeply about the country, and wants to make a difference.

In my State of New Hampshire—and this is a figure which I hope people might pay some attention to—in my State of New Hampshire, we found out that something which stunned me when I learned about it because it is a State of only 1 million people, with only two congressional districts. It is 100 miles across and about 160 miles north and south. It is a small State. It costs nearly $300,000 to start getting somewhere in the vicinity of 40-50 percent name recognition. Just name recognition. Never mind what you stand for, just mind that you exist.

I had been attorney general in New Hampshire for 6 years, from 1970 to 1976. Then I left office voluntarily. I ran for the Senate in 1980. Oh, how people forget. My name recognition in 1980 was about 20 percent, and I had been a very active attorney general. It took $350,000 to get my name recognition up to 65 percent and by the time the election came about it still was not up to 75 percent. We did not have any of these limits. Mr. President, I am absolutely saying to most challengers, "you have had it" and to most people in this body. "You can stay here as long as you want to."

Two other very interesting statistics. To repeat them, everyone who ran in the election came about it still was going up, not down. They were all sold the other day for $235 million and during the days preceding the election everyone, every incumbent within the limits won. Ninety percent of the people in the country and the people in the gallery want to do something very interesting which Mr. President, stunned me when I learned about it because it is a State of only 1 million people, with only two congressional districts. It is 100 miles across and about 160 miles north and south. It is a small State. It costs nearly $300,000 to start getting somewhere in the vicinity of 40-50 percent name recognition. Just name recognition. Never mind what you stand for, just mind that you exist.

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Two other very interesting statistics. To repeat them, everyone who ran in this body who was an incumbent and within the limits won. Ninety percent of the challengers who ran within the limits lost. Thirty-six percent of the challengers who exceeded the proposed limits, most of them on the other side of the aisle because they won the majority back this past year. And, 72 percent of the challengers who won exceeded the limits.

I mean, if anybody needs any more proof about the power of the incumbency and the problem with the limits—I do not know what to do. I heard my friend from Oklahoma and he is my friend; we have done a lot of things together—I heard him speak with passion yesterday about people on this side not wanting any limits whatsoever. Well, I guess technically the Senator from Oklahoma is correct.

The problem is, how do you define those limits with fairness? That is what we are having difficulty doing. Yes, I know it is a hard problem. If I have 98 votes for anything and I will bet gets 10 votes against. I am going to make a hypothetical here that the incumbency is worth 50 percent. So we will make a deal. We will have an amendment, if the majority leader would vote for it and let me offer it, and the amendment will say incumbents can spend $, let us say, in the State of New Hampshire $1 million—and the challenger can spend $ plus 50 percent. Have a total $1.5 million. I will vote for that kind of an amendment. Just name recognition. Never mind what you stand for, just mind that you exist.

I would agree to some kind of limits if I knew how to do it. I have tried with the Senator from Oklahoma last year to come up and fashion a solution, but I did not find one on limits.

I also find this bill fatally flawed because it does not do anything about political action committees. Now, the Senator from Oklahoma and the Senator from Arkansas are the only ones who are looking at PACs. We do not take PAC money. I think the Senator from Oklahoma would agree that makes it very, very tough.

I will never forget coming here in January 1981 and having my administrative assistant come in and say, "We have a problem here. We have got all of these letters from all of these PACs." And the letters all read the same: "Dear Senator Rudman, somehow we overlooked your campaign"—they sure did in 1980—"and we would like to enclose a check for $5,000 toward your next campaign and toward your debt."

At that time, we had a debt, I think I was stating it correctly, of $160,000. And, if memory serves me correct, the checks from the PAC's between election day and a few weeks after I was sworn in amounted to probably more than half of that. I think it was in excess of $100,000. They were all returned because we made a pledge to the people in New Hampshire and I believe if you make promises you ought to keep them. The pledge was we will not take non-New Hampshire PAC money.

But if we really want to have reform around here, we ought to get the special interests. I call them wolfpacks. Sure, the PAC's can only give $
amount of dollars, but you can take 10 PAC's who are interested in defense or 10 PAC's interested in agriculture or 10 PAC's interested in trade issues, and put them together and you have $100,000 between the primary and the general election.

That is what is wrong with the system, not how much we spend. I guarantee you that either we cut the cost of television advertising or this next cycle will make a difference. Because television advertising is going up, I believe, at double the rate of inflation or maybe more.

So I would say, Mr. President, that I think it is really a mistake to call this a reform bill.

You know, I have heard a lot of accusations on this floor that this bill is designed to end the Republican Party. I really do not believe anybody planned to do that. Maybe it looks that way. I think the majority leader would have no fun at all if we got rid of the Republican Party. Let me simply say that, although I do not think that that is what you think that way, because we have been much more efficient at direct mail and direct mail raises small amounts, which may be a surprise to the American people. The Republicans raised more money in smaller amounts and that is because we have been much more efficient at direct mail and direct mail raises small amounts.

You know, I do not have a problem, if, in the State of New York, 3 or 4 million people want to give $5 each to a candidate. I think that is very good. In the State of New York, 3 or 4 million people want to give $5 each to a candidate. I think that is good. In the State of New Hampshire, if we could get 10,000, 15,000, 20,000 people to contribute $30 each, that is a lot of money. I do not have a problem with that.

What I do have a problem with is special interest groups bundling that money and concentrating it in small states where it makes a difference. I think that makes a difference.

Three or four hundred thousand dollars of PAC money makes very little difference in California, New York, or Michigan. It makes a whole of a difference in Alabama. And it makes even more of a difference in New Hampshire. And that is where reform is needed. This bill does not address that. It does not do a thing about PAC money. Essentially it would eliminate the chance of many middle-income Americans, in my view, to become active in the process.

It creates subsidies to help candidate independent expenditures. I would agree, this is a tough problem, but I think that it is the right way to deal with it, or even an effective way. It creates postal subsidies which I totally disagree with.

You know, I talk to a lot of people in middle America, despite all of this issue, and I do not find much support for public financing. You know, the attitude of people is, "Look, you get elected and now you want us to help you get re-elected." That is not fair.

Now, I think that there is a real possibility that we can work this out. And, if nothing else, this 3-day period ought to reinforce the fact that the only bill that is being discussed is a bill that is truly reform and that does not ignore the oxen of either party.

I would plead with my friend from Oklahoma, who has been a leader in this, and my friend from Alaska, Senator STEVENS, who has been a leader in this, to take another look at 50-30-20. It is a good piece of legislation. It encourages the participation of the American people in the political process. It limits special interests.

I would be willing to do away with PAC's completely. But I do not think there are the votes to do that on this floor. So why not do it in some reasonable, rational, and small way?

Finally, let me just go through a few numbers here which may already be in the record, but I want to make sure because they are just illustrative.

Curiously, in 1982 PAC contributions and PAC campaign contributions in 1984 for the Democratic candidates came in amounts of under $200. Roughly a third of the Republican contributions came from people in amounts of under $200. In the last election cycle, Democrats raised about $75 million in 1986 from PAC's; Republicans about $97 million. In the current cycle, 10 of the 11 leading Senate PAC recipients and 13 of the leading 16 PAC recipients in the House are Democrats. The Democratic Party, according to this report, relies very heavily on PAC contributions.

So I think that I understand, that being a political reality, why the people on the other side of the aisle are not willing to accept our proposal, which is to limit PAC contributions or to do away with them completely.

I think the Senator from Oklahoma would be willing to do that. That is what he does himself. But I do not think there is support for that in large amounts on that side of the aisle.

So I would simply sum up, Mr. President, by saying that this legislation is not reform. It does nothing about special interest money at all. It raids the public Treasury to run our reelection campaigns. It is an incumbent's protection act which essentially would establish in perpetuity most of us who want to stay here for as many terms as we would like. It defeats the incentives to challengers who are able and willing to fight hard for a U.S. Senate seat, which is nothing to do, to compete, and makes it more difficult for them. It seriously impairs upon the ability of Republicans to raise money from middle America and it spends Federal tax money to raise money to reinforce the fact that the only bill that is going to pass is a bill that is going to be uncontested.

There are good reasons to vote against the bill and, of course, we probably will not get to vote on this bill because cloture, in my view, will fail.

So I hope, Mr. President, that as we move into the rest of the legislative year, that we might have more light than heat on this subject. The nice thing about the Senate that I have found is that you get upset about things, and I think this side had a right to be upset the other night, we recognize that the business of the Nation is too important to allow those things to continually be remembered. I think the idea of limits would be further explored; but it has to be fair, it must in some way recognize the disparity of political reality, the power of the incumbents, and the fact that, today in America, the escalating cost of advertising has absolutely gotten out of hand to the point that that is the real scandal in America. It is not the amount of money, although, in my view, compared to what we spend for other things in this country, it is not so scandalous. After all, we are trying to inform the people on whom they shall elect to represent them in critical times. I hope we can move on and have progress. I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BOREN. I thank the Senator from New Hampshire for his very thoughtful speech, and I use that term with due thought. It was a thoughtful speech, and that does not surprise me that we would hear those kinds of words from the Senator from New Hampshire. He has indicated we have worked together on many projects. In fact, we have had many discussions on this very issue.

I would say that I think he comes to this issue with a degree of commitment, sincerity, and intellectual honesty that is not exceeded on either side
of the aisle in this Chamber on this particular issue, and I applaud him for that. I appreciate the spirit with which he has made those comments today because I know that he, too, wants to do something meaningful and in a constructive way to make some changes in the current system, which is obviously not operating as it should.

The indication which he has given here on the floor that he, again, is one of those Senators that does not accept political action committee money is an indication of his feeling that he wants to keep politics as close to the grassroots, to the people that he represents, as possible. We share that common commitment.

I say to him that I hope we can resume our discussion. One of the things that has disappointed me, quite frankly, in the current situation is that it has become so polarized. It becomes very difficult, sometimes, to discuss these matters without it becoming polarized. I remember back when Senator Goldwater and I first introduced a campaign reform bill—I know the House of Representatives calls this—we had a meeting of the two caucuses on a Tuesday, as we always do.

It was very interesting as Senator Goldwater and I exchanged reports on what happened in each caucus after it was over. I am sure the Republicans in the Republican caucus thought that the Democrats were all praising me for having introduced a bill, for having helped the Democratic Party, because, as I understood it, the Republicans were really giving Senator Goldwater a working over, saying, "How in the world could you have fallen into the trap of introducing a bill that is obviously aimed at helping the Democrats?"

But I had to laugh to myself and say, well, it would certainly have been ironic if each side could have heard the other. I remember, because the very same moment the Democratic caucus was giving me a working over, saying, "A working over, saying, as I understood it, the Republicans at the State level, ultimately, we were going to win because the people themselves would come to understand the issues and I said that that system was going on then was a scandal waiting to happen. Unfortunately, those familiar with the history of my own State and the politics of our State know that that scandal did occur and they occurred at about the same time that the Watergate scandal was occurring nationally.

The people of the State fixed their attention on the need to reform the State political system and all of a sudden those proposals that people had smiled at with condescension because they knew they would never go anywhere came to understand the issues and I said that that system was going on then was a scandal waiting to happen. Unfortunately, those familiar with the history of my own State and the politics of our State know that that scandal did occur and they occurred at about the same time that the Watergate scandal was occurring nationally.

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Mr. President, if campaign spending keeps going up at the same rate, and it already is requiring us to raise $10,000, this has been said over and over again on the Senate floor, $10,000 every week, 52 weeks a year for 6 long years, the length of a U.S. Senate term. Senator must raise $10,000 each and every week to raise the $3 million total necessary to finance the average campaign.

The time that ought to be spent dealing with the Nation's problems and the time that ought to be spent back home listening to the people to understand their problems, the time dealing with our constituents, the time thinking about the future and what needs to be done for the next generation, time even with our own families, is spent crisscrossing the country, raising that $10,000 per week.

Last night, even, when we were discussing this bill many Members had to absent themselves to attend various fundraising events going on around town. We are all caught up in that and we are all a victim of circumstance and we are all a victim of circumstance and you say: How to get off this merry-go-round; this money merry-go-round that we are on in political campaigns. No one knows who the money taking interest group has given money to, who the membered.

It is a rare thing in this institution any more for two or three or four Senators to sit down together for as much as an hour to really talk about the substance of an issue in an institution that is supposed to be the greatest deliberative body in the world. Part of the reason is the financial pressure necessary to serve is so enormous that it takes so much time and effort and energy in organizing that we are not even able to sit down and reason together and work out the kind of bipartisan consensus on bringing these two aisles, narrowing the gap in this aisle here so that we can work together as Americans to solve the Nation's problems.

And there are many people on the other side of the aisle who I have been privileged to work with on one issue or another, and I know from working with them that they are good Americans with a sincere desire to serve the country and they are reasonable people, and I am sure they find the same about many people of this side of the aisle, and the shame and tragedy of it is we too seldom sit down person to person, Senator to Senator, to work out an approach to problems facing this country in a way that we could work them out if we ever had the time and the opportunity to sit down together.

But most of all the American people are victims of circumstance. They are victims of circumstance and we are victims of circumstance and you say: Why are we going on with the campaign spending. They have a right. They have a right to elect you and they say here to see the problems which they face. They have a right to expect you to do better, that we are all going to do our best to serve them. They have a right to expect that when we have time to go out and see people we will come to see our own constituents and listen to them. They are getting short-changed because those weekends that we ought to be able to spend back home in Oklahoma or Kansas or Texas or South Dakota or Arizona or Kentucky or wherever it happens to be, too many are having to rush to Los Angeles, or New York, or to Boston, or to Miami, FL, or someplace else where there is a money center where there are a large number of people who have the financial means to make large campaign contributions, and you have to say to that small town business person or that little farmer, who might be able to give you a $5 contribution "I am sorry we don't have time to listen to your problems. We've got to raise $3 million. Don't you know we have to raise $3 million? I haven't gotten my $10,000 this week. I can't raise that $10,000 in Wayne, OK, or Brundage, AL. I've got to go off to Boston. I don't have time to listen to your problems because I have to raise $3 million."

Mr. President, that is wrong. It is wrong. It is eating away at the strength of our political system. Something has to be done about it. And it should not wait until after the next election and one of these days—I do not know when, I do not know if this debate we have been through the last couple of days has yet aroused the American people but one of these days the American people are going to wake up and they are going to start asking questions and they are going to ask themselves has it been good for this country that the cost of running for the U.S. Senate has gone from $600,000 to $3 million in 10 years? Would it be better for this country if that trend continues exactly on the same trendline so it will cost $15 million to run for the U.S. Senate just 10 years from now, as I have said about the time that the pages who serve in the Senate should be victimized by it. The elected officials are victimized by it. The people who work on the Senate floor, the people who want to perform public service, they have an idealistic desire to come here and do their job for the American people, and they have to go out hat in hand and spend their time, effort, and energy raising money and raising it under circumstances that oftentimes have appearance of compromise of one's position even if, in reality, the compromise is not there.

And the people having to give the money are victimized, the interest groups that form the political action committees, whether they are business or labor or any other interest group that they are being victimized because they are being played off against each other.

People get notes from PAC managers to send back and, "Enclosed is my check, yes, I want to support Senator So and So and Congressman So and So." Maybe he is a chairman of a key committee or subcommittee they need to have for their own line of work. They get a reply card to send back, "Yes, enclosed is my $5,000. We want to help," or, "Yes, we want to give $1,000," or, "We want to help." Or, "No, we are not for his reelection." Those are the kinds of choices.

An anybody who does not think that people get the point when that person does that is being victimized, and the quality of our work is going downhill. It makes it more difficult to form a consensus on any issue we deal with, whether they are talking about the budget or education policy or foreign policy.

This is one of the reasons Members are so busy that they hardly even get to know each other and they have to talk to each other through the staff members. It is a rare thing in this institution any more for two or three or four Senators to sit down together for as much as an hour to really talk about the substance of an issue in an institution that is supposed to be the greatest deliberative body in the world. Part of the reason is the financial pressure necessary to serve is so enormous that it takes so much time and effort and energy in organizing that we are not even able to sit down and reason together and work out the kind of bipartisan consensus on bringing these two aisles, narrowing the gap in this aisle here so that we can work together as Americans to solve the Nation's problems.

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Mr. BOREN. Mr. President, let me clarify where we are. We wish we were in a position to do exactly what the Senator from New Hampshire talked about and that is continue to have real negotiation between the two sides to see if we could work out a compromise on this bill. But I do that, I do not want to see us miss this opportunity to do something meaningful for campaign reform.

Mr. President, we have seen a willingness on the other side of this issue, and I do not use the term "other side of the aisle" because I do not think of this as a Republican and Democratic issue.

There are Senators like Senator KAISER of Arizona, Senator STAFFORD, and Senator CHAFEE, who have been supporting this bill. There are other Senators on that side of the aisle like Senator RUDMAN, who just spoke, who have indicated the same time again a real willingness to sit down and negotiate with us on meaningful campaign reform and be a part of it and bring very creative ideas into the process.

There are other Senators. I see my good friend, Senator EVANS, for whom I have such immense regard.
need to work on it. We are willing to work on it.

But, Mr. President, unfortunately, we finally heard from the other side. There is one thing we just will not ever do. That is putting overall limits on campaign spending or overall constraints or overall ceiling on how fast campaign spending can go up. We are just against putting overall restraints on total campaign spending, and we will not even talk about it. We will not even talk about changing the formula by State to make sure it is fair to the Republican Party or the Democratic Party in the particular State. We just will not even talk about it at all.

So, Mr. President, that is the issue and that is where we have come around in the negotiation.

If the other side would say we are willing to talk, we want to make sure that formulas are written in a way to be fair to Republicans, I think this side on our floor backs away from any change of the formula. If anything, we would probably go so far as to put ourselves at a perceived disadvantage in order to demonstrate our fairness on that point.

Mr. President, when they say we will not talk about limiting campaign spending that is like saying you can go swimming, but do not go near the water. You can have campaign reform but cannot do anything about all this money coming into the system.

Mr. President, I just fail to see how it is good, if anybody can explain to me it is good. The cost of many campaigns have gone up 500 percent in the last 10 years. If anybody can say to me the people themselves at the grassroots had a greater say in the process, if anyone can say it, increased confidence in the American politics, that is where we have come around in the negotiation.

Mr. President, let me tell you that is not what this is about. That is not what it is about. Those are all tangential events. It is not about how we spent money. It is not about what we have shown we can probably reach agreement on many of the recommended issues to campaign reform doing something to define average advertising rates that are so very, very important to the Senator from New Hampshire, who talked about that. We can work on that, and I am convinced we can come to a solution, so we get a balance back into what PAC's and individuals give.

We should have aggregate PAC limits so we can get a balance back between what PAC's give and individuals give, leaving parties room for growth, and strengthening. And the Senator from New Hampshire is right. That is something that needs to be done. We can work on those things: Millionaire's loopholes. Independent expenditures spend unlimited amounts of their own money to buy alliance, something ought to be done. We can work on that. Independent expenditures by committees that run negative ads and do not really identify who is running the ad, what their cause is, we could do something about that.

Mr. President, it all boils down to this. The negotiations have fallen apart because there has not been a willingness to put on the table, to even put on the table the question of overall limits on the amounts of money that can be pumped into campaigns. Surely, there is some logical point at which everyone could agree it is unhealthy. I look at spending and I see $30 million spent in races. I think to myself immediately, what is wrong? Should not we be competing on ideas, on questions? Should not our people have campaigns that cost within bounds so they can stay mainly in their home States and be able to raise enough money to run those campaigns so they can talk to the people that elected them about their problems so they do not have to go to other places and deprive them of time from their constituents and time away from work.

So, Mr. President, that is the issue. That is what we must deal with. All I can say, Mr. President, is I don't know how the vote will come out at 10 o'clock today morning. I keep hoping that there will be some, frankly, six people who have not voted for cloture before who will decide to vote for cloture this time. Maybe not because they think S. 2 is perfect but because they would like to get on with trying to fashion a solution, because if we get a cloture, and we vote on this package, it will then be subject to amendment.

Those who are opposed to it in the form in which it now is will have every opportunity to offer any amendment that they want to offer. This Senator as manager of this bill promises to allow them to have every opportunity to consider legitimate, relevant amendments to campaign reform, any and all of them that they wish to offer to make changes or improvements in this bill.

So, Mr. President, that is the issue. Is it good for America to allow an unlimited amount of money to be spent on campaigns, unlimited? Would it be good for America to put no limits on the rate at which campaign spending is going up? Would it be good for America if within the next 10 years campaign spending went up another 500 percent? Would that be good for America? Would that be good for our people? Would it be good for our political system? That is the answer.

It is not poor when a bill after poll by over 90 percent says that is not good for America, that it is a serious problem, and something should be done. Fifty-two Members of this Senate have signed onto this bill as a cloture alternative. Mr. President, that is not the last word, not as something that should not be subject to amendment, but as a vehicle for reform. Fifty-five Members of this Senate have gone on record in the past saying give us a chance to vote on it. Ninety percent of the American people have said it is a serious problem, and we ought to do something about it.

Mr. President, we should. I hope we will have a chance. I hope we will take up the offer to continue to work in good faith, but I hope those who are opposing this bill now will give us a chance to go forward and work on this. Vote for cloture. Give us the chance. Give us a chance to work on this problem together as Americans because it is an American problem.

So no matter what parliamentary maneuvers have been made, and how cranky all of us may get from loss of sleep or how anybody felt about what has gone on in the course of this debate, I hope it can be put aside in the last 24 hours for us to find a way. Mr. President, to find a solution and find the solution that will put some restraint on this runaway growth of campaign spending. We are concerned about the arms race. We ought to be concerned about the arms race. We ought to be. It threatens our security. It threatens our physical security.

Mr. President, let me tell you that the political money race threatens our political security in this country. It threatens our political security. And
the political security is stability for our children. We ought to devote ourselves to doing something about it. And we ought not wait until after the next election. One of these days we are going to wake up too late.

I saw it happen in my State about the reforms that we were slow in making, and finally I saw those reforms speedily adopted. It was speedily adopted from the people said where were you, what were you electing officials doing, why have you not taken care of this problem? Finally they were embarrassed and jumping on a bandwagon to do something about it.

I hope we will all go on the record of saying we want to do something about it now. We will have that chance at 10 o'clock on Friday morning by voting yes, just say yes, to paraphrase what the First Lady has said, but in the reverse. Just say yes to giving campaign reform a chance. Just say yes to talking about putting some limits and restrictions on overall campaign spending. Under our rules there are so many ways that, if the form of the bill does not finally please people when it is over, they will be preventing us from voting on the final bill. But just say yes to commencing on this. Just say yes to over 90 percent of the American people who view this as a serious problem. Just say yes to getting on with this and stopping the campaign cash raising that threatens our political security.

Mr. President, to close I see my colleague here. I appreciate his patience in being a captive audience at this point to these remarks.

I say again he is the kind of Senator that we had the opportunity to work without any constraints. I think we can work together on something that would be significant. I hope we will have that chance.

I would like to insert into the Record some remarks that I made about a proposal which came from the other side which would limit soft money, not just disclose it but limit it. Negotiators from the other side have advocated placing actual limits on what constitutes certain soft money expenditures. I think we all realize soft money can be abused and that there needs to be more disclosure.

This proposal would suggest that their definition of soft money is really illegally contributed hard money. That is really not the case.

Let us consider an example. Let us suppose there is an ideological group which is running a national direct mail campaign highlighting all Senators who would not vote the money over to Contras. As I have supported such legislation, I thought that might be a good example to use. Let us assume that this group is sending $12 million nationally to send newsletters to voter lists and in certain congressional districts. Let us assume that this newsletter is a 16-page color tabloid, the kind of mailing which identifies key Senators and Congressmen who have supported Contra aid, pictures them with rays beaming from the Presidential and national leaders who applaud the statesmanship of these several Members of Congress in a very favorable light. Under current law this is considered a free expression of opinion. It is basically saluting Members of Congress for a particular view on an issue that they held or on votes they have made.

It may be just as easily that expression could have been made in a tabloid commending those who were against Contra aid. We could use the example either way. Different groups would want to do this. The question becomes if we are to limit this kind of activity which would be limited under the proposal of the four negotiators from the other side, the Senator from Kentucky suggested this when he proposed limiting soft money expenditures, how do we do it? What is it? What is it? What does this mean? What is it a political endorsement of an individual candidate or a free expression of opinion? Even if it is to be disclosed, how is the benefit to be allocated on behalf of each candidate? They send this out nationally. Some people are running for election that are mentioned, some are not; some are in closely contested races, some are not. Does the proposal of Contra aid group disclosure their presumed subjective value of an endorsement? Does the FEC decide this Member of Congress got this much financial benefit from this tabloid, which is on the subject of Contra aid either for or against it? How do you divide it? How much of the financial value of that went to Senator McCain, how much went to Senator Boren, and how much went to Congressman Jones or Smith? You have to figure that out.

Mr. President, I am disturbed to hear that some in the group of eight felt that the Buckley case was properly decided because it protected free speech. They were saying you ought to be able to spend money any amount on your campaign because that is free speech. And then to hear some of the same Senators suggest that we should put actual dollar limits on free speech by curtailing what any group of persons could say about a subject because it might have an indirect effect on political campaigns. There is testimony from the Rules and Administration Committee last spring which told us even the experts who track soft money and review it and analyze its effects admit that you cannot limit something like that because it has first amendment implications, nor can we limit an advertisement for a political campaign. There is testimony about putting some limits and reform a chance. Just say yes to talking about it.

When you have a phone bank calling people saying vote Republican or vote Democratic, how do you allocate that down to sheriff "Z" in one of the 77 counties, saying that was equivalent to $4,000 worth of value to him? It is pretty difficult to do. It gets to be even more difficult when it is a group just talking about an issue as under my example like Contra aid. We salute every one of those folks who are on that list. Here it is all listed in our little newsletters or tabloid. How do you translate that into some financial value that has been received for a campaign that is maybe a year and a half off from somebody that is mentioned in that tabloid.

Do you discount it by the figures in a district? Maybe one would be praised for being for Contra aid in one district where 80 percent of the people are for it. Maybe one would be praised for being for Contra aid in a district where 25 percent of the people are for it. Do you give the same values? Is it the same political benefit? Obviously, not.

So there are real problems here. I simply wanted to put that into the Record because this has been a matter of discussion, and I think again in light of the fact that we have more things to talk about in the future in this area, that I thought I should raise that point as a matter of discussion now.

Again, I thank the Chair. I thank my colleague and I relinquish the floor.

Mr. McCaIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCaIN. Mr. President, I would like to express my appreciation for the very articulate and indeed persuasive argument that my friend and colleague from Oklahoma, Senator Boren, has just made on behalf of sectional and all these people are running for the State legislature. We have Senators, we have six Congressmen, we have a Governor race, Lieutenant Governor, secretary of state, attorney general, and all these people are running for office.

When you have a phone bank calling people saying vote Republican or vote Democratic, how do you allocate that down to sheriff "Z" in one of the 77 counties, saying that was equivalent to $4,000 worth of value to him? It is pretty difficult to do. It gets to be even more difficult when it is a group just talking about an issue as under my example like Contra aid. We salute every one of those folks who are on that list. Here it is all listed in our little newsletters or tabloid. How do you translate that into some financial value that has been received for a campaign that is maybe a year and a half off from somebody that is mentioned in that tabloid.

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Again, I thank the Chair. I thank my colleague and I relinquish the floor.

Mr. McCaIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCaIN. Mr. President, I would like to express my appreciation for the very articulate and indeed persuasive argument that my friend and colleague from Oklahoma, Senator Boren, has just made on behalf of S. 2. I would like also to state that if there is a person who can forge a bipartisan agreement on this very divisive issue in this body, it is indeed my colleague from Oklahoma. As I have had the opportunity of working with him on many other very difficult
Mr. President, I want to make it clear I am not denying the right of any organization to involve themselves in any race anywhere in the country. But I do believe that involvement must be reported, just as any campaign contribution is reported, just as any political action committee contribution is reported, or anything else. But this S. 2 has a glaring hole in it in that it is all talk and will get us nowhere if we place limits on the legitimate funding. That hole is failing to address soft-money contributions. This is going to lead to more and more contributions to so-called ‘independent organizations.’

We are already seeing this in the Presidential campaigns. We are already seeing ludicrous examples where the Presidential candidates met or were about to exceed the amount of money they could spend in the New Hampshire primary. They would go to Massachusetts to rent a car. They would contract with Boston television stations, et cetera, et cetera, so that they could avoid the arbitrary, or at least in my view unenforceable, limits on the amounts they could expend in that State. Soft money is a major, major issue.

And, as optimistic as my friend from Oklahoma is—and he is a wonderfully optimistic individual by nature which is one of the reasons why he is so extremely popular on both sides of the aisle—as optimistic as he might be about the invocation of clout today at 10 o'clock, I think the prospects of that are extremely dim.

I would also like to point out another aspect of this debate that I think will ensure that at least on Friday we will not proceed with this bill in the invocation of clout. Of course, that is that the degree to which the atmosphere around here has been poisoned by sending our dollars to the Middle East, or at least in my view arbitrary, or at least in my view unenforceable, limits on the amounts they could expend in that State. Soft money is a major, major issue.

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February 23, 1988

CONGRESSIONAL RECORD—SENATE 2245

You know, I travel all around my State as frequently as I can. I go literally every weekend to the State. And now, with this very fine schedule that we have of 3 or 4 weeks on and 1 week off, I have the opportunity to spend a great deal of time with my constituents. And, you know, I have never, ever met a single constituent who has said to me: "Senator McGurn, please spend my tax dollars to finance the campaign of someone I have never met or never heard of." I have never heard a single constituent of mine say that. Maybe I am not in touch. I willfully admit I just go to Rotary Clubs. I have town hall meetings. I visit with chambers. I was down serving Christmas dinner for the homeless on Christmas Day. And, perhaps I do not associate with the same people that Archibald and Common Cause do here at 2030 M Street, NW, Washington, DC.

But I would suggest that Archibald and his friends leave Washington, DC, and perhaps get into the people on the side and explain fully what S. 2 is all about—taxpayers' money for congressional campaigns. And perhaps if Archibald and his friends could get the kind of support for taxpayers' dollars being spent on campaigns, then I certainly would be more understanding of such a thing.

I also wonder whether given the fact that we are running the largest deficit in our history—the spending hemorrhaging continues in a dramatic fashion—whether the American people want to see more of their taxpayers' money. They do not. We are very appreciative that the soft money, independent expenditures, and other aspects of this bill which give an enormous and, in my view, unconscionable advantage to the Democratic Party.

It hurts all Americans if we do not level the playing field between candidates and between parties. It is bad policy and bad government no matter who is in control. And incumbents, I might add, do not need more security. Let us look at some of the facts about the limits that are proposed in S. 2.

Incumbents have significant financial and political advantages arising from their media exposure, from their holding the public's attention, and from their ability to use soft money. And I am not talking about investment in a newspaper. I am referring to hard money. In S. 2, S. 40, and S. 40.5, there is a difference. S. 2 takes out all hard money.

Senators have estimated that the cost of running an active campaign for President is $30 million. Let us look at the reality of the Incumbents' Protection Act of 1988.

I think that is pretty clear. I hope the future Archibald and his friends would not take the liberty of using Senator Goldwater's name in such a fashion. I think, a really unhelpful fashion.

But I do urge Archibald and his friends to continue purchasing advertisements in Arizona. We do need the money. We are very appreciative that they would take out full-page ads. But, please recognize my admonition to give some fairness.

Now, Common Cause is a fair organization. Please be fair and give money to both the radio and television people so that they can share in your largesse.

Let us take a look at the reality of this year's election calculation: Republicans against good government and campaign integrity and opposed to cleaning up the scandal, and so forth? They are not. They are against a proposal that would vest added power to incumbents. That hurts Republicans because we are in the minority at this time. Our distinguished acting leader, Senator Simpson of Wyoming, described it very well a few days ago. This is not an argument over finance. It is an argument over the use of the offices and the fringe privileges, etc. It has been often said that, if there is something that the Congress of the United States has not voted for themselves for free it is because they have not thought of it yet.

We look at the newsletters, the ads, the radio, the television, the mailings, the postcards announcing town meetings—all of these enormous advantages are incredible. I do not know anyone who has ever had advertisements of these advantages that an incumbent has into actual dollars, but I would suggest, if we should do that, that the answer would be in the millions of dollars.

Now, how can a challenger get on a level playing field with an incumbent if he is not allowed to spend money? At the same time, how can we cap campaign spending like S. 2 does and leave all of these freebies for the incumbent. It simply does not make sense. Some people have called S. 2 the Incumbents' Protection Act of 1988.

I have not made that statement. What I would suggest though is this business of giving challengers and incumbents a level playing field involves a lot more than just spending. Part of it, I would suggest to my colleagues, is this aspect of all of the advantages an incumbent has not only by virtue of his office...
but those advantages in the way of free mail and free phone calls, free news letters, et cetera, et cetera, which are bound to give the hard working incumbent an enormous advantage. So if you put an artificial cap on what a challenger can raise, that make that cap the same as the incumbent's, I do not know how we are creating a level playing field.

Let us look at S. 2 limits as applied to the 1986 election cycle, our most recent election period.

If you were a challenger in the U.S. Senate in the 1986 election and you spent above the S. 2 limit, you probably won. Five of seven winning challengers in the 1986 elections for the U.S. Senate won those races.

If you are a challenger who spent less than the S. 2 limit, you probably lost; 18 out of 20 challengers whose expenditures fell below those limits lost those races.

What does that say on the effect of these limits on incumbents' survival? I think it is obvious. It ensures them.

Now, I would like to address another false message that the proponents of S. 2 have also like that the Senate is "up for sale." That somehow those that will raise more money will win. That is not the case.

Ten of our colleagues who are here today as a result of the 1986 election were outspent and won. Dollars are indeed important. There obviously is a minimum level of expenditure, that would vary from State to State needed in order for a challenger to get his message out. But I would suggest to you that, indeed, if dollars were the answer, this body would have the Republican Party in the majority as opposed to the Democratic Party.

Time spent, yes, it is inconvenient. It is terribly inconvenient. Not only inconvenient, but it is uncomfortable to have to ask people for money. The one thing I dislike about political campaigning, in my view, is having to request people's money.

But there are a lot of things that are inconvenient in campaigns. Eating barbeque seven times a day is indeed inconvenient. I have had that experience on several occasions. I have to travel from one end of the fifth largest State in America to the other in 1 day is indeed inconvenient.

Walking the streets of Phoenix, AZ, in the month of August when the temperature is 115 degrees is inconvenient.

I do not know any of us who are drafted into these positions. And there are certain things we have to do, a lot of them, in order to arrive at this, in my view, the most honorable position that any man or woman in our country could hold.

The real problem with fundraising in the eyes of the American public is not getting large numbers of people financially involved in a campaign. Nobody is objecting to $100 contributions. Nor is anyone objecting to thousands of individuals giving $100. It is the very large donors and the PAC's, and the perception that special interests are buying access or influence, that has got the American people upset.

I think that we now come to the part of campaign financing that is the most onerous and most bothersome to the American people—and that is the influence of the political action committees.

I do talk to my constituents about the S. 2 proposal on campaign reform. I would talk to them about how spending has gotten out of hand, and the difficulties involved in purchasing sufficient media to get our message across.

The message I get back from the people is that I talk to and the letters I get are they are worried about the influence of political action committees.

What is interesting about S. 2 is that S. 2 preserves the political action committee. I would suggest to my distinguished friend and colleague, Senator Boren, of whom I have the utmost admiration, that if political action committees are perceived by the American people as the corrupting aspect of political campaigns today, let us legislate them out of existence. Let us put it into S. 2 that there will be no more political action committees allowed.

Then I think you would probably receive about 80 percent of the concerns of the American people about this whole situation. Because they do not think that a person who comes to a barbeque for me and pays $25 and contributes to my campaign is corrupting the process. They do not even think that a person who comes to a dinner that I have and pays $100 is corrupting the process. But what they do believe is corrupting is a $5,000 primary contribution from a political action committee and a follow-up $5,000 general election contribution.

I would like to say a couple of words about political action committees, just to make the record clear. I think that political action committees are a method of political involvement on the part of the people. I think it should be of interest to the Members of this body that the average contribution to a political action committee in this country is about $25. They contribute their money to a political action committee which their company or their organization represents, and then representatives of their organizations or companies donate that money to a candidate or candidates who share their views, their agenda, who they feel will help them in the goals that they seek for themselves in this country.

They range across the board, as we know, including organized labor, patriotic organizations, to companies and corporations.

The fact is that in this country the biggest problem we face today is not to make enough Arizonans involved in the process. It is too few people involved in the political process. In fact, perhaps part of the reason why my own home State is in such a severe state of turmoil and unrest is because we did not have enough Arizonans involved in the primaries and the general election. When some 10 percent of the eligible voters of my State are the only ones who vote in a primary election, we have got a serious problem.

I would suggest that a case can be made, and I subscribe to it, that participation in political action committees is a way of citizen involvement. Yet there is the perception, and perhaps it is an accurate one—I am not here to debate the point—that political action committees are corrupting to the process. I say, Mr. President, if political action committees are viewed by the American people as corrupting the process, let us do away with them.

I would also like to point out I speak from a somewhat parochial viewpoint. I have some figures I will go through in a few minutes. The majority of the political action committee money today goes to Democratic candidates—labor PAC money, an over-the-limit and business PAC money by a significant margin. The majority of the contributions to the Republican Party and their candidates come from small contributors. So, as I say, I am not entirely selfless when I recommend this.

If we are going to be fair about this issue I think the political action committee issue has to be addressed.

Take for example the big political action committees who maximize their contributions all over the Hill that are not touched by S. 2. There is nothing in S. 2 to stop any political action committee from giving any candidate $10,000 just like they do now. The only differences is that there will be a race to the trough very early in order that they can get in before the PAC contribution limitation is reached. Yet Common Cause, with its now-famous monopoly on integrity, truth, and fairness, tells all of us in full-page advertisements that they are the only persons from those Senators who oppose S. 2 as "defenders of special interests and defenders of the national scandal".

Moreover, Common Cause circulates lists of Senators who have voted against S. 2 with PAC contributions next to their name, insinuating that we have been "bought" by PAC's.

Let me repeat that. Common Cause circulates lists of Senators who have voted against S. 2, not for, but against S. 2, with political action committees' contributions next to their names.
February 23, 1988

CONGRESSIONAL RECORD—SENATE

I have a list here which is very interesting; the latest from the FEC reports with total figures as of February 9, 1988. It might be of interest to my colleagues to know that the top five-recipients of PAC money as of February 9, 1988, are all members of the Democratic Party. Eight out of the top 10 of the major recipients of money from political action committees are of the Democratic Party. Eleven of the top 15 are of the Democratic Party.

The lead is held by my esteemed friend and colleague, Senator Bentsen of Texas, who has been able to amass this early in the season $1,380,407.91. I would be curious who the 91-cent contributor was. But he is followed by Senator Sasser. Our distinguished majority leader, Senator Byrd, has been able to acquire $865,379.63.

There have been races this cycle where the challenger has sought from the Democratic incumbent an agreement to limit the amount that both candidates would expend, and unfortunately those proposals have been rejected.

But the fact is that I respect and admire my friend, Senator Boren, who has worked so hard on this issue. He is a honorable man, a decent man, in fact one of the finest that I have ever known. These objectionable tactics by Common Cause are not his. I have never known Senator Boren to accuse anyone who disagrees with him on this issue of anything but the highest motives. But I do object when public interest groups portray those of us who are opposed to S. 2 as being bought by political action committees, and yet makes no mention of those who have received enormous amounts from PAC; significantly more than those opposing S. 2, and make no mention of them.

There have been five races where the target, moves the target. Eight out of the top 10 of the major recipients of money from political action committees are of the Democratic Party. Eleven of the top 15 are of the Democratic Party.

The Watergate Committee addressed this, and I think this is an important part of the record, Mr. President. After the terrible scandals of Watergate, part of the committee's task was to review the reasons why the Watergate scandals came about, and they reviewed various campaign law reforms after that terrible chapter in our Nation's history. They said, and I quote:

"The Committee recommends against the adoption of any form of public financing in which tax moneys are collected and allocated to political candidates by the Federal Government."

The Committee takes issue with the contention that public financing affords either an effective or appropriate solution. Thomas Jefferson believed that "to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves and abhors, is sinful and tyrannical."

The Committee's opposition is based, like Jefferson's, upon the fundamental need to protect the voluntary right of individual citizens to express themselves politically as guaranteed by the first amendment. Furthermore, we find inherent dangers in authorizing the Federal bureaucracy to fund and excessively regulate political campaigns.

My colleagues from California, who has such an enormous fundraising challenge. Perhaps only he and his colleague, Senator Cranston, have the patience of wise and media markets and multimillion dollar campaigns.

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That is the view of the Watergate Committee.

Mr. President, I am told that I should stop for a minute while the Senate pauses for a prayer, and for that I yield the floor.

The PRESIDING OFFICER. The Senator yields the floor.

[The following proceedings occurred at 12 noon, Thursday, February 25, 1988.]

The hour of 12 o'clock having arrived and the Senate having been in continuous session since yesterday, pursuant to the order of the Senate of February 29, 1960, the Senate will now suspend while the Chaplain offers a prayer.

The Senate will be in order.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Come unto me, all ye that labour and are heavy laden, and I will give you rest. Take my yoke upon you, and learn of me; for I am meek and lowly in heart: and ye shall find rest unto your souls. For my yoke is easy, and my burden is light.—Matthew 11:28-30.

Gracious Lord, thank You for this gentle invitation from a time when bodies and minds are weary—emotions raw—frustration growing as strong wills clash. In this busy, pragmatic world of politics, it is easy to think of You—if we think about You at all—as irrelevant—a God of the sanctuary and not the marketplace. Help us to perceive Your reality—Your nearness—Your love—Your boundless resources at the time of need—and give us the grace to come to You and find rest and renewal. Thank You, Patient Lord.—Amen.

SENATORIAL ELECTION CAMPAIGN ACT

The Senate continued with the consideration of the bill S. 2.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Arizona?

Mr. McCAIN. Mr. President, I know my colleague from California, my colleague from Washington, and my colleague from Minnesota are all here, perhaps wanting to speak on this issue, so I will conclude.

But the fact is that I respect and admire my friend, Senator Boren, who has worked so hard on this issue. He is a honorable man, a decent man, in fact one of the finest that I have ever known. These objectionable tactics by Common Cause are not his. I have never known Senator Boren to accuse anyone who disagrees with him on this issue of anything but the highest motives. But I do object when public interest groups portray those of us who are opposed to S. 2 as being bought by political action committees, and yet makes no mention of those who have received enormous amounts from PAC; significantly more than those opposing S. 2, and make no mention of them.

There have been five races where the target, moves the target. Eight out of the top 10 of the major recipients of money from political action committees are of the Democratic Party. Eleven of the top 15 are of the Democratic Party.

The Watergate Committee addressed this, and I think this is an important part of the record, Mr. President. After the terrible scandals of Watergate, part of the committee's task was to review the reasons why the Watergate scandals came about, and they reviewed various campaign law reforms after that terrible chapter in our Nation's history. They said, and I quote:

"The Committee recommends against the adoption of any form of public financing in which tax moneys are collected and allocated to political candidates by the Federal Government."

The Committee takes issue with the contention that public financing affords either an effective or appropriate solution. Thomas Jefferson believed that "to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves and abhors, is sinful and tyrannical."

The Committee's opposition is based, like Jefferson's, upon the fundamental need to protect the voluntary right of individual citizens to express themselves politically as guaranteed by the first amendment. Furthermore, we find inherent dangers in authorizing the Federal bureaucracy to fund and excessively regulate political campaigns.

That is the view of the Watergate Committee.

Mr. President, I am told that I should stop for a minute while the Senate pauses for a prayer, and for that I yield the floor.

The PRESIDING OFFICER. The Senator yields the floor.

[The following proceedings occurred at 12 noon, Thursday, February 25, 1988.]

The hour of 12 o'clock having arrived and the Senate having been in continuous session since yesterday, pursuant to the order of the Senate of February 29, 1960, the Senate will now suspend while the Chaplain offers a prayer.

The Senate will be in order.

PRAYER

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have not spent 1 minute of floor time on the Clean Air Act reauthorization, a bill that truly affects every American and our quality of life. And there is a long agenda of legislation that I believe this body should take on.

I would also say, Mr. President, that it would do far more good for the American people on this issue—and indeed there needs to be repairs made in the system—if we could sit down together as honorable men and women and arrive at the kind of compromises that are necessary. We should make the compromises that are necessary, compromises that address the issues of soft money, compromises that address the issue of independent expenditures, the compromises that indeed address the role of political action committees in the political process, rather than just some kind of arbitrary limitation.

These compromises are going to have to be made. Indeed, after the vote at 10 o'clock on Friday, we will again prevail and clout will not be involved. I hope that we will get our gang of four, as we call them, four dedicated Republican Senators and four Democratic Senators, who are willing to sit down and arrive at a reasonable and fair conclusion that we can all support. We must restore the confidence and faith of the American people on this issue—and indeed there needs to be repairs made in the system. I hope that we will get our compromises that are necessary, that they are indeed electing their representatives, and the most qualified representatives, rather than that selection being made by some special-interest groups.

I would again like to thank my friend and colleague from Oklahoma, Senator Boren, who has handled this issue with integrity, candor, honesty, and dedication. I am sure his reward for all the time was from 1 a.m. to 3 a.m. there in the Chamber now as there were at 3 o'clock this morning, different Senators, but the same number.

The PRESIDING OFFICER. The Senator from Arizona yields the floor. Who seeks recognition?

The Senator from Arizona. Senator Boren, is recognized.

Mr. EVANS. Thank you, Mr. President.

I had the opportunity to speak at some length last night, but since the time was from 1 a.m. to 3 a.m. there were only a few hardy souls in the Senate Chamber ready to listen. I thought I would come back at a much more civilized time at noon so that I could speak with many more of my colleagues.

I find to my dismay that there are precisely the same number of Senators in the Chamber now as there were at 3 o'clock this morning, different Senators, but the same number.

Mr. President, let me say that the events of the last few days have troubled me greatly. I have had many questions asked over the last several months as to why I have chosen not to run for re-election and why I am leaving the Senate.

The actions of the last several days may be a pretty good example of precisely why that is true. We have had a massive overkill in terms of actions in the Senate. I have been either in my political career or in my private life, in either adolescence or adulthood, ever before in my life been subjected to an arrest warrant. And, frankly, I am more than distressed and personally offended by that fact.

I happen to have not been aware, and perhaps that was my fault at 1 o'clock in the morning not being aware the Senate is doing it to me anymore. I need to be a request for absent Members.

I find it frightening almost that on this issue at this time for this purpose for the first time in several political generations this was found to be necessary. I do not bring this up, even people as distinguished as the leadership of this Senate, to tell this Senator his Senate responsibility.

It has been said on several occasions during the course of this debate the Senate, the last several days that the American people know who kept this bill from passage. This bill is controversial and we have had a plethora of speeches on one side and the other, but it is interesting to note that every time we reform in a situation like this of campaigns, every time we reform campaigns, we seem to create another evil which we then turn around and attempt to reform a decade later and the American people know who kept this bill from passage.

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What will we be doing 10 years from now? What will we be doing when the Senate comes back in the year 2000 saying we need campaign reform?

Will it be to correct the very things that some would advocate in S. 2? I fear so because if we look back at the corrections we made in 1974 they were corrections designed to correct the evils perceived at that time. And so what did we create? As a correction for these evils we invented the political action committees and now we are saying that somehow they are evil.

Mr. President, I think we too often aim at the wrong targets, misunderstand what we are doing with new legislation, and end up failing to reform but merely change.

Today some would suggest that public funding—this is the new thing—public funding is the be all and end all, that somehow if we only could have public funding that we would correct the evils in the Senate campaign.

Well, Mr. President, let us take a look at some of the results of public funding as carried out in the Presidential campaigns and particularly the primary campaigns of 1988.

We have seen some of the things done, strange things indeed, in some of the early primaries and caucuses. In Iowa, people fly in and fly out of the State rather than staying for extended periods of time. There are staffs of the various candidates. People are moving in and out of mobiles in nearby States rather than in the State of Iowa itself, which does not appear on the surface to be a very logical thing to do. And then when you dig a little deeper you will find out why and the why is because with public financing and the limits placed on expenditures in each of the primary States, people bumping up against those limits find that they can only do so for a day or two and fly out of the State because they can ensure by doing that that the money for the salary will not be counted against the State's allocation. They rent a car in another State and use it in the State they are focusing on and that will not be counted.

In this combination of public financing and of campaign limitation we are in real danger of just creating, especially in the minds of the young campaigned, the next generation of office holders and of leaders in this Nation, a whole new morality and that morality is to find out how you can use the rules, evade the rules, get around the rules and sometimes, when it is necessary, even break the rules because they are attempting to force you into actions.

One of the most distinguished political reporters in the United States, David Broder, said that public financing as it is now applied has had the impact of deteriorating grassroots campaigning in this country.

Is that reform by doing something that really deteriorates grassroots campaigning?

No, Mr. President.

I think that when we are focusing on reform, we ought to thoroughly understand each change we propose and determine whether it in fact really is reform or merely change.

I am tired of assumptions and the thundering of many on the floor of this Senate that somehow political money is equated with crookedness, that all of those who receive it are somehow evil or perhaps even illegal.

I do not believe that for one instant. I believe it is much more common for people to support those who are running for political office because they believe from the beginning that that
person has the philosophy and stands for issues that are compatible with their own interests. They are not just shoveling out money to someone hoping that by doing so they are going to change their philosophy, reverse the thing that they are engaged in, or somehow get some fraction, a small fraction, the largest campaign donation of anyone, a very small fraction of 1 percent of a total campaign finance, and somehow you can buy any 1 of the 100 or us in the Senate. I just thoroughly reject that.

It is time, Mr. President, for facts. It is time to recognize that the real focus and the place that we ought to be emphasizing reform is to do an even better job than has been attempted in S. 2, to get at the problems of wealthy candidates, those who use an extraordinary amount of their own money to come in and literally attempt to buy an election on their own behalf.

Fortunately, that does not seem to work too well. Recent experience of that shows that those who have used an extraordinary amount of their own money have not, therefore, made not on behalf of the candidate but very likely in opposition to a candidate without the candidate's knowledge or the knowledge of the candidate's opponent.

I think that is the real scandal of campaign financing, independent expenditures, which, Mr. President, believe me—if we put limitations on PAC contributions, put limitations on campaign spending if in fact all of this money out there is evil, what in the world do we think those evil money-baggers are going to do? Just pack up and go away? Well, of course, they will not.

If in fact they are evil, and they are seeking undue influence, they will merely turn their emphasis to independent expenditures, those expenditures made not on behalf of the candidate but very likely in opposition to a candidate without the candidate's knowledge or the knowledge of the candidate's opponent.

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Mr. BUMPERS. Mr. President, if the Senator from Washington would stay just a moment, I would like to engage in a short colloquy because, first of all, I believe our colleagues on both sides of the aisle have no objection to the distinction and long friendship with him as a Governor. I served as Governor many, many years ago, longer than either one of us would like to admit.

Let me just start off, Senator, by asking you a simple question: Have the Senator think that the existing system of financing political campaigns for the Senate, for example, is a good one?

Mr. EVANS. I think that it is a reasonable one, not as good as it could be, but not as bad as some would suggest. There are as many different ways of financing political campaigns for this Senate as there are Senators. Some have chosen voluntarily to not accept political action committee donations and they have been very successful. Others have chosen not to accept any donations over $100. They have been very successful. I think that one of the things that is here to my knowledge gains reelection by overwhelming majority spending virtually nothing in terms of political campaign donations.

But my way of knowing you would like it to be, but I do not think it is as bad as some would suggest.

Mr. BUMPERS. The Senator has heard these statistics bandied around here many times in the past few weeks or the last few days anyway as we have debated this issue. But the cost of running for the U.S. Senate for example has gone up about 100 percent over the past 8 years so that this year the average cost of a successful campaign, be it incumbent or challenger, this year is anticipated to be a minimum of $3 million, and that means that every United States Senator if he is going to spend that much—some spend much more than that—the average cost is $10,000 a week.

Does the Senator find it offensive in the least that the Members of this body have to spend that much time raising that much money in order to retain their seats?

Mr. EVANS. I think that it is a reasonable one. Why anybody would challenge a Member of this body in a campaign, they do not have to raise any money. It is obviously their call as to whether they are going to raise money and to some extent it is their call how much they are going to raise. But in practice, the statistics are overwhelming, absolutely overwhelming, that nobody is opting to walk the distance of a State and hope that the publicity they get by walking across the State will be a substitute for that that $2 or $3 million they can spend on television. And the real fact of the matter is that virtually everybody—I spent $1.5 million in 1986 and the Senator may have heard me say that it was twice as much money as I had spent in the preceding seven campaigns I have been involved in over the past 15 years. Twice as much.

Now, $1.5 million, I will tell you where that ranked me. Out of the 33 Senators who ran for re-election last year, I scored 26th. I am saying that 25 Members of this body spent more on their campaigns than I did. Now I would like to have been 33d or 34th or I forget how many of us were running. I would have liked to have been on the bottom of the ladder.

My opponent, totally unknown—probably did not have over 5, 10 percent name recognition when he announced against me—raised $1 million, a good part of it from people who never heard his name, through the bundling process.

Incidentally, on that point, does the Senator agree with me that we ought to stop bundling?

Mr. EVANS. Well, it depends on what you mean by that.

Mr. BUMPERS. Let me describe what I mean.

Mr. WILSON. Will the Senator from Arkansas yield for a question?

Mr. BUMPERS. If the Senator would withhold for just a moment.

Let me say, when I talk about bundling, I am talking about the process where people all over the United States sent the Republican Senatorial Campaign Committee thousands of contributions from $10 to $100 and the Republican Senatorial Campaign Committee sends that money out to whichever candidates they want to. That is what bundling was in this case. Because all of a sudden we get a finance report with about 1,000 or maybe 2,000 names in it. The newspapers began to call those people and asked, "If you live out in Washington or Oregon somewhere, why are you contributing to Mr. So and So?" And the answer every time was, "What are you talking about? I never heard of him. I just sent $10, or $25, or $100 to the Republican Campaign Committee." That is what bundling is to this Senator.

With that definition, accept it for just a moment, does the Senator agree that that is a good way to finance campaigns?

Mr. EVANS. You bet I do. I will tell the Senator why. Because I think it is a lot more honest and straightforward to develop the strength of the political parties of this Nation to allow people to contribute money to political parties, political parties which by their very nature are umbrellas designed to bring in people under some very broad principles, to support and advance those principles. And if a person contributes money to a national political party or a State political party and that party in turn chooses to support candidates of that party all over the State, in the case of a State party, but the national organization when it is determined to come from a particular county or city in that State but was donating to a party because he believed that party stood for something that was important—they in turn used it to help advance the cause of the party and the candidates of that party and you do the same thing at the national level—what in the world is wrong with that? What in the world is wrong with that?

Mr. BUMPERS. Senator, we have a big, big difference on that. I think there is a lot wrong with that.

But let me ask you a second question then. Let us take the case of where Mr. Gotrocks says to his neighbor, what Mr. Gott's Inc. "I have given all I can give to old so-and-so"—we will say up in New York. "I have maxed out. Now you don't know him but you have got a candidate," we will say, "in West Virginia that you have been supporting? Now you have given all you can give. I will raise $5,000, $10,000, or $100,000 among my friends and send it to your man in West Virginia if you will raise $100 grand and send it to New York."
How about that? Does the Senator think that is an ethical way to finance a campaign?

Mr. EVANS. Well, I would say to the Senator that is not an accurate portrayal of what is going on. There are a number of ways in which the system could work, and no law we can pass that will ensure ethical action on the part of every person covered by a law. It will not work in campaign financing. It does not work in criminal law. It does not work, in any other area. Otherwise, the legislation that would have the easy end result of passing criminal legislation and making sure that everyone lived up to criminal law. We could end crime in a minute if we could do that.

I do not condone everything that happens under the current system. What I am saying is that let us make sure before we do a new job and create a new system that we do not end up just having a whole new area and a whole new arena of things that will prove to be just as bad or just as evil or just as troublesome as the things we have today.

I would say to the Senator from Arkansas, as I mentioned in my remarks, I think political action committees are a perfect example. They came about as a reform, a reform of the election laws prior to 1974. They came about as a way to bring people together and give them a way to collectively put their money to use in political campaigns. Now we are saying somehow $5,000 is a perfectly crafted bill.

Mr. EVANS. Well, I would say to the Senator from Arkansas, my good friend and colleague, I have enjoyed this colloquy. I will answer his question. I know there are a number who wish to speak, and I would like to yield the floor morning with lots of material, figuring that I would, after a short period of time, have to go on to other things just to fill the space. I found, as I got more and more into it and enthused with the Senator, I was working on the various aspect of campaign reform, that the 2 hours went past very rapidly and I did not miss a trick in talking about campaign reform during that entire period of time. And I would commend that short novel to my good friend from Arkansas.

Mr. BUMPERS. Senator, I will not belabor this any further. But let me just ask you this simple question. Does the Senator believe that the present system of political action committees to give $5,000 and individuals to give $1,000, does the Senator believe that that has any kind of cause and effect so far as cynicism toward politicians and the political process in this country is concerned?

In short, do you think a guy out on the assembly line making $10 an hour, which is more than assembly line wages in my State, do you think that that person has any interest in collecting $10 or $25 to a candidate when once about every 2 months he picks up the paper and he sees where Senator Bumpers has raised $1 million in the last 3 months. And it is so much that the newspaper will not even present your name in my State unless you gave at least $500. Now, to a guy working on an assembly line who would like to be a part of the political process—

Mr. BUMPERS. Senator, I will not belabor this any further. But let me just ask you this simple question. Does the Senator believe that the present system of political action committees to give $5,000 and individuals to give $1,000, does the Senator believe that that has any kind of cause and effect so far as cynicism toward politicians and the political process in this country is concerned?

Mr. EVANS. Let me say to the Senator, I am not suggesting that there is probably some provisions in it that can be circumvented by a very wise lawyer or a gifted candidate.

But the one argument that I do not understand and I would just like for the Senator to comment on if he would, the only argument here that I cannot fathom is that somehow or other limiting the amount of money you can spend on a campaign favors the incumbent.

Now I recognize that if you are an unknown challenger you do have to spend more money to get known. But the Senator himself pointed out a moment ago that a lot of people are successful in ways other than just spending tremendous sums of money. I ran against one of the wealthiest men in America who spent about $3 million when I ran for Governor the first time. And I think all of my primary campaigns and general election combined cost me one-tenth of that and I won almost by a 2 to 1 major. So money does not always work.

But my point is this: The present system of political action committees is so corrupting and politically erosive of people's confidence in our political system is because it is the incumbent who can raise massive sums of money as opposed to a challenger. You go back, Senator, and look and see who is being defeated and you will find that the incumbent, the big percentage of them, are being reelected and they are not just being reelected because they are fairly well known in their home States. They are being reelected because they can literally raise millions of dollars. And the reason they raise millions of dollars is because the people who are giving it find it to their advantage.

Will the Senator agree with at least that part of the argument?

Mr. BUMPERS. Senator, I will not belabor this any further. But let me just ask you this simple question. Does the Senator believe that the present system of political action committees to give $5,000 and individuals to give $1,000, does the Senator believe that that has any kind of cause and effect so far as cynicism toward politicians and the political process in this country is concerned?

Mr. EVANS. Well, I would say to the Senator from Arkansas, my good friend and colleague, I have enjoyed this colloquy. I will answer his question. I know there are a number who wish to speak, and I would like to yield the floor.
after this response so Senator Specter might begin his turn, or whoever seeks recognition.

Of course, there is cynicism. There is cynicism because people are told constantly through the newspapers and elsewhere and by some in political office that this is an evil system and that is simply not true. What is true is that a lot of money is worse. Of course, they are conditioned and told constantly that this is a bad thing to do.

I would say to the Senator I cannot think of anything that would be fairer than not only to have the full disclosure of the real story but the censorship of the sort that looks through the lists that are sent to the Federal Election Commission and they pick out the juiciest and the most interesting. But, in doing so, they miss the real story.

The real story, at least in this Senator's experience, is that every single campaign election has had thousands upon thousands of campaign donors.

I am proud of that. I think that is the case with most people who run for the Senate. People get a mistaken understanding because, you are right, they never see that $5 and $10 donation. They never see how many there are, like that person who is contributing $5, and $10, and $15, and $20. It would put things in a lot better perspective if, instead of only seeing those big donations, they would put things in a lot better perspective because, you are right, we do not have full disclosure. We have censorship. The censorship is a result of the self-interest, but it is the censorship of people who looks through the lists that are sent to the Federal Election Commission and they pick out the juiciest and the most interesting. But, in doing so, they miss the real story.

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warrants as specified in the rule book and that there be information from the Parliamentarian as to the requirement that warrants be maintained in the Senate records.

I said yesterday that I had inquired of the Sergeant at Arms who is present in the Senate Chamber at the moment and can make whatever addition to what I have to say, correct me if he feels it necessary, that he had destroyed all of the warrants which were issued and I had made the inquiry yesterday afternoon and have consulted informally—or formally—with the Parliamentarian, Mr. Frumin, who is present on the floor of the Senate who can make any addition or correction if that should be warranted. He said he thought that such records should be maintained and we had a discussion about rule XI which called for the maintenance of such records.

Mr. President, I have consulted, I have referred to the rules, and find that if, as, and when I seek to make a motion to reconsider the vote on which the warrants were issued that that had to be in order since I was not a Senator who voted on that motion. I am further advised that, if the Senate votes to reconsider the motion on which the warrants of arrest were issued, that it would be appropriate under Senate procedure to seek a point of order that warrants could be issued hereafter only under specified conditions. The conditions which I have just enumerated are the ones which I propose, and—it would be appropriate that that point of order then be submitted for action by the Senate. If the Senate voted to affirm that point of order, then those conditions would hereafter govern the conduct of the U.S. Senate and those who execute its orders, the Vice President, the Sergeant at Arms, and so forth, in the issuance of warrants in the future.

The analogy was brought to my attention about action taken by the majority leader in seeking a point of order in the predawn hours of the U.S. Capitol Chamber in a flamboyant climax to a bitter all-night filibuster. That is in the Post.

The Inquirer says, "Posse of lawmen armed with warrants stalked unsuspecting Senators in the predawn hours of the U.S. Capitol yesterday. One senior Republican locked himself behind barricaded doors only to be captured and carried feet first into the Senate Chamber in a flamboyant climax to a bitter all-night filibuster fight." That is in the Post.

Mr. President, the action in the issuance of the warrants of arrest did not comport with the most basic standards of decency and the most basic standards of rights which we have afforded the most helpless criminals in our society. Constitutional rights are elaborately set forth under our laws, and there are protections which this Senate submits ought to be equally available to U.S. Senators as they are to those suspected of murder where the evidence is overwhelming. Yesterday at some length I spoke about such cases and about the requirements of individual rights, and I shall not repeat them here today.

Mr. President, the action in the issuance of the warrants of arrest I submit were defective in very material ways, and at the conclusion of my statement I will ask unanimous consent that the detailed statement of those reasons be printed in the Record, some of which was articulated yesterday and the essence of which was that the motion calling for the arrest was deficient in that the motion did not specify that the warrants of arrest should be issued.

When the motion was made on February 23 at page S 1152, "Mr. BYRD. Madam President, I move that the Sergeant at Arms be instructed to arrest the absent Senators and bring them to the Chamber," note the absence of any request that "warrants of arrest be required," contrary to the motion made by Mr. Barkley in 1942, the last time that a warrant of arrest was executed, where it appears at page S 8639 of the Congressional Record. This is Mr. Barkley speaking.

I therefore move that the Vice President be authorized and directed to issue warrants for absent Senators and that the Sergeant at Arms be instructed to execute such warrants of arrest upon absent Senators.

I am informed that while there may be some disagreement with the requirement that there be a specification for warrants of arrest, there was no known motion having been made without that specification. I would submit that the requirement that a warrant of arrest be specified is sufficiently important that you cannot have the authority of the Senate to call for that action unless it is explicit.

This is not a casual or unimportant detail. The Sergeant at Arms does not have the authority to bring Senators into custody in the absence of a warrant. Where the majority leader seeks to arrest Senators, it is authorized by the Senate, I submit as a matter of rule, practice, and law that there has to be that kind of a specification.

Second, Mr. President, the warrant was signed by someone not authorized to do so, signed by Senator Adams. The rules are explicit that that is not sufficient. In precedent on the matter, on the one warrant which was executed, the warrant was signed by the Vice President in 1942. The rules call for documents like bills or resolutions to be signed by the President pro tempore or by the Senator whom he or she designates or by a designee of that designee.

On the day in question, a letter was filed by the President pro tempore, Senator STENNIS, designating Senator PROXMIRE, and that was the end of it.

I would submit, again, as a matter of clear interpretation of rules that, where Senators may assume the role of the President, there is a specific rule that governs the practice, he or she may fill in interstitially as to what a rule may be but not where there is a specific rule to the contrary.
And third, there was an insufficient statement in the body of the warrant. Whereas I had referred to earlier, there is a spot for setting forth the reasons to be attached; the individual, the reasons for Senator Packwoon’s being taken, or the reasons for his absence were not so filled in.

Mr. President, the technical defects, while important, are not the most important. There is a technical issue as to what happened in the early morning hours of yesterday morning. Our Senate is a body which operates really as a matter of comity and as a matter of courtesy. The two most frequently used words in this body, as I said at some length before and shall not go into great length now, are “unanimous consent” and that without unanimous consent this body can act on a matter. It is possible when the last Senator stops speaking, and if any Senator seeks to stop the operation of the Senate by making objections to unanimous consent it would be a very, very different organization.

When you have the considerations which are present in Senate bill 2, there is a very, very material difference of opinion as to what ought to be done.

I respect what the sponsoring Senators have sought to do in reforming the campaign laws, and I have spoken at length and repetitively on the floor of the Senate stating my agreement that there ought to be reform of the campaign laws, stating my willingness to vote to eliminate political action committees completely, stating my concerns about so-called soft money, and it is very important that there be change in the body of this Congress. But when there are 45 U.S. Senators who feel so strongly about this issue to undertake all-night sessions and to vote seven times in opposition to an issue that is a matter which has to be respected in terms of the rules of the Senate.

(MR. BREAUX assumed the chair)

Mr. ARMSTRONG. Mr. President, I am wondering if the Senator from Pennsylvania will yield for a question or two.

Mr. SPECTER. I do.

Mr. ARMSTRONG. Mr. President, the issues which the Senator from Pennsylvania brings to our attention, it seems to me, are among the most important which have ever been considered here and I would like to ask a few questions simply to clarify the issues which he has so thoughtfully and ably raised. First of all, in his statement, the Senator has pointed out that this legislation, S. 2, was considered at great length last year. It was the subject of, I believe, no less than seven cloture votes, an unprecedented number.

Is it the Senator’s belief that having gone through a number of cloture votes, that this legislation, S. 2, is not going to be acted on in a reasonable time? Has it been established beyond reasonable doubt that the bill was simply not acceptable to the Senate, that it was not going to be clotured and was not likely to pass in anything like that form?

Mr. SPECTER. I would respond to my distinguished colleague that votes on those seven cloture motions constituted very strong evidence that that would be repeated on the next cloture vote, but there was in addition additional evidence. There has been an effort made to work out a compromise, with the leadership on both sides appointing four Senators on both sides, and those Senators had met. I discussed on the floor of the Senate on Tuesday afternoon with Senator Boxers, the principal sponsor of S. 2, what was the two-thirds number was to be told there was no progress. And then I discussed the matter with Senators on this side of the aisle and was told the same thing.

So that in the course of the extended discussion last week and what happened on the Senate floor on Monday of this week and then again on Tuesday of this week, it was made plain to this Senator that S. 2 was not going to be acted on; that under our rules and for good and sufficient reason historically—and there is a strong sense of 41 Senators, and that number was increased to 41 as my colleague from Colorado knows; it used to be that you required 67 out of 100 Senators. We did not have 100 Senators then, but it was the two-thirds rule and that number has been dropped to 60, but good reason established historically in this Chamber if that many Senators or group of Senators about an issue, it simply does not come up.

I might say by way of amplification there are other remedies; there is political pressure, and those who have been there have a basis for being hesitant about full page advertisements which have been printed in many States directed at specific Senators, including this Senator from Pennsylvania, a subject that I have talked about on another occasion. It was the conclusion of the Republican Senators who assembled in the cloakroom on late Tuesday night that nothing was going to happen and that the so-called drawing of the line did not constitute legitimate business of the Senate. This Senator and the other Senators realized that it is not up to any single Senator or group of Senators to make that judgment absent some really extraordinary circumstances. And there was a discussion which I had with Senator Kerry yesterday on a number of issues, and I conceded that his point there was a very good one but that we felt we had passed the point; that it was beyond the range of discretion; that it was really a matter which was demeaning to the Senators who were being called upon to stay all night and to vote seven times in opposition. That it was conclusive there was no reasonable purpose, no legitimate purpose, and that is why the Republican Senators took the extraordinary step of abstaining themselves from the Chamber, perhaps unprecedented in this body.

So that it was strongly felt that that action was necessary because there was no purpose being served. And when we had a session last night and Senators stayed here all through the night debating this issue, under what had been worked out as a gentleman’s agreement with a time parameter having been established, again it was an exercise in abject futility, to keep Senators here all night debating an issue for absolutely no purpose except perhaps for someone to say, “Well, we had a hard-line filibuster.”

Mr. ARMSTRONG. Mr. President, if the Senator would yield further, he is addressing precisely the object of my concern. The Senator has said that no purpose was being served. The Senator has pointed out that it seemed to be clear beyond any reasonable doubt that this bill is not going anywhere.

The Senator has pointed out that we have had an unprecedented number of cloture votes on it. I wonder if the Senator is aware of the widely-held belief that, if we consider further this legislation, to have it remain before the Senate day after day, let alone through prolonged night sessions, actually is a form of harassment. Is the Senator aware that that is a widely-held opinion among Senators and others who have observed this process?

Mr. SPECTER. I am aware that that is a widely-held view, not only by Senators on this side, on the Republican side as a source of wonderment as to why the Senate is not moving on to other business and a source of wonderment as to why Senators are being called back in the middle of the night. Yesterday, Senator Stennis was on the floor of the U.S. Senate, and the only purpose I could see was for an expression to adjourn.

Senator Simon was on the floor of the Senate, and I do not know the details as to where he was called from, but his activities have been in places other than the U.S. Senate.

So that I would answer my distinguished colleague in the affirmative.
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seeking, both publicly and privately, to resolve the impasse on a very serious piece of legislation, after being treated to the appointment of negotiators for both the majority and the minority—then the question that arises is, what opportunity, what way of expressing themselves, was available to Senators? Particularly, I wonder if the Senator from Pennsylvania is aware of the fact that earlier this week, a notice was publicly given in this Chamber that it was the end of the gentlemanly filibuster. Does the Senator recall that, in effect, the Republican Members of this body were told that there were no Marquis of Queensbury rules; that, in fact, we were put on notice that we were not going to filibuster from 9 to 5 but that this was going to be an endurance test; and, in effect, does the Senator recall that what we were told was that the line was no longer the passage of the bill but a contest of wills?

Under those circumstances, does the Senator readily suggest other courses of action that might have been available to Senators in the minority other than to absent themselves from the Chamber?

Mr. SPECTER. I do not know, I respond. That was a matter which was considered at some length by Republican Senators, and this Senator is well aware, as were all our colleagues involved in the discussions, that the line was drawn; it was not to be a gentlemanly filibuster anymore.

That is why I believe it is necessary that there be set forth reasons for arresting Senators.

If there is some legitimate Senate business to be performed and if Senators are absenting themselves from the Senate Chamber and not conducting themselves in a reasonable manner, then maybe, under those extraordinary circumstances, there would be an occasion to arrest. But it was precisely these circumstances that there was no longer the passage of the bill but a contest of wills?

I might add this, because it is relevant to the question which my colleague has raised: In 1942, the only other occasion where a warrant of arrest was executed in modern times, there was an enormous furor over the service of a body warrant, and that was done in the daytime. It was done on Saturday afternoon, and it led Senator McKellar, an arrestee, to respond, to comment:

Last Saturday there occurred in the Senate a most shocking performance, the like of which has not been known, so far as I can recall, during the 36 years I have been a Member of the Senate. The action taken, therefore, was unusual, quite remarkable, and unexpected. I have never known such a thing to happen before. I think when we look back on it, which we were supposed to be active and, let us say more or less determined, each side would keep its own members here and maintain a quorum.

The Record goes on and on and on, indicating the unprecedented nature of a kind of situation which the Republican Senators faced late Tuesday night.

Mr. ARMSTRONG. Is it the Senator's position, then, that the absenting of Senators from the Chamber was an unusual response to a highly unusual situation—that is, the insistence on pursuing a bill which obviously was not in prospect to passage? I do not want to put words in the Senator's mouth.

Mr. SPECTER. You are doing a great job.

Mr. ARMSTRONG. Would it be the view of the action taken by the Senators, far from being a dereliction of duty, as some would characterize it, but it was, in fact, a form of expression and an entirely proper form of expression under the circumstances? I take it that would be his view.

Mr. SPECTER. I say to my distinguished colleague from Pennsylvania, we were looking for alternatives. We were seeking other ways to make our point. There had been communication directly to the other side that we were fixed in our positions; that we would be glad to talk about compromise; that we would be glad to try to reach an accommodation on campaign reform legislation; that many of us on the Republican side were willing to give up PAC contributions completely; that we were prepared to find a way to have an accommodation here on views strongly held by some 45 Senators.

Absent any other approach, but simply being told that we were to spend the night; that we were to be told that there were no Marquis of Queensbury rules; that we were prepared to find a way to have an accommodation here on views strongly held by some 45 Senators.

Absent any other approach, but simply being told that we were to spend the night; that we were to be told that there were no Marquis of Queensbury rules; that we were prepared to find a way to have an accommodation here on views strongly held by some 45 Senators.

I would like to just ask a final point. That is, to see if the Senator would answer this question: does the Senator recall that, in effect, the gentlemanly filibuster from 9 to 5 but that this was changed; does the Senator recall that, in effect, the Senate's views?

Mr. SPECTER. It is. It is a brief summation, and it is well put.

On the specifics which you have raised, I believe that the process had gone beyond the point of no return. There was no other recourse available to 46 U.S. Senators, and this was a very sizable majority of this body. We acted as we thought we must, that the processes which were being followed were not appropriate and were processes on which reasonable members could not agree, and that we had expressed ourselves in the only way which we saw possible.

Mr. ARMSTRONG. Mr. President, I am grateful to my colleague from Pennsylvania for yielding for my questions, and I look forward to his further discussion of these issues.

Mr. SPECTER. Mr. President, I have sought the floor for the stated purpose that I have outlined, because I believe this matter is one of great importance for the future of the U.S. Senate.

We have very, very important responsibilities to fulfill. Perhaps at no time in the recent past have the eyes of the world been on the U.S. Senate as they are on the pending ratification process of the INF Treaty.

We have very important work to do for this country, and I do not believe that it is possible for us to proceed unless we come to grips with what has happened in the course of the last several days.

The Washington Post this morning carries the report of a news conference by the majority leader as saying that—and there appears to be a direct quote but attribution to the majority leader. It appears in the paper as follows: "He said he regretted his action but added 'I would take it again if I had to.'"

In light of the statement that the action could be repeated, it seems to me that this body has to have before it
a mechanism of seeking to avoid this kind of action in the future.

Mr. BYRD. Mr. President, will the Senator yield without his losing his right to the floor?

Mr. SPECTER. I will yield for a question, Mr. President, that I will yield so long as we may retain the floor when the majority leader concludes.

Mr. BYRD. Mr. President, there is no intention on my part to seek the floor at this moment.

Mr. SPECTER. Under those circumstances, will the Chair rule that I retain the floor?

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

Mr. BYRD. You have my word for it, whether or not the request is granted.

Mr. SPECTER. Your word is good by me, Senator Byrd, but I have observed you for many years seek a ruling from the Chair, and I think that is a sound practice.

Mr. BYRD. It is a sound practice.

Now, the Senator quoted me from the newspaper story. Would he repeat that quote again?

Mr. SPECTER. I will be pleased to.

The Washington Post says—perhaps it is best to read the full text.

Mr. BYRD. ‘Byrd’—referring to majority leader Bob C. Byrd, of West Virginia—‘held a news conference yesterday to contend that he was driven to the arrests by the Republican boycott and other stalling tactics to block a vote on the campaign-financing bill. ‘Senators are supposed to be grown-up people, not kids,’ he said, adding that they are ‘paid to vote * * * not to run and hide.’ He said he regretted his action but added, ‘I would take it again if I had to.’”

Mr. BYRD. I thank the Senator for reading into the Record the full quote.

I do not regret the action I took. I regret the circumstances, the calculated circumstances, that drove me to take that action as my responsibility as majority leader of the Senate.

I thank the Senator. I regret that it had to happen.

Mr. SPECTER. Well, I am very interested to hear the majority leader’s amplification of what appears in the Washington Post this morning, and I think that lends emphasis, considerable emphasis, for the importance of the U.S. Senate reviewing the standards by which the majority leader thinks it is appropriate to act.

I disagree—respectfully, always—with the majority leader about the propriety of that comment. We have a situation where there is gridlock in the Senate. There is no possibility of any constructive action being forthcoming from a continuation of the process.

You have perhaps an unprecedented situation where a large majority, 46 Republicans, not all present, decide to absent themselves. You then have a process where a warrant of arrest is issued. You have many questionable circumstances as to whether there was compliance with the rules, and you have the issue about a leader on the Republican side against S. 2 being singled out.

He is in his room. He had the door locked. He concludes that he is there as a matter of right. The Sergeant at Arms comes and uses a passkey to enter.

Senator Packwood said to me that a call was made. There was an issue as to whether the Secretary of the Senate was consulted or whether the majority leader was consulted. We do not know. But the Sergeant at Arms then pursued the matter.

As the news reports, and as other reports have them, physical force was used by the Sergeant at Arms, and his men entered the Chamber.

Senator Packwood came along until he came—well, without the details, he was carried into the Senate Chamber.

I will say this about Senator Packwood: He has responded in good cheer on the matter. I would say that it was wise of Senator Packwood to lighten up the matter.

It was not an easy thing for the constituents of this State of Oregon or the people of the Nation, to see Senator Packwood arrested. So it is advisable to try to lighten it up.

We do know that after S. 2 is concluded, however, it comes out, that we will be in this Chamber, 100 of us, to carry on the business of the Senate, and we want to maintain civility and proper decorum and a working relationship all the way around.

Senator Byrd and I are on different sides of this issue, but tomorrow or next week we will be called upon to work together for the interest of Pennsylvania and West Virginia, where the southwestern part of my State meets the northwestern part of his State. A congenial working relationship is very important, and I commend Senator Packwood for the action which he has taken.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. SPECTER. Without the right to lose the floor, of course.

Mr. BYRD. Yes.

The Senator mentioned my name. The distinguished Senator from Pennsylvania can be assured of that congenial relationship between him and me after this battle is over, and also during the battle, as he can be sure that he is standing on this Senate floor today.

I have been around here for a long time. I have engaged in many difficult and complex debates, quite a few filibusters, highly complex and unfamiliar to any participant in any debate, whether on that side of the aisle or on this side of the aisle.

This bill, as I have said before, is not the alpha and the omega of our work here. I have great respect for the Senator. I have a great respect for his knowledge of the law based upon his reputation which highly qualifies him. That respect is not in any way, up to now, at least in the slightest, affected.

I reassure the Senator that our interests lie for the people of our respective States, and for the Nation, will not be weakened, as far as I am concerned. “Sufficient unto the day is the evil thereof.”

I appreciate his yielding, and I appreciate the congeniality that does exist between us, and I appreciate the mutual respect that we have for the interests of our two States, which do adjoin.

Our interests, as elected representatives to the Senate from those two States, are often common interests, and I assure the Senator that nothing that has happened up to this point, offends my affection for him.

Mr. SPECTER. I thank the majority leader for those comments. They are reciprocated by this Senator to the majority leader, and I think it is important that those who watch the disagreements which we may have on issues of principle, on issues of procedure, not misunderstand the congeniality which is so important in this body.

I must say that aside from the good relationship which will be maintained between Senator Byrd and myself, for many reasons, including the important interests of our adjoining States, that I do have some concern for what is happening in the Senate. I am concerned that there may be some scars, if not on Senator Packwood’s finger, then on the side of the aisle. I am out of the concern for those scars that I am making the proposal, which I am today, that we try to improve our procedure.

When I refer to Senator Packwood’s good humor, which he displayed yesterday as he recounted the incident, I do so because his good humor is part of his personality, and that is a wonderful personality and is part of the approval of the Senator in the U.S. Senate. But it does not, in any way, diminish the seriousness, the importance, or the impropriety of what was done to Senator Packwood personally when he was brought into this Chamber on his broken finger, when the physical force was used to bring him in, when his injuries were not major on his broken finger, but he had another x-ray.

What the majority leader says, as I believe he did, that Senator Specter was not affected by what happened, referring presumably to the issuance of the warrants of arrest, I would dis-
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agree, again, respectfully. I was affected.

Mr. BYRD. Mr. President, would the Senator repeat that?

Mr. SPECTER. I thought I understood you to say, Senator Byrd, that Senator Specter was not affected by what happened, apparently referring to Senator Packwood. Did I misunderstand?

Mr. BYRD. Mr. President, I will be glad to have the transcript read back, but I think the Senator will take my word for it. I have not said that.

Mr. SPECTER. I accept that.

Mr. BYRD. I did not say it, nor did I say anything anywhere like it. No such inference could possibly be drawn from anything that I said.

Mr. SPECTER. I accept that, Senator Byrd.

Mr. BYRD. I thank the Senator.

Mr. SPECTER. That is what I thought I heard, but, needless to say, it was by no means intended to be so.

Mr. President, the future conduct of the U.S. Senate for future actions here are very important to the operation of our Government for the welfare of our people. Consequently, we desire to know how we are going to proceed.

I have made the comments just articulated in response to Senator Byrd's statement that he regrets the issuance of the warrants, but he does not regret the issuance of the warrants themselves.

As I was saying, that puts the majority leader and this Senator in direct conflict in terms of what the rules of the Senate ought to be.

At the present time, we do not have rules of the Senate which establish the procedure for issuance of warrants of arrest. We have very little on the subject. There is the statement in the Constitution about compelling Members of Congress to appear under rules which they may establish. There are some statements in the rules about a motion to return the warrant and then a motion to compel, an intermediate step which was not taken, and the warrant procedure as established by practice, the last one having been issued and executed in 1942.

It seems to this Senator, and I have discussed this with a number of my colleagues who agree, and I believe that there is considerable sentiment on the part of the Senate to say that there ought to be standards for the issuance of warrants of arrest.

As I said at the outset, and perhaps some of my colleagues who may be listening did not hear, there was a procedure which I have studied and have been advised upon that if I choose to make a motion to reconsider the vote seeking the warrants of arrest, and if that motion to reconsider is passed, then it would go to order.

While the issue then is pending on the propriety of the issuance of the warrants, that for future conduct of the Senate, the warrants not be issued unless certain standards are met. That would be expected and customary practice for the issue then to be put to the Senators as to whether these standards ought to be followed.

The standards which I have articulated, which I would put at the appropriate time, are, first, there be no middle-of-the-night warrants. The reason for the change on the middle-of-the-night warrants is that there are few circumstances so extraordinary, and different rules apply even on search and seizure and no-knock provisions. Warrants issued in the middle of the night ought not to be the practice here, absent some really extraordinary circumstances.

Really, that sets the general rule for no middle-of-the-night warrants. Second, that there be compliance with the rules, that the warrants be signed either by the Sergeant-at-Arms, temporary, or appropriate designees, in order to have that level of impartial review. Third, that there be a written statement justifying the reasons for the arrest. And, fourth, that there be equal treatment of Democrats or Republican Senators, or whatever party a Senator may belong to.

Because of the concern that Senator Packwood was singled out and because of the concern that the warrants of arrest were destroyed by the Sergeant at Arms, in apparent violation of rule XI, and I do not attribute any deliberate wrongdoing to the Sergeant at Arms, but the rules call for the retention of those official Senate documents.

Mr. BYRD. I ask the Senator to put this motion in writing.

Mr. SPECTER. I will be glad to do so.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second, and the yeas and nays are ordered.

Mr. SPECTER. One moment. Mr. President, while I, again, check the precise language.

Mr. President, before sending the motion in writing to the desk, I ask unanimous consent that a statement elaborating on certain aspects of the rules, along with Attachments of the Sergeant at Arms and the Warranter and the Return of service, be printed in the Record at this point.

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

STATEMENT BY SENATOR SPETTER ON MOTION TO RECONSIDER ROLL CALL VOTE NO. 23, CONGRESSIONAL RECORD, FEBRUARY 23, 1988, AS S1153, ON THE MOTION THAT THERE BE A WRITTEN STATEMENT JUSTIFYING THE REASONS FOR WARRANTS OF ARREST, WITH THE SEAL OF THE UNITED STATES, THAT THE WARRANTS BE SIGNED, AND THE WRITING AND RETURN OF SERVICE, BE PRINTED IN THE RECORD AS FOLLOWS:

Mr. President, I move to reconsider Roll Call Vote No. 23, Congressional Record, February 23, 1988, as S1153, on the motion that there be a written statement justifying the reasons for warrants of arrest, with the seal of the United States, that the warrants be signed, and the writing and return of service, be printed in the Record as follows:

Senator Packwood was singled out and because of the concern that the warrants of arrest were destroyed by the Sergeant at Arms, in apparent violation of rule XI. I do not attribute any deliberate wrongdoing to the Sergeant at Arms, but the rules call for the retention of those official Senate documents.

Motion to Reconsider Vote by which Senate Ordered Arrest of Absent Senators

Mr. President, accordingly, at this time, I move to reconsider the vote by which the Senate ordered the arrest of absent Senators and I am eligible in that I did not vote on the motion. I ask for the yeas and nays.

Mr. BYRD. I move to reconsider the vote.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second, and the yeas and nays are ordered.

Mr. BYRD. I ask the Senator to put this motion in writing.

Mr. SPECTER. I will be glad to do so.

The PRESIDING OFFICER. The Senator has a right to request the motion be made in writing and submit it to the Chair.

Mr. SPECTER. One moment. Mr. President, while I, again, check the precise language.

Mr. President, before sending the motion in writing to the desk, I ask unanimous consent that a statement elaborating on certain aspects of the rules, along with Attachments of the Sergeant at Arms and the Warranter and the Return of service, be printed in the Record at this point.

This motion simply is not sufficient under the Senate rules to justify issuance of arrest warrants, which it now seeks to do, and arrest warrants could not lawfully be made without such warrants. The entire procedure was formally raised from the floor.

The manner in which arrest warrants nevertheless were issued raises a number of other important questions. Many Senators obviously were absent when the Majority Leader made the motion to instruct the Sergeant at Arms to arrest the absent Senators. While at least 6 Democratic Senators were absent at that time, President Reagan's Attorney General report indicated only that warrants of arrest were issued for 46 Republican Senators. In response to my inquiry as to why the Sergeant at Arms has indicated that warrants of arrest also were issued for certain Democratic Senators, but I have not yet been apprised as to which ones. We are not likely ever to know for sure, because the Sergeant at Arms also has advised me that these warrants of arrest—official documents affixed with the seal of the United States— were intentionally destroyed later in the day. Such documents should have been communicated to the Senate Chamber, of course, just as they have been in the past.
It is clear to me that the warrants would have been signed by a Senator or the Majority Leader's motion had—as it did not—call for warrants to be issued, because they were not signed by a Senator duly serving as presiding officer or, if absent, an officer deputized by the Senate, which governs "Appointment of a Senator to the Chair," is explicit: In the absence of the presiding officer, an officer deputized by the Senate to perform the duties of the Chair." The President Pro Tempore has the right to perform the duties of the Chair." The President Pro Tempore has the right "to name in open Senate, or in writing to perform the duties of the Chair pursuant to Senate Rule 1. That to do so in open eleven arrest warrants were presented, and he signed them. Senator Proxmire has never known this to be the case.

On February 23, 1988, the President pro tempore of the Senate appointed, in writing, Senator Proxmire as Acting President pro tempore. Senator Stennis' letter to the Senate read as follows: "Senator, based on my discussions with Senator Packwood and Senator Adams, it is clear that the arrest warrants were not signed by a Senator duly serving as presiding officer pursuant to Senate Rule 1. That the signatures were not signed by any of us, of course, because we simply do not follow the practice of having the President pro tempore name in open Senate or in writing other Senators to perform the duty of the Chair. I have never known this to be the case. On February 24, 1942, Senator Packwood, in an open Senate or in writing several arrest warrants were presented, and he signed them. Mr. President, on my discussions with Senator Proxmire and Senator Adams, it is clear that the arrest warrants were not signed by a Senator duly serving as presiding officer pursuant to Senate Rule 1. That the signatures were not signed by any of us, of course, because we simply do not follow the practice of having the President pro tempore name in open Senate or in writing other Senators to perform the duty of the Chair. I have never known this to be the case.

Numerous discrepancies appear in the various warrants issued on February 24, that I have been able to review. I suspect that there were no arrest warrants issued on that day, without any of them being named to do so in open Senate or in writing. Senator Packwood's warrant, for example, included no statement of the alleged reason for his absence. Senator Weicker's warrant lacked not only this necessary information, but also the date of issuance. While Senator Packwood's warrant included the name of the Senator at Arms as is required, Senator Weicker's warrant did not. Mr. President, I submit for the Record, copies of the arrest warrants issued to Senator Packwood and Senator Weicker. There appears also to have been confusion about who was subject to the majority leader's motion that Senator Packwood's warrant in fact, as well as Senator Weicker's warrant in its entirety, was in line with the unconstitutional, the unwarranted, and the absolutely outrageous action of a group in the Senate.

Subsequently, five United States Senators were arrested and brought to the Senate floor on that Saturday afternoon in 1942. Senator Smith, from South Carolina, and Senator Sherman, from North Carolina, were arrested for a return of service form. Mr. President, it is difficult to catalogue all of the developments of the arrest warrants on February 24, as most were destroyed. Those of us who have practiced criminal law know that the appropriate procedures for drafting and issuing warrants-like any official United States document—probably should have been routinely archived. I raised this issue as a parliamentary inquiry on February 24, and look forward to the Chair's ruling regarding the presentation and inspection of these warrants.

Senator Connolly of Texas, who was on the Senate floor when the motion was made, expressed his outrage at the Senate's actions. Senator Connolly stated: "I understand some things are being done, or are about to be done, in the name of the Senate, which seem to impose a mandatory requirement on the Senate, and which pertain to the high privileges of the Senate. I understand that the Senate at Arms, under the direction of the majority leader, has the authority to deputize, or appoint as a deputy, one of the Senate custodians, with instructions to break down Senators' doors, enter their offices, and drag them to the Senate. Senator Connolly continued: "I simply want the Senate and the country to know the kind of tactics which are being forced on me in violation of the law, for an unproven defect of a warrant case. It is in line with the unconstitutional enforcement of the law, and maintenance of a quorum. . . . The action of the Senate at Arms was unexpected." Senator Connolly was arrested for the return of service form. It is in line with the unconstitutional, the unwarranted, and the absolutely outrageous action of a group in the Senate.
To: HENRY K. GruGNI:

Congressional Record

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Mr. President, I find the McKellar incident instructive for several reasons. First it is worth noting that no such forcible arrest had occurred in the memories of those Senators and—until February 24—none had occurred since. In the 45 years that have passed, virtually all of our current constitutional doctrine regarding warrants, arrests and seizures has developed. Suffice it to say that many practices considered lawful and appropriate in 1942 are now acknowledged to be badly unconstitutional.

Second, it is worth noting that, while our colleagues in 1942 did not have the benefit of our current constitutional doctrines, they had a healthy understanding of the need to follow the letter of the Senate rules. When the Senate passed the motion to compel attendance in 1942, the arrest warrants were signed by the Vice President (see statement of Senator McKellar, Congressional Record of November 17, 1943, at page 8905).

Third, after his arrest in 1942, Senator McKellar noted on the Senate floor that his attendance record was far superior to those of most of the senators who had voted in favor of the motion leading to his arrest. Likewise, I would note for the record that my distinguished colleague from the State of Oregon, who was forcibly arrested in his office on February 24, has an extraordinarily good attendance record and has missed far fewer roll call votes in this Congress than a number of members who cast votes on the motion to compel which led to his arrest.

After he was forcibly returned to the Senate floor in 1942, Senator McKellar expressed his profound regret that his own colleagues would arrest, humiliate and put to the bar of the Senate, a number of members who cast votes on the motion to compel which led to his arrest. I hereby command you in pursuance of the order of the Senate:

Mr. SPECTER, Mr. President, I sent the motion in writing to the desk and ask that it be made a part of the RECORD.

The PRESIDING OFFICER. The clerk will report the motion of the Senator from Pennsylvania.

The legislative clerk read as follows:

The Senator from Pennsylvania (Mr. SPECTER) moves to reconsider the vote No. 23 by which the Senate voted the arrest of absent Senators.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD, Mr. President, this motion is not a debatable motion. Under the circumstances, I move to table the motion and I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays are requested on the motion to table. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD, Mr. President, I ask unanimous consent—and I intend to resume the roll call—that the order for the quorum call be rescinded.

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

Mr. BYRD, Mr. President, Senator BOREN, PELL, NUNN, WARNER, and I have an appointment with the President of the United States at 2 o'clock today. We should be on our way. This will not be a live quorum for quite a while. We intend to keep our engagement with the President.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. DIXON). Is there objection? Without objection, it is so ordered.

The pending question is on agreeing to the motion to lay on the table the motion to reconsider roll call vote No. 23, the motion to instruct the Sergeant at Arms to abscond absent Senators and bring them to the Chamber.

The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee (Mr. Gore), the Senator from Massachusetts (Mr. Kennedy), the Senator from Nevada (Mr. Rangel) and the Senator from Illinois (Mr. Simon) are necessarily absent.

I also announce that the Senator from Delaware (Mr. Bresn) is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Rhode Island (Mr. Chafee) and the Senator from Kansas (Mr. Dole) are necessarily absent.

I also announce that the Senator from Texas (Mr. Gramm) is absent on official business.

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

The result was announced—yeas 47, nays 45, as follows:

[Rollcall Vote No. 29 Leg.]

YEAS—47

Adams, by unanimous consent.
Baucus, by unanimous consent.
Bento, by unanimous consent.
Bingaman, by unanimous consent.
Boren, by unanimous consent.
Bradley, by unanimous consent.
Breakey, by unanimous consent.
Bumpers, by unanimous consent.
Burdick, by unanimous consent.
Byrd, by unanimous consent.
Chiles, by unanimous consent.
Corrigan, by unanimous consent.
Corzine, by unanimous consent.
D'Amato, by unanimous consent.
Dodd, by unanimous consent.
Domenici, by unanimous consent.
Durbin, by unanimous consent.
Evans, by unanimous consent.
Evans, by unanimous consent.
Ford, by unanimous consent.
Griffith, by unanimous consent.
Hatch, by unanimous consent.
Hatfield, by unanimous consent.
Hecht, by unanimous consent.

NAYS—45

Armstrong, by unanimous consent.
Bond, by unanimous consent.
Boschwitz, by unanimous consent.
Boocher, by unanimous consent.
Cohen, by unanimous consent.
D'Amato, by unanimous consent.
Danforth, by unanimous consent.
Domenici, by unanimous consent.
Durbin, by unanimous consent.
Evans, by unanimous consent.
Evans, by unanimous consent.
Ford, by unanimous consent.
Franken, by unanimous consent.
Hatch, by unanimous consent.
Hatfield, by unanimous consent.
Hecht, by unanimous consent.

So the motion to lay on the table the motion to reconsider was agreed to.

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN, Mr. President, I suspect that many of my colleagues feel
as I do, a certain awkwardness or unease as we debate the campaign fi-
nance reform issue. For implicit in the cri-
cis of the present system is the growing perception that we are, as the bit-
ing cliche goes, part of "the best Congress that money can buy."

Mr. President, whether or not one agrees with the negative indictment of the in-
ation, an indictment that I be-
lieve is heavy on rhetoric and very light on substance, the mere appear-
ance of impropriety or undue political influence stemming from campaign
contributions is by itself sufficient jus-
tification for this debate.

Mr. EXON. Mr. President, the
Senate is not in order.

The PRESIDING OFFICER. The Senator will suspend. The Senator from Nebraska is correct. The Senate
is not in order. The Senate will not be
able to conduct business until those
Members desiring to engage in conver-
sation retire from the Chamber.

The Senator from Maine.

Mr. COHEN. Mr. President, when a
growing number of our fellow citizens
lose respect and confidence in our elec-
tional system and when over half of the
eligible voters in this country feel it is
not worth the time and effort to go to
the polls to elect our national legisla-
ture, when more and more voters be-
lieve that money buys political access,
if not an occasional vote or favor, then
I think it is time to take stock of what
has gone wrong.

Now, the widespread displeasure
with the present system of financing
of our election campaign provides us
with a potentially fertile environment
for putting to rest a good deal of this
mendations to make the
Social Security system.

So we lost that one. We lost heavily
in my State. Across the board, I think
across the country, Republicans suf-
fered because of that perception that
was generated by an unfair tactic.

I think we also saw it during the
course of the nuclear freeze debate be-
cause the nuclear freeze was very
simple, and it sounded very fair. We
have enough nuclear weapons; let us
freeze it exactly where we are
right now. It was very difficult to deal
with that particular issue. It was diffi-
cult to deal with because it had the
allure and the appeal of simplicity and
equality. It was neither. And it took a
lot of people on this side of the aisle to
resist the temptation of succumbing to
that kind of simplistic sloganeering.

I mentioned a couple of weeks ago
that kind of simplistic sloganeering. Just
a few weeks ago several of my colleagues
on both sides of the aisle were in
Munich at a nuclear disarmament con-
ference in which the leader of the
SPD Party, Mr. Kohl, said he sup-
ported the double zero option and
he was glad to endorse it.

Well, let me tell you what an act of
hypocrisy that was, because the SPD
did not support the INF deployment.
The SPD supported the nuclear freeze ac-
at that point and, had they been success-
ful, they would have frozen in place a
great disparity with some 1,400-plus
nuclear warheads targeted at Europe
with zero in response targeted at the
Soviet Union. It was the courage of
people like Chancellor Kohl and others
within West Germany and our
NATO allies who resisted the tempta-
tion to succumb to tremendous public
pressure for a simplistic ap-
proach. As a result, we now have an
INF Treaty which at least removes an
entire class of missiles and purports to
give us some sense of equity and sta-
bilization in the deployment of nuclear
weapons.

So we were faced with a campaign of
distortion because of a simplistic ap-
proach. Now, I think we have been
faced with a campaign of distortion
until now, one that says that a bumper
sticker which says that Demo-
crats are for honor and honesty and
Republicans, once again, are for
corruption. It is a lie, and I might say a
rather inexpensive one that is being spread
across the pages of the newspapers of this
country.

I have taken this floor today to take
offense at this campaign of distortion.
I am offended by those groups or indi-
viduals who are wrapping themselves
in a flag of honor and hurling stones
from glass houses and those who are
masquerading as disinterested citizens
victimized by the corrupt forces in our
society.

I refer specifically to a couple of ads
that have been running in my State's
papers. One is by a group called Con-
gress Watch. I want to cite it, to tell
you the kind of practices that have
been going on in the name of equity
and fairness.

One of the items says that Cohen
raised $1.1 million for his 1984 reelec-
tion, has become a part-time lawmaker
and a full-time fundraiser who raises
a pay package of higher than $5,000 a
week for a 6-year term.

I think my attendance record com-
pares favorably with other Senator's
in the Chamber. And I make no apolo-
gies for my legislative output. Yet, this
article implies that somehow I have
become a part-time Senator, and I
resent it.

Second, they point out that I accept-
ed more than $410,000 in campaign
funds from political action commit-
tees, mostly representing large corpo-
rations, professional and trade groups,
insurance, banking, utility, and other
companies. These statements imply
that because, Cohen got money from
Maine insurance companies, he must be
in the pocket of the insurance in-
dustry. What an insidious implication.
But that is not enough; they want to
go further. It is not enough to say that
I am in the pocket of certain indus-
tries in my own State. They want to go
further and say,

Especially disturbing are the contribu-
tions to Cohen's campaign coffers from
PACs outside of Maine. Minnesota Mining
and Manufacturing PAC, Delaware Valley
PAC and the Massachusetts Congressional
Campaign Committee PAC, to name a few,
I thought in their interest to assist Cohen's
re-election effort. These out-of-state gifts
raise the question: is Cohen still primarily
responsible to his Maine constituents?

This article was written because two
people I have never heard of, who
probably reside somewhere down here
in Washington, this city surrounded by marble, asking Maine citizens whether I still represent them. I resent it. These two people had never set foot in my State, to my knowledge. Let me say as part of a rather insidious campaign, MALCOLM WALLOP, BILL ROTH, CHICK HECHT, who else?

I resent the implication contained in that particular article.

Now I would like to turn to something else, because an advertisement has appeared in my State, not just in one newspaper, but in every daily paper in my State. I hold it up so you can see it. There is a wonderful picture of Archibald Cox, great coverage so far, but I am concerned that from some of our past experiences in Washington Post has written, our congressional campaign financing system is fundamentally corrupt. Every citizen knows that. So does every legislator.

The problem I had with Mr. Cox's quotation is that it is only half a quotation, a partial quotation. I think we all know that a text torn out of context is only a pretext. We all know that from some of our past experiences in this body and elsewhere.

Let me read from an editorial written by the Washington Post. I may sound familiar:

We continue to think that disclosure is the best way to avoid corruption. It's campaign financing. Political contributions are reported in great detail and publicized widely. If the voter knows that a member accepts contributions from real estate and oil interests and later supports tax laws favorable to these industries, voter can object at the polls. Because the press and Common Cause, for example, carefully monitor and report these connections, citizens have far more information than they did 15 years ago.

The prospect of the government's setting increasingly stringent limits on political spending is not in itself appealing, and this is all the more true when its benefits are apt to be so slight. The same may be said of restrictions on independent expenditures and on broadcasters' freedom. In other words, it seems to us that a complicated set of new rules, or businesses who want accelerated depreciation, or flight attendants who want to retain their tax-free status on travel benefits. They are all special interests. I resist the notion that somehow PAC's are inherently evil. But if that is the case, we ought to deal with that. I must tell you that the implication that my political future or that of my party lies in preserving the status quo, in resisting any change to the existing campaign finance system, is a falsehood, a great deception and a disservice to all of us.

I want to point out to Mr. Cox and others that: If the Republicans wanted to preserve what Mr. Cox calls "the current corrupt campaign financing system," then we would resist lowering the amounts that PAC's can give to candidates. The fact is that we do not. The Democratic Party is opposed to reducing the amount PAC's can give to individual candidates, not the Re-

Why wasn't that quote in Mr. Cox's ad placed in every paper in my State? A nice piece of selective quotation from the Washington Post.

The Washington Post says it all. That was an editorial written in 1985. They gradually evolved to support the bill before us, but I would like to see a little more honest reporting by groups supporting S. 2. I think their ad is fundamentally unfair and false in trying to create the impression that I am somehow protecting a corrupt system, while those sponsoring S. 2 are wearing the badge of honor.

I have enjoyed the support of Common Cause over the years. I have supported most of their causes. I think my record in the Senate and in the House has been such that whenever I found a piece of legislation that I believed to be fair, it did not matter to me whether a Democrat sponsored it or a Republican sponsored it. I have joined with Democrats as often as I have joined with Republicans, and I have received criticism for it, as a matter of fact. But I have never hesitated in doing so. I resent the implication contained in this campaign of vilification that I am somehow supporting a corrupt system.

I have enjoyed the support of Common Cause. But if they think that I am somehow preserving a corrupt system and therefore I am corrupt, then obviously I do not deserve their support. But the corollary is also true: To the extent that they continue to support tactics like this, frankly, I do not think they are worthy of our support.

Mr. President, I have heard it said by the proponents of this bill—or some of them at least—that we must hang a sign out now that says, "The Senate is no longer up for sale." I resent the implication contained in this campaign of vilification that I am somehow supporting a corrupt system.

Who among us right here will stand up and say that he has sold his vote? To whom have you sold it? Have you sold it to the PAC's? Have you sold it to individuals? To whom have you sold it to the party, the Democratic Party, the Republican Party? Have you sold your ideas? Or have you sold out to your constituents? The issue is important. It makes a difference. We are living in an age of attribution, so let me attribute something to a colleague, Senator HOLLINGS. He pointed out a serious problem, one of philosophic schizophrenia—call it hypocrisy if you want.

He told a story, and I am going to read it. It is about a veteran returning from Korea, who went to college on the G.I. bill, and he bought his home with a VA loan. He started his business with an SBA loan. He got electricity from the REA and soil testing from the USDA. When the farmer became ill, the family was saved from financial ruin by Medicaid and his life was saved by a drug developed at the National Institutes of Health. His kids participated in a school lunch program. They learned physics from teachers who were trained by the National Science Foundation. They went to college with guaranteed student loans.

He drove to work on an interstate highway, moored his boat in a channel dredged by the Army Corps of Engineers.

When floods hit, he took Amtrak to Washington to apply for disaster relief. He spent sometime in the Smithsonian Museums. Then one day he wrote an angry letter, to his congressman asking the Government to get off his back, complaining about paying all those taxes for all those programs for ungrateful people.

That points out the problem that all of us have dealt with. We have been members of this institution. The problem lies not with PAC's or with individual contributions but with whether or not we are measuring up to our own responsibilities and resisting the pressures put upon all of us.

Special interest groups: I remember coming back from Maine one time on an airplane, back in the mid-1970's. As I approached the flight attendant, she said: "Congressman Cohen, are you bothered by all those special interests those lobbyists down in Washington?"

I paused for just a second and said, "No, as a matter of fact, I'm not bothered by any lobbyists. The only people who bother me are airline attendants who are constantly lobbying me every time I get on an airplane to protect their tax-free travel benefits."

Bob Packwood and others perhaps were considering taxation at that time. But they thought we were talking about farmers who want subsidies, or homeowners who want deductions for interest on mortgage payments, or businesses who want accelerated depreciation, or flight attendants who want to retain their tax-free status on travel benefits. They are all special interests. I resist the notion that somehow PAC's are inherently evil. But if that is the case, we ought to deal with that. I must tell you that the implication that my political future or that of my party lies in preserving the status quo, in resisting any change to the existing campaign finance system, is a falsehood, a great deception and a disservice to all of us.
We hire the political consultants, commission the polls, and approve the campaign literature and television spots.

Finally, we know, or should know, which contributions create potential conflicts of interest, when fundraising conflicts with our elected duties, and whether the federal election campaign contributions potentially creates doubt in the minds of our constituents as to whether our judgment and integrity have been impaired or compromised.

Let me turn to the broader context that shapes this debate.

The present-day realities of campaign politics—the growing role of political action committees, independent expenditures on behalf of a candidate of cause, the decline of party control over the election process, increased reliance on radio, television and direct mail advertising, sophisticated and costly public opinion polls, a more informed electorate—have all had a hand in driving up campaign costs and shaping the campaign finance system we have today.

And to this list, let me add one other, perhaps the most important factor of all, the Constitution of the United States. Our democratic system draws its very life, its strength, its vitality, its diversity, its promise, its enduring value from this great and timeless document. The 45 words that constitute the first amendment confer upon every one of us the most fundamental rights a government can provide—of peaceful assembly, the right to freely communicate ideas, the right to worship in our own way, and the right to petition our Government for redress of grievances.

That is the essence of representative democracy. The first amendment is every citizen's standing invitation to be heard on the public issues that capture his attention and to motivate him to action, either individually or as part of a voluntary association with others who share similar views.

There is nothing inherently sinister in such associations, and we should proceed with caution in regulating political expression, regardless of its source or point of view. That those of us who have accepted and fully disclosed campaign contributions from PAC's have committed no wrong, no sale of our integrity seems not to matter to those who are waging this campaign of distortion.

On the contrary, in the eyes of PAC critics such as Common Cause, we have committed an offense worthy of moral censure, and by accepting PAC money, we have allegedly compromised our independence and integrity, thereby violating the public trust, and we have placed in jeopardy our system of representative democracy. But it's selective moral outrage on the part of Common Cause and its Senate allies. It is so disturbing, and ought to be disturbing, to this Chamber.

Nowhere have I seen the organization apply the same critical standards to the sponsors of S. 2 who have already accepted contributions from PAC's well in excess of what would be allowed under S. 2, perhaps to avoid Common Cause, and perhaps those paid ads are being prepared as I speak.

When we speak derogatively of "special interests," and that is what this debate is all about, who are we talking about? Is it the term of art that political abuse, as the pejorative connotation usually implies? What interests or influences are we seeking to curb that will leave us with a campaign finance system that we can be proud of?

There are a lot of other questions we have got to answer. Are Common Cause and other similar organizations "special interests?" Are our constituents, individual or corporate, ever "special interests" or does the term only apply to those political forces that operate beyond the geographic boundaries of our States or congressional districts or within the bounds of the District of Columbia?

Is it possible the term usually identifies those individuals or groups whose views are philosophically incompatible with those that we hold? Is the public interest so easily identifiable that it can be said that the political activities of certain "special interests," PAC's perhaps, are so corrupting and offensive as to warrant the added restriction on their activities? Or are some PAC's good and others bad? Who decides? Or is $300,000 in PAC contributions—allowed under S. 2—soul-saving but $225,000 corrupting? Who decides whether or not one can be sold for $200,00 and not for $225,000?

Most evident, the Boren-Byrd bill asks us to accept the premise that the present campaign finance system is in such a state of disrepair and disrepute that, first credibility and accountability can only be restored by attempting to eliminate certain voices in our political debate in order to enhance others; second, that confidence and trust can only be bought by using public funds to finance congressional elections; and third, that without expenditure limits tied to public financing, the cost of...
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electing the Congress will continue to
soar to unconscionable levels.

I have concluded that good out-
weighs the bad in this particular bill, even
though I, after giving very thoughtul con-
cer, have reached a different conclusion.

I believe this bill will make it even
more difficult for challengers to over-
come the enormous advantages of in-
cumbency, that its reporting and dis-
closure provisions are wholly inade-
quate and that it will only further en-
courage independent expenditures at the
expense of electoral accountabil-
ity.

Mr. President, I reject the view that
ideas matter less than money in
today's Congress; that compassion and
concern are routinely overridden by
greed and parochialism; that individ-
ually and collectively we are unable to
see beyond the next election; and that I,
or any other Member of this body, is
sufficiently prescient to know what
level of spending is right and proper
for every congressional district in this
country; that those with shared interest in re-
storing credibility to our electoral
process necessitate that we start
down the uncertain path of public fi-
nancing; and finally, that the voters of
this Nation are unable to discern on
their own whether the judgment, inde-
pendence, and integrity of their elect-
od officials have been compromised by the
campaign activity of that individ-
ual.

The Boren-Byrd reforms, limited as
they are, do not guarantee that less
money will be spent on political cam-
paigns. They will not shorten cam-
paigns. They will not reduce the
amount of time that candidates devote
to fundraising. But if increased legisla-
tive accountability is the justification
for adopting this bill, then we will be
disappointed.

Instead of fewer PAC's, we will end
up with more PAC's. Rather than checking
the growth of independent political
expenditures, this legislation will pro-
vide a powerful incentive to increased
activity in this area.

Is it possible to legislate balance and
good taste in political advertising? Can
we assure that? I doubt it. But the
Boren-Byrd bill believes that such an
incentive to increased activity in the
name of reform an unattainable ideal
in a democracy that is as open and di-
verse as ours? Or should we simply
accept the fact that special interests
only token opposition, has become a
common-sense belief in the corrupting power of
money; and soft money, the practice of bun-
dling, and other campaign finance
oddities constitute the legacy of an
earlier campaign reform effort.

Will the Boren-Byrd bill breathe life
into some new and even less accepta-
table forms of political contribu-
tions? The possibility should not be
lightly dismissed.

So which way do we turn? Are we
chasing a demon that we will never
catch? Are we chasing a phantom in
the name of reform an unattainable ideal
in a democracy that is as open and di-
verse as ours? Or should we simply
accept the fact that special interests
only token opposition, has become a
common-sense belief in the corrupting power of
money; and soft money, the practice of bun-
dling, and other campaign finance
oddities constitute the legacy of an
earlier campaign reform effort.

I happen to think that the rapidly rising
costs of many Senate races do not justify an
increase in the role of PAC's in financing congressional cam-
paigns is the price that we have to pay
to restore public confidence in our
electoral process so be it. There
are plenty of Republicans, including this
one, who will support such a change.

A good case can be made for raising
the limits of contributions for
individuals and enhancing the role of our na-
tional political parties in campaign fi-
nancing. We can, and we probably
should, take steps to restrict what can-
didates can raise in off-election years.
I might point out, the accumulation of
large campaign war chests by sitting
Members of Congress, or those with
primary opposition, has become a
common practice, representing, in my
view, an abuse of incumbency.

There is no one in a better position
than our constituents to insist that
our fundraising efforts be principally
focused in our own States, and that
our campaigns address their legitimate
concerns.

And the media has a vital and con-
 tinuing role to play in lending dignity
and substance and objectivity to the
electoral process. It is a role that de-
mands great sensitivity and balance in
the interest of civic responsibility.

Mr. President, there is no panacea
for the present ailments that afflict
our campaign finance system. There is
no comprehensive solution that we can
put in place that will suddenly provide
absolute assurance that money will
never taint the legislative process.

Mr. President, I will not carry on
any further. I have a lot more to say
on this subject matter. I have an arti-

I would like to introduce by William Saxbe, a former Attorney General and a former distinguished Member of this Chamber. Another one by Mr. John Lott, which appeared last year in the Wall Street Journal. I ask that the members who have the article be excluded without my taking the time to read them. There being no objection, the articles were ordered to be printed in the Record, as follows:

PAC MONEY; SOURCE OF EVIL OR SCABEOAT?

In the Congress of the 1980s, a debate on campaign finance is a debate about corruption—nothing more and nothing less. A few weeks ago, when the Senate discussed a proposal to limit contributions from political action committees, members from both parties took turns identifying PACs and their campaign gifts as the root of modern congressional evil.

"PAC money is destroying the electoral process," said Republican Barry Goldwater of Arizona. Democrat Gary Hart of Colorado said PACs represented the "toxic waste of American politics."

There is no question that something is wrong with campaign finance. American voters ought not to feel the public office is for sale to the highest bidder, and in the current climate, many of them do. Restricting the flow of PAC money may be a reasonable way of dealing with that problem.

But is also reasonable, as senators compete with each other to tell PAC horror stories, to wonder whether there isn't a little bit of scapegoating going on.

The last decade of congressional history has written a record of disturbing policy failures. Throughout most of the 1970s, Congress argued endlessly about how to reduce energy imports, but no action was taken and the country imported more oil— and more inflation—with each passing year.

Since 1980, there has been a bipartisan consensus that the federal deficit is out of control, and yet the deficit has grown to $200 billion. In 1988, Congress conceded its inability to solve the problem and passed legislation putting budget cuts on automatic pilot.

Given the seriousness of all this—and the rhetoric that they destroy, it is not a small political system—it seems fair to ask what role political action committees have played in creating our recurrent legislative paralysis.

A moment's reflection supplies the answer: hardly any role at all.

It is PAC influence that makes members unwilling to raise taxes, or trim entitlement programs, or pull the plug on federal subsidies to their states? Of course not.

But PAC's role has not been eliminated and, in some cases, it has been enhanced. PACs have been included in the House or Senate, but when it comes to crucial policy decisions—and policy failures—the sources of funding are somewhere else. Congress fails to solve problems because members routinely sell out to a set of interests more powerful and yet more dangerous. The paths they sell out to are pressures of public opinion in the places they represent.

It may seem unfair to talk of members "selling out" to the voters. They are elected, after all, to give ordinary people a voice in public policy. But the conflict between the demands of leading people and the temptations of pandering to them has been a fact of legislative life as long as Western democracies have existed. It has been more than 200 years since Edmund Burke told his constituents that a "government of property" ruled them. Burke wrote, "Not his industry, but his interest, which will produce, will ever be his guide." In Congress, the pendulum swings back and forth. At some moments in history, members have been crippled by slavish devotion to the prejudices of those who elected them. At other times, the desire to lead and make decisions has won out.

One has to look back to the 1950s to find a Congress whose dominant figures felt free to make policy as they wished. Senators such as Harry Byrd and Ralph Yarborough, and representatives such as Clarence Cannon of Missouri did what they thought was right, and depended on constituents to accept it.

Much of what they thought was right does not look very good in retrospect. The Congress of the 1950s condoned legal segregation in the South and ignored legitimate demands for some federal role in areas ranging from education to health care. Those legislators carried autonomy to a fault.

Now we have the opposite problem. Members of Congress win election through the ceaseless monitoring and cultivation of voter desire. They keep that process up once they are in office, in order to maintain the overwhelming majority of staff people in any congressional office work on constituent services. The Congress of the 1850s failed for lack of responsiveness. The current Congress fails for an excess of responsiveness. At no point in recent times has there been so wide a gap between what members are willing to propose in private—whether it is a tax increase on one side or a reduction in Social Security payments on the other—to fulfill what they are willing to endorse in public.

Given the way congressional careers have evolved since the 1950s, perhaps a hyper-responsive Congress is inevitable. Those who decide to run off often give up many months of their time and too much of their own money for a job whose year-round responsibilities all but require them to sever any ties to private life or jobs back home. It is no surprise that people who go through a process at it is not easy to stomach may find what they are willing to endorse in public.

This—not the prevalence of PAC money—is what has rendered Congress so weak in dealing with hard national problems. Corruption is the right word for it. To thunder against the evils of the PAC system is to magnify a small problem—and to ignore a huge one.

PRESSURE IS A REALITY; KNOW HOW TO HANDLE IT

(William B. Saxbe)

Mechanicsburg, Ohio.—Political influence is a fact of life at all levels of government. All branches, all governors, senators, prosecutors, and judges are subject to its influence every day. Some can handle it. Some can't.

When I first went to the state legislature 40 years ago, I observed that when a legislator sponsored a bill that was controversial, a party or some other indiscretion, his name never appeared on the docket or in the newspaper. These activities were handled by astute police lobbyist who obviously had clout with the prosecutor, the judge, and the press.

When I became attorney general of Ohio, legislators, lobbyists, and politicians figures trooped through the office on matters of land appropriation, law violations, employment, tax abatement, favors, and recognition, using what political influence they presumed to hold.

The classic response (seldom used unless the recipient was a恒星 of evil) was doing nothing or talking in righteous indignation, point to the door, and denounce the caller as a siren.

What usually happened was an explanation of your responsibilities and an admonition if it could be accomplished without weakening your position or strengthening the cause.

This is the maneuver that some officials can handle and some can't. The "by-the-book" official usually doesn't last long, but neither does the "soft touch" who responds readily and favorably to unfair, illegal, or against-public-interest propositions. If you can accommodate without violating your sense of professional responsibility, you tend to do so.

In the U.S. Senate, I discovered to my dismay that a good part of your office is devoted to the advancement of political influence. I do not enjoy performing social work. In other words, using your political clout.

Some of this had to do with an enforcement of some things much with government handedness. Just to let an agency know you were interested focused its attention wonderfully. I didn't care much for this part of the job. I became U.S. Senator at age 28, a time of extremely low morale in the Justice Department as a result of continued and effective political influence from the executive branch. There were strong recommendations from congressional leaders that this influence could only be stopped by making the department an independent agency of government. By the end of my term, this suggestion was no longer heard and hasn't been raised since.

I spent 30 years of elective office doddging political bullets. I am firmly convinced that an official who responds to illegal or unreasonable political pressure doesn't last long—and he shouldn't.

But all pressure is not illegal or irresponsible, and citizens expect their elected officials to handle with government handedness. Just to let an agency know you were interested focused its attention wonderfully. I didn't care much for this part of the job. I became U.S. Senator at age 28, a time of extremely low morale in the Justice Department as a result of continued and effective political influence from the executive branch. There were strong recommendations from congressional leaders that this influence could only be stopped by making the department an independent agency of government. By the end of my term, this suggestion was no longer heard and hasn't been raised since.

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Incumbents have had their names advertised at a great advantage. Also, they have had free media exposure and franking privileges during their tenure. This creates a great advantage, protecting them against new candidates who may have a chance or who are less competitive and efficient. Unless challengers are free to solicit substantially larger contributions than the incumbents to offset this advantage, new candidates will be left at a disadvantage and spending limits on congressional races—not company that has advertised and invested in incumbent campaigns—will continue to leave the incumbents in a more effective position, while leaving the less effective campaign in the office.

Because incumbents already have these inherent advantages, any government regulation should attempt to offset this bias. For instance, if campaign expenditure limits are an idea, they should be at least as high as current expenditures of incumbents and for challengers alike, while leaving the incumbent who is no longer effective. After the short run, such a limit can only help the challenger substantially greater than it does for the incumbent. Unfortunately, it is probably unrealistic politically to expect members of Congress to support a more representative system when it runs counter to their self-interest.

(From the Washington Post, Dec. 3, 1985)

PACs RECONSIDERED

Sen. David Boren (D-Okla.) is one of a handful of national legislators who refuse to accept PAC money. That choice is one that protects him from charges that he is being unduly influenced in his vote by the interests that finance him. It also means that the groups that have the ability and the resources to make large campaign contributions in order to affect legislation. His colleagues, however, have not followed his example in droves: PAC spending in federal elections has gone from $12.5 million in 1972 to $100,000 in 1985.

Sen. Boren wants to put strict new limits on these political contributions, and a bill he has offered toward this end is scheduled for consideration this week. As we do not believe that the current system is far from perfect, we have come to believe nevertheless that further limitations on campaign spending are not the answer. We no longer believe that the current law, which combines the benefits of some regulation and full disclosure, can be significantly improved by further restrictions on political contributions.

Unions began the PACs. For a long time they mounted the only organized efforts to link candidates in any way with workers. Now there is a fundamental difference between politicians and corporations. We do not need to limit the advertising budgets of established companies to the extent that we may have little chance of accomplishing efficiency in the economy. More efficient entrepreneurs will make offers to take over a less-efficient older firm; and the highest offer will probably be accepted, since the owners realize that the value of their business, as currently run, is less than that price. Since the business can retain the name after the takeover, and most customers are unconcerned by the changed ownership, the firm’s reputation is simply inherited by the new entrepreneur.

In contrast, when a popular politician becomes less effective representing his voters, someone else cannot buy his name and market it. If, while Campbell’s Soup, politicians such as Ronald Reagan cannot sell their names and faces to a better, lesser known challenger.

Transfers of political wealth occur almost automatically. As what we could call a popular politician endorses a candidate or when children of a popular politician run for office. Because competing politicians are prevented from “purchasing” each other’s brand name, the political arena lacks the competitive “takeover” mechanism that has been seen in the market for goods and services.

While our political system may not work as well as the market for soup, we can at least try to make it work as efficiently as possible. It is important that we get the very best people to represent the voters at any given time. This means that we must not let groups determine who wins merely because they are well-known. This may be even more important than keeping campaign expenditures down. We should therefore resist the simple “remedy” of setting uniformly low ceilings for everyone.

If we do adopt ceilings, then for the sake of fairness and representation, we should at least make the spending limit for the challenger substantially higher than the one for the incumbent. Unfortunately, it is probably unrealistic politically to expect members of Congress to support a more representative system when it runs counter to their self-interest.

(From the Washington Post, Nov. 4, 1985)

CAMPAIGN REFORM

For the first time since 1974 there is talk that Congress may tackle the major changes in campaign finance regulation. It isn’t that the current legislation was defective from the start. It’s that there is a hydraulic pressure of interest groups that have the ability and the resources to make large campaign contributions in order to affect legislation. This pressure has increased the group’s influence with the candidate. Now, numerous organizations from anti-abortion to political groups organizing political giving, though business interests have far outpaced all the others; these have caused the most concern because of their skewed giving to incumbents and, in particular, to members of tax-writing committees. Once former government official compared the legislators raking in this money to pigs feeding at a trough.

Sen. Boren wants to put a $100,000 cap on PAC receipts by House candidates and a similar limit—varying according to the size of the state—by Senate candidates. He would also require broadcasters to give free time to candidates to counter expenditures by independent groups opposing them, and would bar PACs from transmitting “bundles” of individual checks made out to a specific candidate. This scheme would be a boon for candidates; there would be a strong incentive to make PAC contributions before the limit was reached. Would broadcasters be reluctant to take political ads of any kind? Wouldn’t thousands of lawyers-hours be spent devising new and curious methods to get around the regulations?

We continue to think that disclosure is the best way to avoid corruption in campaign financing. Political contributions are wholly voluntary, and everyone has a right to spend their money as they wish, as long as they do not buy votes. The Plain Dealer in Ohio used to provide a “purchasing” column, in which we could see what money the various candidates were spending on television. We continue to think that disclosure is the best way to avoid corruption in campaign financing. Political contributions are wholly voluntary, and everyone has a right to spend their money as they wish, as long as they do not buy votes. The Plain Dealer in Ohio used to provide a “purchasing” column, in which we could see what money the various candidates were spending on television. We think that disclosure is the best way to avoid corruption in campaign financing.
raise. The system suffers not from a surplus of campaigning but from a perception that the politically adept and economically interested have unfair advantages.

Third, campaign reform doesn't impinge on freedom of political expression. The argument of PAC organizers that PACs are only a small proportion of total spending and are not serving but cannot be casually dismissed. While Congress could further regulate that particular form of self-expression, it would be unwise to do so.

After such a long interval, Congress is wise to consider serious proposals for reform. It should tread carefully, aware how difficult it is to anticipate all the consequences of change in the campaign finance law. The details matter.

[From the Washington Post, July 8, 1987] WHY THE CAMPAIGN "REFORM" EFFORT IS A FRAUD (By Robert J. Samuelson)

The Founding Fathers were growing in their graves. The Senate is now debating campaign-finance "reform": a respectable-sounding idea that's a fraud. Campaign reform would cure problems that don't exist with solutions that would restrict free speech, another elections in bureaucratic ruts, and the political panaceas that come with incumbents. It's an odd way to celebrate the Constitution's 200th birthday.

Recent polls show that Wertheimer of Common Cause. His crusade for reform—campaign-spending restrictions and public financing—is built on half-truths. He says that campaign contributions of special interests have corrupted politics. They haven't. The Founding Fathers knew that special interests were inevitable. Their government of checks and balances would easily intimidate. According to Common Cause, Democratic Rep. Augustus Hawkins of California is the most dependent on PAC contributions, and his PACs contributed $342,000 to his campaigns. Wertheimer, who was talking about idea-merchants, no one blinked an eye.

When it comes to campaigns, dollar contributions are dangerously close to actually corrupting the legislative process. The diversity of the 4,157 PACs is enormous. There are dollars PACs, labor PACs, pro-bation PACs, antia lteration PACs, importer PACs and other PACs. Contributions are fairly evenly split between Democrats ($74.6 million in 1986) and Republicans ($57.5 million).

PACs give heavily to senior, powerful congressmen who want to be re-elected. They easily intimidated. According to Common Cause, Democratic Rep. Augustus Hawkins of California is the most dependent on PAC contributions, and his PACs contributed $342,000 to his campaigns. Wertheimer, who was talking about idea-merchants, no one blinked an eye.

Of special interest to Congress is the mere presence of the PACs. That's democracy. One person's special interest is another's crusade or livelihood. To be influential, people organize. As government's power grows, so has lobbying by affected groups: old people, farmers, doctors, teachers. The list runs on. But PACs are only a minor influence on voting. Political scientists, notes furiously, pummeling him with questions about what these "fat-cat, special-interest, civic better you were talking about idea-merchants, no one blinked an eye.

But no such taint attaches to other vital campaign ingredients, notably money and ideas. People who make their contributions by volunteering to walk a precinct or, as with Biden's group and its counterparts, by offering to write a position paper or comment, are not performing a generous act of good citizenship.

Why is it dangerous to contribute dollars, but not to contribute labor or thoughts? The answer has to lie in the eye of the beholder.

When it comes to influence on policy, few would seriously maintain that a $1,000 contributor exerts more leverage than the person who drafts a speech for a contender or suggests an idea. People who make their contributions by volunteering to walk a precinct or, as with Biden's group and its counterparts, by offering to write a position paper or comment, are not performing a generous act of good citizenship.

But the people who write about politics—like myself—are far closer in spirit to the lobbyists and the ghost writers than we are to the big contributors. So when organizations like Common Cause, which provides the lobbying muscle behind the recurrent drive for "campaign reform" sound the alarm, the press tend to respond. Frank J. Sorauf, a professor at the University of Minnesota, has just demonstrated that point nicely in an article in Political Science Quarterly. He analyzes news coverage, not editorials, on three recent campaigns: the 1982 senatorial race in Maine, the 1983 gubernatorial race in California and the 1984 presidential race.

In every instance, he makes a convincing case that the coverage reflected, not a partisan or an ideological bias, but a particular strain of American thought: the Progressive tradition, which was a powerful force in our politics from the 1890s to the 1920s. The Progressives, political scientist Austin Ranney once wrote, believed that "the great enemy of our society is the political machine, the business trust, and the other special interests that try to advance their
selfish goals at the public's expense by buying elections and corrupting public officials.

Progressivism faded as a political force 50 years ago, but it remains alive and well in America today in the form of public- styled reform organizations. The Progressives' belief in the corrupting power of money is the assumption underlying most of the current efforts—led by Common Cause and endorsed by many leading newspapers—to cut down on contributions by interest-group political action committees, to introduce public financing of congressional campaigns and to place ceilings on overall campaign spending.

Reformers and journalists tend to share that Progressive tradition. Reformers and journalists also know our influence and derive from our presentation of information and ideas, not from our position, right when we say that dollars corrupt politics while ideas enlighten it. But there is enough of a coincidence between our assets and our arguments to justify a degree of skepticism.

I happen to think that the rapidly rising costs of many Senate races do justify an effort to slow down this form of political inflation, at least temporarily. I agree with Sen. David Boren (D-Okla.) that a limit on the share of the campaign budgets PACs can provide would have the healthy effect of pushing candidates to seek more individual contributions in their home states.

But there's an excess of moralism in the Common Cause and newspaper preachings on this topic. A pluralistic society properly can provide would have the healthy effect of pushing candidates to seek more individual contributions in their home states.

I want to say to my friend from Maine, Mr. BYRD, that I think that the particular debate we are having is a good way to see if we can agree on reform acceptable to both parties. If we succeed you will see me lending my support to that. But I will not succumb to an intimidation campaign. I am prepared to take my record to my people and let them judge what they think. I know of no vote or action that I have taken in the course of 16 years of service that was a consequence of a contribution or was a dereliction of my duty. I am prepared to take that to my people in Maine.

Mr. McCONNELL. Will the Senator yield?

Mr. COHEN. I yield.

Mr. BYRD. The Senator can only yield for a question.

Mr. McCONNELL. I wanted to make a 30-second observation about the Senator's speech, but I will have to make it at another time.

Mr. BYRD. I have no objection to the Senator making a 30-second observation on the speech. But I have been waiting and I want to make some comments. I have been waiting. I understood that Senator Cohen wanted to speak so I suggested that he seek recognition. I know the Senator wants to be fair. I do not object to the Senator taking the 30 seconds, but I would like to get 5 minutes at some point. I have no objection.

Mr. McCONNELL. I thank the majority leader.

Mr. BOSCHWITZ. The PRESIDING OFFICER. The Senator from Minnesota.

Mr. BOSCHWITZ. Mr. President, I want to add my voice complimenting the Senator from Maine who has, in my judgment, delivered one of the most eloquent speeches that I have heard on the Senate floor for many a year. I think he has summed up the most important issue. I thank him.

Mr. COHEN. I thank the Senator.

Mr. BOSCHWITZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine has sat down, therefore yielding the floor.

Mr. DOMENICI. Will the Senator permit me for no longer than 30 seconds to address the same issue while the Senator from New Mexico is on the floor?

Mr. BYRD. Mr. President, I yield to the Senator from New Mexico for that purpose.

Mr. DOMENICI. May I say to my friend from Maine, I just want to thank you. I think you have made the Senate a service. Most of all, I want to say that knowing what you stand for and what you are, you did right today, exactly what was right, because some groups thought to intimidate you with falsehoods, with half-truths.

I think you showed the absolute best of the traditions of this Senate in coming here to the floor, standing up to it, and in a remarkable way, justifying what you are doing in the Senate and on the Senate floor, and that we have been taking.

I thank you for that and for all of us who do not believe there is only one way to enhance better campaigns, and that that is a bill that Common Cause supporting called S. 2. Thank you very much.

Mr. BYRD. Mr. President, may I say to the distinguished Senator from Maine, I do not think anyone could believe that the Senator from Maine is here?

The implication, of course, is that I do not believe there is only one way to enhance better campaigns, and that that is a bill that Common Cause supports called S. 2. Thank you very much.

I hope he does not concern himself too much about the implications that he is a corrupt individual simply because he is opposing this bill. I do not believe that. There is not a Senator in this body who would think that of him.

Many of us on this side of the aisle have been the targets of ads by the conservative caucus, NCPAC, and various other organizations at one time or another. So this is not a one-way street. In this particular instance, I can understand the umbrage of the distinguished Senator from Maine.

But I think what we have to keep in mind here is the real issue—not a campaign of a particular organization, Common Cause or any other organization. That is not the central issue here in this debate.

Many of us take umbrage against things that have been said against us. But I think we all understand we can expect that from time to time.

That ad did not, in my judgment, influence anyone, and would not influence anyone, that the Senator from Maine is corrupt because he is opposed
to this bill. I respect him for his opposition.

Mr. COHEN. Will the Senator yield?

Mr. BYRD. Yes.

Mr. COHEN. The telegram reads:

"Common Cause press release on telegram sent today:

"Senator Cohen, stop defending corruption in Washington. There is no justifiable reason for you to hold Congress and the country hostage to the corrupt congressional campaign finance system. Sen. Cohen, owe it to the citizens of Maine to allow the Senate to act on S. 2 and to clean up the terrible ethics mess in the Senate."

That is a statement which to me has to be one of the most despicable tactics I have seen in 16 years, when it says that the Senate is corrupt, when it says the system is corrupt, and S. 2 will cure the corruption.

"You do not support S. 2, therefore you are corrupt."

That is a kind of smear tactic. The claim of the organization is that it is disinterested.

Mr. BYRD. I understand the Senator's strong feeling and I can understand his taking umbrage. The majority leader of the Intelligence Committee from Oklahoma.

"I have never heard anyone question the integrity of the Senator from Maine. Certainly, this Senator would be the first to jump on his feet to invite any kind of attack. The only thing he can say about me is that I have complete faith in the Senator's honesty, his integrity, his character, his courage. I say that directly and forthrightly.

I did not have to say that. I am not seeking plaudits from those on the other side who from time to time like to castigate me. But I say that without any hesitancy.

I will yield to the distinguished Senator from Oklahoma.

Mr. BOREN. Mr. President, I thank the leader. I simply want to add my voice as an individual Senator. Mr. President, I want to thank my colleagues from Oklahoma for his kind words. The point I was making is that we have allowed ourselves to accept the evil which has given credence to the notion that somehow I had to come to the floor and strenuously object to the type of tactic employed by Mr. Cox.

I thank the distinguished Senator, the majority leader, for his comments. He did not have to say them, though I appreciate them. They were not for me, of course, but for all my colleagues.

Mr. BYRD. Mr. President, I was not asked to say it but I felt I had to say it because I wanted to say it.

I disassociate myself also from what the Senator has just read, as did the Senator from Oklahoma, the chief sponsor of this legislation.

Having said that, I want to thank Common Cause and any other organization that supports this legislation.

I do not approve of any effort to impugn the integrity of any individual Senator or imply that he is corrupt because he is opposed to this bill. There shall not be any implication drawn from his opposition. I regret that such as the case.

Mr. BOSCHWITZ. Will the majority leader yield for a question?

Mr. BYRD. Yes.

Mr. BOSCHWITZ. Do you think, Mr. Majority Leader, that the press release that was put out by Common Cause casts that kind of light of corruption on the Senators? I have received similar telegrams. I am not sure a press release was put out in my State. Perhaps there was.

Mr. BOSCHWITZ. Do you believe that the press release that the Senator from Maine read did or did not cast some light of corruption?

Mr. BYRD. Mr. Boschwitlz, I have already stated as to how I feel about Mr. COHEN. I think I stated it rather plainly. The senior Senator from Montana, I understand, has an ad put out by a conservative caucus at one time targeting him. I deplore all such ads from which hurtful inferences may be drawn about the character and integrity, the honesty and patriotism, of any Senator, whether he is a Democrat or Republican.

I do not approve of it. I hope that the campaign that is going to be waged against me this fall by the Republican candidate—who was encouraged to run against me by the distinguished Senator from Minnesota, Mr. Boschwitlz, according to news reports—will be a clean campaign, and I hope that I will not again be the target of the kind of attacks that I endured in 1982 when that house outfit, NCPAC, came into West Virginia and attacked me scurrilously, distorted by voting record, and spend around $270,000 trying to defeat me.
I do compliment Common Cause for supporting what I conceive to be a good cause, but I do not support or stand for or agree with the provisions of this bill. On the one hand, I do not countenance any actions, words, advertisements, or whatever, that in any way impugn a Senator's integrity, his honesty, his patriotism, his integrity, or his opposition to this bill. I respect Senators who oppose it, although I believe they are wrong in opposing the bill. I hope that answers the Senator's question.

Mr. BOSCHWITZ. I ask the majority leader, may I comment on that?

Mr. BYRD. Yes.

Mr. BOSCHWITZ. I have some familiarity with the campaign that was waged against the Senator from West Virginia last time. I was not involved in that campaign or the committee at that time. It worked to the disadvantage certainly of the Senator's opponent. I have heard the distinguished majority leader that I have told NCPAC, when they want to come into my State, they should stay out.

I have spoken out against the tactics of NCPAC and have often said that they were perhaps the leader and perhaps the originator of some of the negativities that has arisen in campaigns today.

This release and these ads on the part of Common Cause, which certainly has a right to speak up about this issue or any issue they choose to, I think are as heinous and as inappropriate as some of the works I have seen by NCPAC, and I again say that the Senator from Maine has not only directed his comments against those ads or against the actions of Common Cause as they apply to him and to others on this side of the aisle, but has directed his comments to all of the elements of $2 and I think has done so just brilliantly.

I thank the Senator for allowing those comments.

Mr. BYRD. Mr. President, I thank the distinguished Senator. I wish that I had had such rejections of the obnoxious tactics and ads by NCPAC used against me in 1982. I wish I had heard those same rejections, from the other side of the aisle of such tactics in 1982. I spoke about it on the floor at that time. But I am pleased that the Senator rejects NCPAC in his own State at least.

Now, Mr. President, I think we are changing the subject again. The real problem is the perception of big money in politics, and we have to address that perception, or the trust in all of us will suffer. It is a system that is corruptive. That is just what we have been hearing. It is a system that is corruptive.

That is not to imply that any Senator who opposes this bill is corrupt, but the system is corruptive. And that is what we are trying to correct here.
The Washington Post has been a supporter in its editorials of S. 2, a strong supporter. So has the New York Times.

With particular reference to what happened the other night in connection with this bill, I have never had so much personal abuse from the Senate in the history of the Senate. I ask unanimous consent that it be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. Daschle). Without objection, it is so ordered. (See exhibit 1.)

Mr. BYRD. Mr. President, this filibuster should not obstruct the central issue of the debate. The little guy is being pushed out of our political system. The Senate should not be an aristocracy of the money bag. Campaign financing reform will give the little guy an equal share.

We Democrats have been ready to vote on the substance of the bill. It provides a voluntary checkoff system and an overall spending limit, and we have waited and waited for over a year to vote on the substance of it.

This business of the "golden handshake"—no one likes it. Senators do not want to spend all their time raising money. They do not want to be beholden to special interests, going from fundraiser to fundraiser, with their hands out, begging for money. It is demeaning.

Some have said, with reference to the arrest order, that it was demeaning. What is really demeaning is this issue we are discussing—the money chase. If that is not demeaning, I do not know what is demeaning.

It is demeaning for me to have to go around the country and raise increasing amounts of money for the purpose of staying in public service. That is demeaning. And it is demeaning to every other Senator.

The people did not elect me to do that. They elected me to do the work of a Senator. But, more and more, it is consuming my time and every other Senator's time as well. That is what is demeaning. That is what we are trying to get away from by enacting S. 2.

I have said that I regret having had to make the motion to order the arrest of absent Senators and bring them to this Chamber. Now we hear all of this crying, weeping, gnashing of teeth.

Mr. METZENBAUM. Mr. President, will the majority leader yield for a question?

Mr. BYRD. Let me finish my thought; then I will yield.

They sound like a bunch of crybabies. We are all adults. We all know what we are sent here for. We are sent here to work and to conduct the business of the Senate, the business of the people.

Some of us believe strongly in the bill that is before us. I know that it has been said here by some Senators that they do not have to be lectured on what their duty is. Nobody is attempting to lecture Senators on their duty. I do not have to be lectured on my duty, either, as majority leader of the Senate, but I have been listening to a lot of advice on it from the other side of the aisle.

That whole episode was demeaning, and I acted as I did because I was forced to do it, to get a majority of the Senate present, so that the Senate could do its business. This Senate cannot operate without a quorum. A quorum is 51 Senators out of the 100.

Every legislative body has to be able to produce a quorum, else all business would not come to a halt. It is the responsibility of a majority to produce a quorum if a quorum is shown to be not present. And that responsibility is shared by the minority. The Constitution of the United States vests this body with the authority to compel absent Senators to come to the Chamber. The rule of the Senate, rule VI, provides for the compelling of Senators to attend in order to secure a quorum, because without a quorum, this legislative body cannot do any business. The Senate rule provides the authority. But the higher authority is the Constitution of the United States, the organic instrument that created this institution of which we are Members. I will read from it, article I, section 5:

Each House shall be the Judge of the Elections, Returns, and Qualifications of its own Members, and a Majority of each shall constitute a Quorum.

Fifty-one here—to do business; but a smaller Number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide.

So there is the full force of authority that is required for this legislative body to function. And the order for arrest springs from that authority. When a legislative body cannot or will not compel the attendance of Senators, then it cannot enforce the requirement of a quorum, without which there can be no business transacted. When there is no quorum, all the Senate can do is take action to get a quorum or adjourn—or recess, if a previous order to recess has been given. That is fundamental to the very being of this body.

So regarding all of this weeping and crying like a bunch of crybabies who brought it upon themselves—it was a calculated decision. We heard that stated today from Senators on the other side—that they decided that they would resort to deliberately staying away to prevent establishment of a quorum. They were crying in the face of the Constitution of the United States, which created this body.

Mr. NICKLES. Mr. President, will the Senator yield?

Mr. BYRD. That was a calculated decision.

Mr. NICKLES. Mr. President, will the Senate yield?

Mr. BYRD. I will yield shortly, but I am not going to answer that statement.

After all, there has been a big deal made out of this business of the majority leader's motion that Senators be arrested and brought to the Chamber. Now, I shall have my say. I do not intend to keep the Senate long on this subject. But this majority leader intends to do his duty, and I did my duty.

Senators made a calculated decision to not come to establish a quorum. Senators on this side had 50 bodies that night. If not for one Senator on the other side, the distinguished acting leader, we would not have had a quorum of 51 Senators.

Fed. Elections can we get? When grownup men who understand their responsibilities as Senators make a calculated decision that they will stay away from the Senate when there is a vote going on to establish a quorum? Then, they take umbrage at a motion to arrest absent Senators and bring them to the Chamber. They understood what they were doing, and I understood what we were doing. Demeaning? Senators running when they saw the Sergeant at Arms approaching? Barricading themselves in offices? Placing chairs against the doors? Locking themselves in? How demeaning is that picture of Senators?

Mr. President, I moved on one occasion before, in 1976, that there be an order for the arrest of Senators. On that occasion, the Senators who had avoided the quorum came to the Senate before the order had to be executed. First there was a request. They did not come. Then I believe on that occasion there was the order to compel. They did not come. Then I moved for the order of the Senate to arrest Senators. They came voluntarily.

I might not like it because the Senate votes to arrest Senators, but I will be here to cast my vote against it if I do not like it. If the Senate enters an order to arrest Senators, you will not catch me running in the other direction.

You will not catch me running in the other direction. I will run in this direction. Here is where my duty lies. Mr. President, a great deal has been said about that arrest order and written about it. Of course, every attempt has been made to make it the central issue, to make it the focus of attention. But the real center stage is the issue that is responded to in S. 2. And that is clean, good-government issue.

The Democrats have been ready to vote on the bill and on the pending
amendments, and we are ready to vote now. But our Republican friends across the aisle have not wanted to vote. They have voted to continue the debate to the end of the pending question. They are waiting for the cloture vote on tomorrow.

I do not question any Senator's opposition to the bill. He has many appropriate ways of registering that opposition. He can speak against the bill, he can vote against the bill, and I have offered time and time again to see if we could work out a time agreement, which would allow for other amendments thereto. As to where my duty lay in that occurrence. That is No. 2. The question I want to ask in regard to filibuster, you mentioned the idea of compelling Senators was something that has been done before. It has been done in 1976. It is the first time in my 8 years in the Senate that it has been done that I can recall. I was going to—

Mr. BYRD. Well, 1976 was more than 8 years ago.

Mr. NICKLES. That is correct. The majority leader was in the Senate prior to 1976. He has a great deal of seniority in the Senate. He was also involved in previous filibusters, historic filibusters, the civil Rights Act of 1964, and others.

Did they employ a tactic that I understand is a tactic that was used before in disallowing a quorum, if possible, back in filibusters in the 1960's? Mr. BYRD. Mr. President, I do not recall any occasion in the 1960's when a political party in the Senate decided to stay away to prevent a quorum in the Senate.

Mr. NICKLES. Not—

Mr. BYRD. Now, I am answering the question, and then I will be glad to take another question. I am attempting to answer the Senator's question. I do not remember that either political party in the Senate during the 1960's or since made a calculated decision to the effect that only one Senator in that party would answer the call for a quorum of the Senate, previous to this occurrence. That is No. 1.

No. 2, the filibusters in the Senate in the 1960's were conducted mostly around the civil rights issue. And I was one who participated in the 1964 filibuster. I voted against the 1964 civil rights bill. I think I voted for the 1958 civil rights bill, the 1960 civil rights bill, the 1962 civil rights bill—I think that dealt with the poll tax.

I voted against the 1964 civil rights bill, explaining my reasons and have, upon several occasions since, stated that I had to do it over again, I would vote for it. I wish I had voted for it. I think I have no personal reasons for my change of heart that I do not need to relate here, and they are very, very personal. They have something to do with this wonderful happiness of having grandchildren.

Mr. SARBANES. Will the majority leader yield?

Mr. BYRD. Yes, I yield. Would the Senator allow me, the Senator from Oklahoma did ask me to yield earlier. I will do so with him and then to the Senator from Maryland.

Mr. NICKLES. I might ask the majority leader a question. Some of us have been waiting for some time. I know the majority leader earlier had indicated we would be leaving, trying to get out by 6 o'clock. There are a number of people wishing to speak. Is that still the majority leader's intention?

Mr. BYRD. It is my intention to stay here as long as Senators want to speak.

Mr. NICKLES. I appreciate the majority leader's response to that question.

The question I want to ask in regard to filibustering, you mentioned the idea of compelling Senators was something that has been done before. It has been done in 1976. It is the first time in my 8 years in the Senate that it has been done that I can recall. I was going to—

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Mr. SARBANES. Will the majority leader yield?
that motion. Only one Senator on the other side was here, and there was a calculated, willful decision that everybody take a vote on a bill that was not even on the floor, just to put it out there so that the Chair cannot put the question.

That is what we are talking about. That is the kind of conduct with which I had to deal.

I have been listening to all of this crybaby stuff since, and all of this business about how we have to “save the Senate.” It is a remarkable thing to me that there are many Senators who come here and want to save the Senate—and they have not been here very long, in many instances. I admire them and respect them for wanting to improve the operations of this Senate.

How many of those Senators who want to “save” the Senate showed up that night and voted on that motion? We cannot have it both ways.

A good many Senators have been quite liberal in their criticism of the majority leader for having made the motion. But the majority leader knows what his duty is, and the majority leader will abide by that Constitution without failure and by the Rules of the Senate without failure.

I do not have any regret whatsoever in what I did. I only regret that I had to do it.

When a majority leader quails in the face of criticism when he has done his duty, then he ought to take a seat and say he is no longer the majority leader.

I do not take any pride in staying here all night. I did not like it on Tuesday night. I got 3 hours of sleep. There may be some who got less. But this was a calculated effort to obstruct this Senate from doing its work, because it cannot do its work without a quorum. When a party, a majority party, in this Senate, be it Republican or Democrat, does not show the fortitude to deal, and the guts to take whatever action is necessary under that Constitution and the Rules of the Senate—whatever action is authorized under the Constitution and in that rulebook—whenever that majority party quails or shrinks from that duty to establish a quorum, then that party forfeits its right to be the majority party.

And I would forfeit the confidence that has been placed in me by my colleagues who selected me to be the majority leader.

Mr. President, that is precisely where I stand on the question. “Come one, come all, this rock shall fly from its flint base as soon as I!”

Mr. President, I yield to the distinguished Senator from Maryland.

EXHIBIT 1
Reformbusters in the Senate
How far will Senate Republicans go to restrict limits on campaign spending by candidates for the Senate? One answer is 5 feet 11 inches. Normally, that's how tall Bob Packwood, the Oregon Republican, stands. But at dawn Thursday, a white-suited, barefoot man was carried into the Senate, feet first, by Capitol police officers. He was one of the Republican leaders, resisting a campaign-finance reform bill, who had walked off the floor and had to be brought back under warrant.

Another measure of Republican opposition will be evident tomorrow when the Senate votes—for the eighth time—to end Republican filibusters against the reforms. Citizens deserve a choice of big or small money on politics will observe with interest the votes of Republicans like Alfonse D'Amato of New York and Lowell Weicker of Connecticut. By ending the filibuster and passing the bill, the Senate could control campaign costs and scrub away some of the suspicion that has settled, like polluted air, on Washington's marble halls.

Why do the Republicans risk stigma as the Big Bucks party by so stubbornly opposing the reform measure? The bill, sponsored by two Democratic Senators, David Boren of Oklahoma and Robert Byrd of West Virginia, has three goals: to limit contributions from PAC's, the special interest political action committees; to close the legal loopholes through which million-dollar contributions pass, and, most important, to create voluntary limits on total campaign spending.

It's these limits that drive the Republicans to their own delinquencies. They contend that spending limits favor incumbents and thus the Democratic majority. Challengers often require large campaign funds, and thus the Democratic majority. Challengers often require large campaign funds, and thus the Democratic majority. But what can't be denied is that the present system creates a poisonous impression: that money can buy influence on Capitol Hill. Worse, money does buy such influence; at least it guarantees that a senator will give the contributor a hearing. It's hard to forget an acid wisecrack from a huge Washington trade association last spring: "I know you can't buy a Congressman. But what's wrong with renting a few?"

Given the charges of sleaze raining almost daily against the Reagan administration, Republicans ought sensibly to want to dissociate themselves from the poisonous climate. Tomorrow's anti-filibuster vote will give all senators, and particularly Republicans, their chance.

Mr. SARBANES. Will the majority leader yield for a question?

Mr. BYRD. Yes.

Mr. SARBANES. Mr. President, I think it is very important to understand the position the majority leader has taken is explicitly grounded on a provision in the Constitution. Is it not the case the Constitution provides that each House is authorized to compel the attendance of absent Members and, under such penalties as each House may provide?

Mr. BYRD. Those are the precise words.

Mr. SARBANES. So that the action the majority leader took the other evening was directly pursuant to a constitutional provision, a provision that has been invoked on prior occasions in this body.

In fact, Mr. President, there is an extended section in the precedents of the Senate that deal exactly with this matter, with the question of the order of arrest, which says it may be adopted by a majority of the Senators present with a majority of the Senate, that orders of arrest may be issued in the absence of a quorum directing the Sergeant at Arms to bring certain Senators before the bar of the Senate.

So the action the majority leader took was not a personal action of the majority leader. It was an action of the leader of the Senate consistent with the constitutional precedents of the Senate, which set out how to address a situation in which, in this instance, a group explicitly decided, consciously decided, to boycott the Senate and bring the institution to a halt.

Mr. BYRD. Mr. President, if the distinguished Senator would allow me to do in this situation as I required of other Senators, I wish to state that I will only yield for a question, except by unanimous consent.

As far as I am concerned, I am ready to yield.

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

Mr. BYRD. Mr. President, I yield the floor.

Several Senators address the Chair.

The PRESIDING OFFICER. The Chair will state that he has noted the Senator from Oklahoma has been here for an hour waiting to speak. For that reason, he is recognized.

Mr. NICKLES. I thank the Chair. I thank the majority leader for responding.

Mr. DOMENICI. Mr. President, America needs balanced election reform.

I support that, and am distressed by amendment 1405 and other suggestions from the other side of the aisle that would use tax dollars to squeeze individuals out of the election process.

The American voters deserve a fair-shake-for-all election law, one that places its emphasis on people-to-people campaign, not one where the candidates put their hand into the public treasury.

We need to stress people, not PAC's. It is for that reason that I am supporting dramatic changes in the Federal election law, changes embodied in legislation such as S. 1308 and S. 1672.

The American public dislikes the sharp rise in campaign spending. I do not like that trend. Some calling for "reform" now want some of the costs of campaigning taken from the pockets of the taxpayers.

Yet the public focus is PAC's, not taxpayer dollars or spending limits. PAC spending on races for Congress jumped by more than 25 percent from the 1984 campaign to the 1986 campaign. While personal contributions were up too, they rose by much less, about 18 percent.
So I have concluded that one effective way—probably the best way—to resolve the problems caused by the deluge in campaign spending is simply to drain some or all of the PAC cash out of campaigns. Let individuals decide who gets campaign dollars.  

The first three words of the Constitution are key: "We the people." Politics is people; let's encourage that. Individual—and voluntary—participation builds a successful campaign; it builds a successful government.  

When I first ran for the U.S. Senate, I used a slogan, "People for Pers." I used it again in 1978, then again in 1984. I intend to use it when I run again.  

Why? First, it does possess a nice, catchy alliteration. But the real reason I use the phrase "People for Pers" is that I believe it expresses what politics is all about, or what politics should be all about. And yet, as the Senate debates S. 2, the major alternative is a proposal that a significant portion of every future Senate campaign is paid for directly with tax dollars; that would convert my next campaign into a "Taxpayer-PAC."  

That is wrong. Daniel Webster spoke of "the people's government, made for the people, made by the people, and answerable to the people." How can you achieve that with a campaign bankrolled largely with taxpayers' dollars?  

When I ran for reelection in 1984, I was supported with some 20,000 individual contributions, the most in the history of New Mexico. Personal contributions ranged from $1 to the legal limit, $1,000. I raised over $1 million in this way, most of it from my friends in New Mexico. Some may argue that no one else can match that enthusiasm in public disclosure, particularly on the financing of get-out-the-vote drives by business and labor.  

These bills also require additional public disclosure, particularly on the financing of get-out-the-vote drives by business and labor.  

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What is the method? First, it does possess a nice, catchy alliteration. But the real reason I use the phrase "People for Pers" is that I believe it expresses what politics is all about, or what politics should be all about. And yet, as the Senate debates S. 2, the major alternative is a proposal that a significant portion of every future Senate campaign is paid for directly with tax dollars; that would convert my next campaign into a "Taxpayer-PAC."  

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I have joined in sponsoring three basic election reform bills: S. 1308, sponsored by the Senator from Kentucky (Mr. MCCONNELL) and the Senator from Oregon (Mr. PACKWOOD); S. 1326, written by the Senator from Alaska (Mr. STEVENS), and most recently, S. 1672, introduced by the distinguished Republican leader, Mr. DOLE.  

Each is a good bill. Each would shift the emphasis back toward individuals. Each is far better than the various versions of S. 2, offered by the majority. Each curtails PAC spending; the majority's approach does not.  

Why do I support legislation that would lessen the reliance on PAC's, while emphasizing individual contributions?  

I am not doing it because I think PAC's are evil, or that PAC's use influence in an unhealthy manner. I do not believe that. But I do believe PAC's are farther from the people, and, given the decisions of the Supreme Court, PAC control appears to be the only constitutional way that is fair and responsible to hold down the cost of congressional elections.  

The reality is that campaign spending is out of hand. During the 1986 elections, business and labor PAC's poured $45 million into Senate campaigns. That is about $1.3 million per race, a staggering total. Those same PAC's spent $87.2 million on campaigns for the House of Representatives.  

Our bills control PAC's; S. 2 does not.  

I believe it is also very significant that the Dole bill and its predecessors tackle the danger posed by the super-rich candidate. As a result of a Supreme Court decision, candidates may lavish family treasure onto a campaign to buy a Senate seat, despite limits on other gifts. Millions in family money has been spent by some wealthy members of this body, and they are the people, made by the people, and answerable to the people." How can you achieve that with a campaign bankrolled largely with taxpayers' dollars?  

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The Dole bill, the McConnell-Packwood bill, and the Stevens bill leave the majority's proposal.  

Therefore, should I misstate a specific provision in the majority's version of S. 2? I hope they will at some point come to the floor to state with specificity just what it is their latest proposal does and what it does not do.  

One thing we know it does not do is control in any way the spending of "soft money," the mother's milk of the Democratic candidates to the U.S. Senate. These expenditures are the inkind services provided by labor and business and flow outside the current election law and outside the scope of S. 2.  

I know, we will hear that this spending is outside the control of the candidate, or really cannot be valued, therefore it should not be at issue.  

But every single person who serves in this body knows perfectly well that "soft money" contributions provide to Democratic candidates a tremendous boost. And if other types of spending were controlled sharply, the importance of "soft money" would become greatly magnified.  

So the issue is not really dollars. The issue is accountability. The issue is securing voters that they get an honest picture of what is going on, who a candidate is supported by, what kind of people want the candidate to win.  

I will take the State of New Mexico as an example, a good one since 19 States would have the exact same limits. In New Mexico, a $950,000 spending limit is set for a Senate candidate.  

In return, they get new, special subsidized mail rates, special TV advertis-
Taxpayer money would be pumped into the campaign once a candidate spends $850,000 in taxpayer cash if the other candidate exceeds the $950,000 limit in New Mexico; in States such as California, the taxpayer exposure could exceed $5 million.

In addition, the taxpayer has an exposure, on a dollar-for-dollar basis to offset spending by outside groups, ones that would be independent of the candidate. This money could go to either or both campaigns, and permits legal spending by either over and above the $950,000 limit.

It seems to me that these matching funds against outside spending is the fatal link in the majority's proposal. There is absolutely nothing that I can find that restricts all such sorts of fake campaigns designed purely and simply to unlock the Treasury for a particular candidate.

Under amendment 1405, if a committee decides to get involved in the campaign on the candidate's behalf, the opponent of that candidate will receive an entitlement of cash equal to the value of that outside campaign. Section 504(a)(1)(C) of amendment 1405 provides tax cash "equal to the aggregate total amount of independent expenditures made or obligated to be made, in the general election involving any opponent of such eligible candidate".

Can you imagine the mischief that is possible under this kind of a provision? You will have cash over and above the $950,000 he or she already has in the bank, in our small State example. So one candidate gets cash, and the other candidate gets the possibility—the possibility—that the outsiders actually have helped.

What happens if a dummy independent committee is set up to support me with a proclaimed intent of bolstering the Domenici campaign? I have no control over that committee, but my opponent receives cash he or she can use against me. And that dummy committee could spend it in ways that really turned out to be a slap at me.

What an absurd approach. Yet that is at the heart of the proposal from the majority leader.

Mr. President, amendment 1405 and S. 2 are proposals that are flawed, seriously flawed. They are proposals that need to be redrafted along the lines of the Domenici-Ashcroft bill that offers realistic election reforms, legislation that achieves reforms without picking the taxpayers' pockets. I urge my colleagues to work to develop legislation that reforms campaign financing laws to hold down spending, but to do it in a way that stresses individual giving, not the taxpayer.

Mr. BYRD. If the Senator will yield, I ask unanimous consent without objection that the Senator from Oklahoma's losing his right to the floor, and without it being counted against him as a speech, that the Senator from Maryland, who was quite summarily cut off by me because I was living up to the rules—and were it to have happened to a Senator on the other side this request would have also been made—I ask that the Senator from Maryland be permitted to proceed for at least 2 minutes to finish his thought. I have done what I have done with regard to other Senators. In doing so, I have shut off my own colleague.

I ask unanimous consent that the rights of the Senator from Oklahoma be fully protected.

The PRESIDING OFFICER. Without objection, the Senator from Maryland is recognized for 2 minutes.

Mr. SARABANES. I thank the Chair and I appreciate the courtesy of the Senator from Oklahoma.

Mr. President, I simply wanted to make the point that I did on the action that the majority leader did take was pursuant to the Constitution, pursuant to the precedents, which was within the framework of the procedures of the institution.

If one stops and thinks about it, the Founding Fathers obviously anticipated the possibility of a situation in which a faction or element in the body might seek to deny a quorum, prevent the institution from doing its work, and explicitly provided that less than a majority of the institution could seek to compel the attendance of those Members.

This procedure has been invoked in the past when it has been found necessary.

What was confronted the other evening was a concerted decision to prevent the institution from having a quorum. It seems to me the action the majority leader took was, in effect, provided for pursuant to and in a sense made necessary by the constitutional provisions and the precedents under which we have operated.

Once someone thinks about it for a moment, obviously you have to have some means of recourse to prevent a faction from completely closing down the institution.

Suppose you had 10 or 15 Members absent on business, ill, a whole range of possibilities, and then you take a minority of the body into the House chamber without their presence, prevent a quorum from being present, a majority of the membership, and prevent the institution from doing its work.

The provision in the Constitution is obviously designed to address that very situation. In fact, in the past it has been found necessary to invoke that provision. There are precedents in the Senate procedures that provide exactly for such a situation. That was what was done on the other evening by the majority leader when he invoked responsibility to the Senate as an institution and to the Constitution to take the action which he pursued.

The PRESIDING OFFICER. The time the Senator has expired.

Mr. BYRD. Mr. President, I thank the Senator from Maryland and I thank the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, there has been an interesting dialog in the past hour concerning the Senate's procedures and I will make only a brief comment. I would say as one Senator I was embarrassed. I was embarrassed that the majority leader will again, even though we have spent weeks on the bill not only last year but also this year.

I happen to be one who thinks we have many serious problems in this country to confront, problems such as trade deficits, budget deficits, and whether or not to fund the democratic resistance in Nicaragua.

I personally place so-called campaign reform very low on the list. But we find ourselves spending a lot of time on it.

We have had a record seven cloture votes on this bill. The bill that is now before us is very similar or has many of the same elements as the previous bills that were defeated on cloture votes.

The reason why they were defeated and the reason why cloture was not invoked because the legislation left a lot to be desired.

Everyone talks about campaign reform. If you go to your constituents and you ask them, "Are you in favor of campaign reform; do you think we are spending too much money on campaign; do you think something should be changed?" you will probably get a high percentage that would say yes.

But then if you start asking more questions—if your constituents were aware of the details—I think you will find a majority will say no. Let me give you a couple of examples. You may ask, do you support campaign financing for senatorial elections? Do you think that the necessary element, the taxpayers, should be funding and financing senatorial campaigns? I think you will find the majority in most States will say no, they do not agree with public financing for senatorial campaigns. They might support it for Presidential elections, but I think
you will find out that a lot of them will say no to congressional races.

And then if you explain to them that one of the provisions in this legislation would enable Senators who participate to have their campaign postages paid for, they will not be against it for anyone else. You would get a first-class stamp for 5½ cents. That means the taxpayer is going to be paying 16½ cents for every letter that comes out from a Senator running for reelection or as a challenger. The third-class rate would be 3½ cents. The taxpayers are going to get it in the ear every single time a letter is mailed. The deficit is going up. I do not think they are interested in adding to it. I do not really think that they want to see their tax dollars being used to subsidize U.S. Senate campaigns.

Yes, campaigns do cost a lot. I was involved in what I felt was a very expensive race in Oklahoma last time. It cost about $3 million apiece for myself and my opponent. A significant portion of it was from political action committees. As a matter of fact, I will enter into the Recorn the total PAC rankings and receipts of the top 50 candidates and challengers for 1986. I ask that it be printed in the Recorn.

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

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<th>PAC</th>
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Mr. NICKLES. I see that 14 candidates received more than $1 million, 2 from South Dakota and 11 other States. In my State, I received $855,000 and my opponent brought in $980,000. I will tell you, as the Senator from Maine did earlier in his speech, I do not think that because somebody received this amount of money from a PAC or because their name happens to be on this list they are corrupt, or that they maintain the type of posture that the devil or any particular special-interest group as a condition of receiving money.

In most cases I think we get so busy and we have a limited time trying to get reelected or getting elected the first time you really have a hard time knowing exactly who has contributed and who has not. This does not mean that the campaign system could not be reformed or should not be reformed. Personally I think that some of these PAC receipts are very high, very high indeed. If we want to limit these amounts, I think that is fine. If we want to eliminate these, I think that is fine. Right now PAC’s can give $5,000 per candidate in an election cycle. In a primary and general election they could actually give $10,000. I am in favor of letting PAC’s have limits that are reasonable.

In connection with my campaign, I have a large grassroots committee. I have 1,000 people who have signed up for my Senatorial Club at $1,000 a year. They contribute $250 a year for 4 years, and I am proud of it. These are Oklahomans.

We raise the vast majority of our money from Oklahoma and I am proud of that as well.

If I opt out of the system, what is my penalty?

Well, I find out that my opponent will automatically receive $1.1 million of taxpayer’s money by the time I have exceeded 133 percent of the State limit. In my last race I would include myself. My Oklahoma opponent would get a gift from the taxpayers of $1.1 million. Not only that, but he gets this giant postal subsidy that allows him to mail all of his mail for a nickel a letter.
No one in Oklahoma gets to mail all their postage for 5.5 cents.

Do we really want to have the taxpayers picking up 75 percent of the cost of mail under Senate legislation? As a matter of fact, if you average it all—and I have Democrats and Republicans, and I am not picking on anybody, I am not saying anything is wrong. I am just saying that they have violated any ethical standard or that they would vote one way or another because they received $1,000 or $5,000 from a particular PAC. We hear people say how evil they are, if they are so evil, they can say no. They do not have to receive or take PAC money. It should not be that difficult; if they are bothered by these PACs, they should just say no or they should limit them.

But when we find several instances where people receive 60, 70, 80 percent of their money from PACs, I think we have something wrong there and I think it would be a good amendment to limit PACs. The Senator from Oregon Mr. Packwood, has done a lot of work on this. We may want to say that PAC contributions could not exceed 20 percent of your total contributions. Maybe that would be a legitimate proposal. To me it makes sense. If we cannot do that, surely we could limit PACs and say, well, instead of the $5,000 limit let us make it $1,000.

I believe that would be a good reform. And then you would see these figures scaled down substantially. I look at my Democratic colleagues and they have raised in this year $7.9 million from PACs. This represents 62 percent of total PAC contributions in 1987. I noticed for the Republicans, there is $4.8 million, and that is right at 38 percent of the PAC money. I personally think those amounts are too high. And so if we are going to talk about PAC reform, if we are going to talk about campaign reform, let us bring them down. Let us limit PAC contributions to $1,000 per person. This type of limit was along the same guidelines as the Boren-Goldwater bill.

But now what we have, instead of the original Boren-Goldwater bill, what we really have is very expensive public financed, taxpayer financed campaigns. That is what I object to, and I object very, very strongly. If a candidate can get from PACs or from citizens or from labor unions or from whatever, I think that is fine. But if it is coming from PACs, a candidate should not be in a situation where the taxpayers are going to be financing his opponent. And that is in this bill. I think there should not be a situation, as in this bill, which is if you elect not to be bothered, the taxpayers are going to be subsidizing your opponent’s mail costs, picking up three-fourths of the cost of the mail. I do not think that is right. I do not think political candidates should be able to mail for a nickel. Why should taxpayers subsidize direct mail piece at 18 2/3 cents for every piece that goes out first class? The taxpayers will not buy it. We have not heard very much about it. Maybe if people would hear a little bit more about some of the details in this bill, they would object to it. I hope they do.

Somebody says well, you guys have been filibustering this bill. You are strenuously opposed to it. Why? I mentioned we had seven cloture votes, a record number in the Senate. I might say well, yes, we are objecting to it.

I will give you another example and I will put this in the Record. We did a little spreadsheet that shows the amount of money that a person could receive from taxpayers and what they would have to have to qualify under one of the previous proposals. Let me give you an example. Let me start with Alabama, being the first State alphabetically. It said if a candidate in the election raised $290,000, he could receive a total Federal payment of $1,761,000. In other words, he would receive six times as many taxpayer funds as he would receive from any private source.

This was in the proposal, or a version of this in several of the proposals that we have been voting on. So, again, this is not the original Boren-Goldwater bill. This is after it became the Byrd-Boren bill, where you started getting all this public financing.

In my State of Oklahoma, it is kind of shocking to me; a person with a threshold under this proposal of $237,000—not too hard to raise probably—as a result he could receive a total amount of money from the taxpayers of $1,550,000. In other words, it is a multiple of what his minimum threshold would be.

I would object to that. Again, I think taxpayers would reject the idea of candidates putting in a little bit of money, raising a little bit of money from their States and then have the taxpayers finance that kind of proposal.

I guess I would call this Byrd-Boren No. 1 and No. II, but it is one of the proposals. We rejected it. We debated it. We spent a week or so on the floor of the Senate last year. We brought it up and we defeated it. The proponents were not successful in obtaining cloture. And were not successful in moving it forward.

I know that the Senator from Nebraska wants to speak, so I will not take much longer.

The proponents of the legislation are aware that public financing was seven times as much as what was generating a very strong opposition in this bill. So if
they were to take public financing out, take the limitations out, and put some reforms in it, some reforms we could live with on a bipartisan basis, limit PAC's, limit soft money, this Senator could support it.

I would be made to say: "Senator Nickles, why would you be opposed to a limitation?"

Well, if you have no limitation on soft money how can you afford to have a limitation on what you receive from private individuals? That would cause an inequity. That is one of the proposals with S. 2 today.

So if we do something on soft money and do something on limiting PAC's, we can pass the bill knowing you are not going to get a bill. So we are going to have our eighth cloture vote, and I predict that you are not going to get cloture tomorrow morning.

As a member from Nebraska, that your limitation is $950,000. If you elect not to participate in Nebraska, your opponent can get $950,000 of taxpayers' money. As a taxpayer, I object to it.

I also have reservations about financing Presidential campaigns. Maybe the majority of the body thinks it is the best thing happening. My guess is that we have a lot of candidates in the race because you have a taxpayer financing of Presidential races.

Does anybody know how much it costs? I will tell you how much it costs. For 1988, it is estimated to cost $150 million. I think you have a couple of candidates in the race because you have taxpayer financing of Presidential races.

Who are the people that have the money from the taxpayers? Well, in 1986, it was estimated to cost $150 million. I think you have a couple of candidates in the race because you have taxpayer financing of Presidential races.

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all would recognize that if there is a parliamentary gentleman in the U.S. Senate now, or if there ever has been a parliamentary gentleman in the U.S. Senate, his position in the history of the Senate of the United States and West Virginia would have to stand foremost among them.

I remember well 2 or 3 days ago when this filibuster was started by them on the floor. It was the Senate floor, not the floor of anybody. By walking off the floor, to protect the Republican leader an option to require the Senate to stop what it was doing. It was the Senate floor, and I am wondering how it was under the rules of the Senate at that particular time left the decision to the majority leader. Had the majority leader wanted to, he could have put the question at that time, but he did not. In fact, he stopped the proceedings of the U.S. Senate, we will recall, and he asked for the Republican Member, who I believe went into the Republican cloakroom, to come back on the floor, to protect the Republican interests. But at that time he sent the message that if that happened again, we will take advantage of our option.

What the majority leader did the other night was not taking advantage of anybody. By walking off the floor of the U.S. Senate in a body, save for one Member, the Republican minority in this body said, "We are going to close this place down.

I guess all of us now have read that part of article 1 of the Constitution which says it is clear that the Founding Fathers recognized that this would be a problem. So they gave the majority leader an option to require the attendance of Senators when things happened in an organized way, planned on that side of the aisle the other night.

I am fearful that the national news media and the local news media did not do a good job in reporting that, and I am wondering how it was understood by the people at large. History will record and state it correctly.

So I salute the majority leader for what he did the other night. I hope that there is a clear understanding in the country as to what he did, why he had to do it, and that no one was abused in that process, despite the "banna republic" statements that we have heard made in that regard on the floor. I think that was all done and advantages that side of the aisle. The cause there is an old saying, "If you don't have the facts on your side, then bringing up something else to take away from the issue."

The central issue in this debate is whether or not we are going to allow the taxpayers' money spent if we will take advantage of our option.

As I said during debate yesterday and the day before that, as one of the "gang of eight" appointed by the leadership to try to work out a compromise, there was no chance to compromise, because that side of the aisle said, "We do not want nor will we accept any limitation on campaign expenditures."

I just heard my friend from Oklahoma talk a great deal about how he wanted a cap on political action and how political action expenditures greatly benefited the Democrats. It is a thing with them. It is a thing with those on that side of the aisle that those of us over here are trying to pass this bill because it will somehow cripple the Democratic Party. Nothing is further from the truth.

These arguments advanced by the Senator from Oklahoma and others would mistakenly leave one to believe that if S. 2 passes, the PAC contributions would go on and on to skyrocket and skyrocket, higher and higher than they ever have before and, of course, they obviously say that would benefit the Democratic Party. Nonsense.

The facts of the matter are, if S. 2 were law in the last senatorial election, PAC spending, which totaled $46 million for the Senate race, would be reduced to $16 million, about two-thirds. But listening to the Republican arguments, you would think that it was vice versa, that we were increasing spending.

They have made a great hue and cry, Mr. President, about taxpayer financing of campaigns, and when this bill was originally introduced it was, indeed, a major consideration in the bill. It is the reason this Senator would not support it. I insisted on some changes. If people will live with a reasonable spending limitation, then there would not be a single penny of the taxpayers' money spent if S. 2 became law, if both sides agreed to the fair, equal, and reasonable spending limits contained therein. But they are not going to let that happen, Mr. President. I can only draw one conclusion, and maybe it is not fair, but I can only draw one conclusion. Since those on that side of the aisle have been successful on seven cloture votes and, unfortunately, I predict they are going to be successful tomorrow, the only conclusion that I can reach, Mr. President, after due consideration, they really believe that their party will benefit in the long run, if they have unlimited amounts of money that they can raise from whatever source, to buy elections.

I just say, and I think it has been made clear by many speakers here, if the American people are not concerned now about the obscene amount of money that is going into Senate races and other races around the country, then they are delinquent and they are negligent because it will alienate the minds of every concerned citizen of America.

Sooner or later, mark my word, there is going to be a major problem, a major scandal, and a stem of that is going to come floating down on all of us because we failed to act.

In conclusion, just let me say, that I hope we can pick up the five votes that is necessary tomorrow on cloture. I would point cut to all that there are 52 cosponsors of this measure. It is clear that the majority of the people elected to serve in the U.S. Senate—Democrats and Republicans, or a combination of those—are cosponsors of this legislation, and this legislation would become law if the majority had their way and could work their will. They have been prevented by the filibuster. I hope we can pick up the 60 votes to invoke cloture tomorrow and let the Senate work its will.

Mr. President, I yield the floor.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BYRD. With the Senator yield to me just to thank the distinguished Senator from Nebraska for his kind remarks.

Mr. EXON. Thank you.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, I will take just a very few moments of the Senate's time. In April 1951, at the end of this building in the House of Representatives, Gen. Douglas MacArthur made his farewell address to the American people. In that particular and momentous and historic address, Gen. Douglas MacArthur stated in the last paragraph of his message to the American people, "I now close my military career, an old soldier who has tried to do his duty as God has given him the light to see that duty." That was a historic moment for this country, Mr. President. It was a time of great emotion, a time of great controversy. It was a time when the people of this country probably could have been ignited to have marched on the White House because it had been burned.

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We have had another historic situation this week. And that situation presented itself when a Member of this body was "arrested," and I put arrest-
ed in quotation marks because it was a friendly arrest, by the authority ordained by the Constitution of the United States of America.

I think when great leaders come and go that our country and our people will press the next day and the next day to the past and the present, and they will attempt to ascertain as to that leadership whether it was great or small or weak or strong, as to how that particular leader saw his particular and respective duty at that particular moment.

I think we have probably arrested one too many Senators this week. I will admit that. I also hope we do not plan to arrest any more time any soon. I do not think there are any plans to do so.

Let us all attempt to agree on one thing. This particular leader, the majority leader of the U.S. Senate, saw his particular duty at the moment of that particular situation, and he exercised that duty as he felt the Constitution of the United States of America gave him that duty. He exercised it without equivocation. He exercised it without reservation. And whether it might have played wrong or right in the Senate or the House or the confines of the House or the confines of the Senate, I know the majority leader has said, just a few years back when I was a Member of the other body, and I say this in all due respect to the late Speaker John McCormack when he was attempting to get a quorum, just like our leader was attempting to get a quorum 48 hours ago in this Chamber.

Speaker John McCormack, in order to keep a quorum on the House of Representatives floor literally ordered the Sergeant at Arms to lock the doors of the House Chamber. He forbade any Member of the House of Representatives from leaving the doors of the House or the confines of the House without the care and under the care of a deputized member of the Sergeant at Arms staff.

If we left that body, we had to go out of there with a deputy deputized by the Sergeant at Arms and the Speaker of the House.

So I think this Nation is going to survive. I think this institution is going to survive. This is one of those moments when, once again, we have to examine this place as a body and ourselves as its trustees. Once again, it is time when we have to look as whether or not a filibuster is right or wrong, and we have got some time, I assume, to discuss that in the days ahead.

But I feel when the history books are written that they will be written most accurately by those who said that this majority leader exercised his duty at that moment as he saw the right to fulfill that duty and his responsibility as the majority leader of the United States Senate.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Arkansas for his exceedingly kind remarks.

The PRESIDING OFFICER. Who seeks recognition?

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I almost hesitate to rise to speak now. I came over to speak 1½ hours ago, and so many eloquent and wise things have been said that I am reluctant to take the floor. I did not participate substantially when I made a speech earlier in the week, but I felt we should let the other side talk and perhaps reach a conclusion to the filibuster thus allowing us to get on with the important business of acting on this bill.

I certainly do not want my lack of taking the floor to talk on this bill to indicate any lack of interest with either the bill itself or the proceedings that have taken place on the Senate floor surrounding this measure.

I also feel very strongly about this issue as do anything else that has been presented before this Senate since I have been here, starting in 1976.

I thought perhaps that we would reach a resolution, that somehow we would get this bill out, that we would be able to let the Senate work its will, that we would be able to amend it and let some form of legislation gain passage. I guess that is not going to be the case.

I also want to follow up on comments made just previously by the Senator from Arkansas. I would note that record then, of the distinguished majority leader on the floor. I want to say this to him personally and to the body.

If I have heard once, I have heard a hundred dozen times in the last 48 hours, one or more Senators commenting that the majority leader may have exceeded his bounds in ordering the arrest of Senators. I have heard Senators say that it was the majority leader who had ordered this arrest. Like Senator SARBANES from Maryland, I read the Constitution: Article I, section 5. I have also read standing rule 6 of the Senate which empowers the Senate to compel the attendance of Members. I read article I, section 5 of the Constitution of the United States that ordered the arrest of Senators. Not the majority leader.

So if any Senator has a gripe, if any Senator has a case to make on why arrests should not have been ordered, it should be made to the Senate as a body, not to the majority leader. It is the rest of us who were here and ordered that arrest to take place under the Constitution of the United States.

I think that should be made clear. I think the majority leader is getting a bum rap from a lot of people who are saying it was he who ordered the arrests, when it was the Senate that ordered the arrests.

I just wanted to make that clear. I know it has been said before but I wanted to say it again myself because I have heard it said time and time again that it was simply the majority leader, disregarding the fact that we had a vote on that very issue.

Again, I want to compliment our distinguished majority leader for taking the less. In the campaign finance bill
I am embarrassed. I am embarrassed about a party that has a proud tradition in our country, the Republican Party. I fought Republicans and obviously I fought hard against the Republicans. But the Republican Party has done a lot for this country. It is the party of Lincoln, of Teddy Roosevelt, the party that did so much in the early days to help the common people. The trustbusters of Teddy Roosevelt, trying to get the little people a little more say so in their government.

To now have the Grand Old Party preventing us from having a meaningful campaign finance reform bill—that is what I am embarrassed about. I am embarrassed that one of the two major political parties in this country, has taken that position.

Again, I do not mean to paint all of them with the same brush, but it has been their party position as enunciated by the minority leader of that party in this body. That minority leader has led the filibuster to prevent this bill from coming up. I think that should be an embarrassment, too. I think the minority party feels down deep inside that they will be better off without any limits than they will be with some limits. I heard them say the other day on the floor by a Senator on the other side that if this bill were to pass, the Republican Party would be the minority party for the next 40 years. I could not understand why. I engaged the Senator in a private conversation. "Well, it takes money, and where the Republican Party is not in the majority it takes money to do these things." Do you know what. Mr. President? I lost. I was outspent 10 to 1 and I lost. But, I did get 46 percent of the vote when the other party was landsliding the State.

I ran again 2 years later and got outspent 2 to 1, but that time I won. You can win if you do not have much money as long as you have the right ideas. If you go out and meet the people and campaign before the people, you can win.

I note the Senator PROXMIRE spent some $12,000 last time in his campaign and he won. So you can do it.

Do not tell me that somebody is going to be in the minority simply because they have a lot of money. If you come out with programs and policies that benefit the common people of this country you will win elections.

Sure, you have to have enough money to be competitive, but it does not have to be these unlimited, obscene amounts of money we have seen in campaigns in the last few years.

In my own State of Iowa, my campaign in 1984 was $3 million. I think that is obscene, but I spent it and my opponent spent a little bit more than that. That really has to be called a halt.

Unless and until we can get these limits, we are going to continue to do it. We are going to send the PACs competitive and the PAC’s will have to be competitive and the power structure will have to be competitive. We will just keep spending more and more money.

As the majority leader said a little while ago, people are losing faith in their electorate, in politics and politicians because they see all this money flowing in.

Well, I just feel, Mr. President, that those who say this is not the big issue are wrong. I have heard that said in the dining rooms in the hallways. They say it is not a big issue. I have heard it talked about in the polls. But the people back home they are not talking about it.

Well, that may be true. But, doggone it, when you are out of work, when you do not know how you will feed your family, when you have kids growing up, and you want to send them to college even though you are not making very much money, perhaps just over the minimum wage, when you are 1 of the 36 million Americans who do not have health care insurance and you do not know if you get sick the next day or how you will go to the hospital or not, of course you will not think about campaign reform.

But I can tell you this, if you talk to those who do not have health care insurance and you ask them if they like the present system, the way we elect people to office, if you ask them whether they think it is right, you can win elections.

I do not think I have talked to one person in the State of Iowa about this issue who does not feel strongly that some limits have to be placed on campaign spending. And limits have to be placed on the amount of money that we raise and the influence of political action committees.

We do not have to wipe them out. The bill does not do that. But it does put meaningful limits on them.

I do not cotton to the idea that simply because people are not talking about it every day that they do not feel deeply and strongly about it. They do.

Mr. WILSON. Will the Senator yield for a question?
Mr. HARKIN. I am about finished and then I will yield for a question.

I believe as Jefferson did, that deep within the heart of the common people of this country there resides a genius, an understanding of fairness and justice that affects their daily lives and how those decisions are made here in the Senate of the United States.

They may not be most eloquent in expressing them. They may not be able to write learned letters to the editor. But they feel it deeply and they understand it and they know it is not fair. They want something done about it, they want it changed.

So to those who say it is not an issue, I say beware, beware of the genius of the little people of this country to understand more fully and more thoroughly and more deeply this issue than what I think most people are giving them credit for.

It is going to be an issue, as rightly it should be an issue, this year, in the election, this year on where you stand on campaign finance reform, putting limits on spending. It will be an issue. And I say beware, beware of those who say it is not an issue and say we can just ignore it and maybe it will go away. That issue is going to come by to bite very hard, I believe, in the election this year.

I yield for a question.

Mr. WILSON. Mr. President, my question was prompted by an observation by my friend from Iowa, that there is something wrong specifically with our taking too much money from PAC’s. I would not undertake to debate the merits of that proposition. I am willing to accept at face value that he is correct. But, if that is true, Mr. President, then I would ask my friend from Iowa a rhetorical question: if that be true, then why not totally eliminate the PAC’s? That is what the Republican proposition would do.

Mr. HARKIN. I am willing to respond to that.

Mr. WILSON. We are willing to totally eliminate PAC’s, which the democratic version does not do. We are willing to have disclosure of so-called soft-money expenditures. I hope my friend will agree that one of the great advances of campaign reform has been disclosure insofar as it exists. Why not go further, and agree to do it that we exempt no one and that all activity that contributes to the election of a candidate is fully reported, fully evaluated.

The PRESIDING OFFICER. Does the Senator wish to respond?

Mr. HARKIN. I am pleased that my friend from California brought this up because I responded the other day on this, I will respond again.

The answer is inherently wrong with political action committees. There is nothing wrong with a group of people who want to advance their interests here in the Halls of Congress and join together to pool their money to give to political candidates. I see nothing wrong with that.

What is wrong is that there is no limit. You can get $5,000 in the primary and $5,000 for the general. That is just four grand in all. That is in the PAC’s we have now. Back in the 1970’s we had less than 100. I think it is well over a couple of thousand now and the number is going up every day. You can raise unlimited amounts of money in however you wish. What is the whole idea is to limit the total amount of money that you can receive from all PAC’s.

I see nothing wrong with that. I believe those who say, ‘Do away with all PAC’s,’ again are throwing up a straw man to shoot down.

It is not PAC’s, per se, that are wrong; it is the unlimited amounts of money they pour into campaigns that are wrong.

I do not favor eliminating PAC’s but we certainly ought to put limits in them. That is what this bill does.

With regard to the second part of my friend’s question on the disclosure of soft money, that is why we want a bill on the floor. Let us have the amendments come up. If the Senator offers an amendment to the bill to require disclosure of all money that comes into the campaign, he will have this Senator’s vote. I did not mean to say that C’s is the whole and end to all and that I will not vote for any amendments. There might be a lot of good amendments that I might support. But you cannot improve the bill if you do not bring the bill up on the floor.

I will ask the Senator, and I will yield for an answer, why will the Senator not let the bill come up on the floor so we can have the amendments?

Mr. WILSON. I might--

Mr. HARKIN. How does the Senator know?

Mr. WILSON. We know very well because of the 52 signatures on that bill. Let us be honest about it. This has become a very partisan issue. We are talking about a bill that has been labeled reform, which is not reform, which does not go to the gut issues that are disturbing people, at least those who know about them. Now, if my friend is concerned about campaign reform, and I take at face value his protestations that he is, then I would wonder why it is that we are unable to get support for a bill that really is reform, one that would eliminate all problems with PAC’s by eliminating PAC’s, one that would bring about full disclosure of all soft money expenditures, but one that would not seek to foist upon the American taxpayer the enormous costs of financing our campaigns.

Now, earlier today our friend and colleague from Arkansas asked the Senator from Washington whether or not he was offended by the fact that so much time had to be spent by Senators in raising money for their campaigns. I did not get a chance to answer that question, but I will do so now. I will say to my friend from Iowa, I am not nearly so offended by being inconvenienced in that way, although it is a bit of it. It takes a lot of time and a lot of effort, including the effort to see to it that you are careful that you not take money from a source that would give rise to an unfortunate appearance. But I am not nearly so offended by the inconvenience to me in having to do that as I am by the fact that there is unreported soft money and that it leads to certainly the appearance of some very gross abuses of the public’s confidence. One of them very clearly tenants that one candidate in the election in the Senate Commerce Committee had to do with why it is that a bill which the Senate has passed, and passed handily, is unable to get action by the House conferees.

Well, the answer apparently is that the provision that offender the House conferees is one that is stoutly opposed by a labor union, and that labor union has been known to contribute money to the campaigns of those who are now seeking to obstruct the passage of that piece of legislation. It has to do with mandatory random drug testing of locomotive engineers and other safety personnel.

Now, if you want to talk about something that gives rise to a lack of public confidence, here we have a situation in which we do not under existing Federal law require disclosure of soft money expenditures, all the money spent on phone banks and the other things that are not reported.

Mr. HARKIN. If I might—

Mr. WILSON. Let me just make the point and then I will be happy to yield the floor to the Senator.

The PRESIDING OFFICER. The Senator has yielded for a question. Has the Senator propounded the question?

Mr. WILSON. I am about to propound a question to the Senator. Since the Senator asked me why we would not come forward and allow this, I would have to say there has been ample debate. I think it has been a fairly wholesome debate, certainly a spirited debate. That is as it should be, and I do not know if the public is exercised about this issue or not. I am not aware of polls on the subject, but we are, and rightly so. I would only say to my friend from Iowa that I admire his stance in saying that we should do away with soft money. There are other abuses that should be done away
with. Frankly, the Republican bill does that. It would eliminate PACs. It would eliminate the soft money expenditures without disclosure. I am far more offended by those things than I am the inconvenience of having to go out and raise money, and it is not fun. If the question is, do you like it, would you be happy if you could avoid doing it, the answer to that is yes, but not at the cost of heaping an incredible new expenditure upon the Federal taxpayers, particularly at a time when Presidential public financing has not proved a great success; as was pointed out, every candidate since 1976 has been cited by the FEC for some major violation.

Mr. HARKIN. If I might take back just a little bit of my time, I again would respond—

Mr. BYRD. Mr. President, will the Senator yield?

Mr. HARKIN. I will be glad to yield.

Mr. BYRD. With the understanding that it not be counted as a second speech, that I look forward to debating the bill and that we may discuss any need for us to think about it in those terms now with a cloture vote coming tomorrow, and that the speech in the record not show an interruption.

Mr. President, there will be no more rollcall votes tonight, in case any Senator is waiting around with the apprehension that there might be.

I thank the distinguished Senator for yielding.

Mr. HARKIN. I thank the distinguished majority leader.

Again, the Senator from California talked about the Republican bill, the Republican bill does this, the Republican bill does that. Let us bring S. 2 right out and offer it as a substitute, offer parts of it, offer bits and pieces of it. That is what we are trying to do. Yes, we have had a debate on this issue, but we have not been able to really bring substantive measures to the floor for debate and for voting on those measures. That is what I find objectionable. If the Senator from California believes his measure to be better, bring it up so we can vote on it.

No, the Senator said, there are 52 signatures on this bill. I know the Senator from California has cosponsored other bills just as the Senator from Iowa has. Does the Senator from California mean to say, on any bill he would cosponsor, that he would never contemplate ever changing one bit, would never vote for an amendment to it? That the way it is initially drafted is fine and perfect?

I dare say that would not be the case. I will yield. I did not want to put words in his mouth, but I doubt that he would ever want to take that position.

Mr. WILSON. I am happy to say to my friend from Iowa if he can persuade 51 or 52 of his colleagues to follow his leadership in supporting the disclosure of soft money, if he is willing to find 51 other votes to join the Republicans who are proposing the elimination of PACs, then we have something to talk about.

Mr. HARKIN. I will not vote to eliminate PACs. I have already stated my position on eliminating PACs. I am not in favor of it. Maybe some are. Let us have the votes out here and see how they go. But I am not in favor of it. And, yes, I will join the Senator in his efforts to persuade Senators to vote for disclosure of soft money. I think we ought to. I cannot twist anybody's arm. I cannot force any votes. I can use whatever little power of persuasion I might have, but bring it out and debate it. Let the chips fall where they will.

You might be surprised. You may have 51 votes for disclosure of soft money. You may have 51 votes for bits and pieces of the Republican bill. I do not know, maybe you will have 51 votes for the whole thing. But if we do not get enough of this, let us see, you will never get to it, and that is what we need to keep coming back to. Are we going to have debate as we are having now or are we going to have a debate leading to substantive votes on these issues. That is really the point I was trying to make. And I do not know for the life of me why, if the Senator from California feels strongly about these measures, we do not bring them out for a vote and see what happens out here. That is the way that will work. I do not believe that the 52 Senators who signed that bill—I am one of them—will not vote for any amendments. That is nutty. Of course, I will vote for amendments. I may vote for some, vote against others. I may have a couple of my own I want to put on the bill, but I am not going to take the bill exactly the way the bill because I think basically the thrust of it is good. But again I would say I do not want anyone to think that simply because somebody is a cosponsor, they are not going to support amendments. I think it is ridiculous to think that. Of course, we will.

I have taken my time; I have had my say. I appreciate my friend from California for engaging in a colloquy with me. I can have debate on this. It is not personal. People feel strongly about these issues, but we ought to have a substantive vote on them and see which way we are going to go.

I close my remarks by saying I believe a great opportunity has passed for us to make some meaningful changes in limiting the amount of money, the obscene amount of money that we spend in these campaigns, by limiting the amount of money that comes from PACs, by doing a lot of things that open up the system to the little people, the common folk, to take away the power—the inordinate amount of power that comes into the process by those who have a lot of money. We passed up a golden opportunity to do that.

We are not losers here, but I think the American people are the losers because I think PACs degrade us all. It degrades this institution, it degrades the whole profession of politics in helping to try to govern this country.

I am sorry it has had to come to this. But I am glad to those who stood at the gates and would not let this bill come up for a vote because they do not think it is an issue with the American people, I close by saying, beware of the people of the United States because they have grown resentful of the amount of money the committees give to legislators and the way we run them. I believe that they are going to make that an issue in the elections coming up this year.

I ask unanimous consent that an editorial from the Cedar Rapids Gazette in support of S. 2 be included with my remarks.

Mr. President, I yield the floor.

Mr. BYRD. Mr. President, I wish to thank the distinguished Senator from Iowa for his very kind remarks concerning me.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

CAP PAC DONATIONS
Do-good Democrats and Common Cause members aren't the only ones who would like to see changes in the way congressional campaigns are financed. It turns out the directors of much-maligned political action committees have a few misgivings, too.

The PAC directors' apprehensions are detailed in a study prepared by the Center for Responsive Politics, a bipartisan organization that examines political trends. In interviews conducted for the study, PAC directors said they have grown resentful of greedy lawmakers. They recount how legislators keep black books that list their contributors, how the lawmakers become offended when PAC representatives fail to attend their fund-raising events and how the committees are constantly badgered by congressmen and senators (or their aides) for contributions.

"Sometimes it is impossible not to give to members even if they don't need it," one PAC director said. "Congressmen will absolutely do you to death."

It's hard to find anyone who is particularly happy with the role PACs play in congressional campaigns. Many congressmen, both Democratic and Republican, complain that the current fund-raising system forces them to spend too much time aggressively soliciting for money from PACs. Other critics worry that PACs have grown too influential in Congress and that the amount of money the committees give to legislators has become excessive.

Even with all this criticism of the system, Congress has been slow to deal with the problem. It doesn't take a genius to figure out that the current PAC fundraising system has created a financial incentive to flout the law. The result was a larger-than-planned super PAC, a new strategy for lawmakers to flout the law.
CONGRESSIONAL RECORD—SENATE
February 23, 1988

Mr. PACKWOOD. Mr. President, as we discuss the issues of campaign spending, we tend to talk in either ideal abstractions or on the basis of our own down-to-Earth experiences. Of the two, I find “down-to-Earth” more useful in the current debate. All of us on the floor and in this debate are campaign veterans. I am a veteran, too, of Oregon legislative politics as well as four statewide Senate races now. When you are on the ground in a campaign, you learn a great deal about the extraordinary value of volunteers and also about the course of campaigns, particularly the growing expense of advertising.

Let me first explain Oregon is unique in a lot of ways. I know each of us believes our home State is exceptional, and no doubt, each of us is right. However, I assure you Oregon has a unique political tradition, beginning with our pioneering the primary system at the turn of the century. Now that we are heading in the midst of a monstrous Presidential primary season, I sometimes wonder what Oregon unleashed. But Oregon-style politics, and the primary system especially, represent the value of encouraging people to take direct, active, hands-on part in electing their representatives. In my first race for the Senate, I imagine we worked with over a thousand volunteers. I am talking about school kids, women and men, seniors, college students who walked door-to-door, hammered in lawn signs, leafletted, stuffed envelopes and staffed phone banks. You all know what a “phone bank” looks like. And in 1968, our average contributor gave less than $40. Interestingly, 18 years later, we find things have changed. But fortunately, not in the numbers and enthusiasm of volunteers. In 1986, instead of 1,000 lawn signs, we assembled and distributed over 14,000 lawn signs, distributed over 200,000 pieces of literature. Of course, these were the same volunteers. Often, they were the daughters, sons and even grandchildren of our volunteers in 1968.

The cost of running a campaign, of course, has changed dramatically nearly two decades. Inflation grew by bounds, along with rents, mailing expenses, and above all advertising costs. The cost of a 30-second television spot in 1968 in metro Portland was a fraction of what it is now. The same can be said for radio—even more so. Yet even with the changes in the cost of campaigning, there was something that hardly changed at all: the size of our average contribution. Individual contributors continued to give, on average, $39.

That is a point I just cannot emphasize enough. Sure, campaigns are costly. Running a business or keeping a nonprofit running is not free. Almost without exception, any enterprise costs more today than it did 18 or 20 years ago. And that simply leaves us with two choices: either raise a lot of money from a handful of contributors, or raise smaller amounts from many small givers. I make no secret which direction I choose, and which direction I think makes far better public policy. And I know what works in a campaign, and that is direct involvement: the involvement of countless volunteers and small donors.

In all my campaigns, we have purposely worked to recruit as broad and as diverse a base of contributors as possible. It takes work, and it takes expense, but consequentially, the one tried and true fact is that our average contribution remains low. In 1986, roughly 87 percent of our contributions were from individuals. We started early, worked hard and recruited a broad base of individual givers. We had more than 165,000 individual donors by campaign’s end.

Looking to 1992, we again start out with the belief that early is better and the more small contributors the better. I believe we can show that a broad base, with thousands of contributors, is possible, and for the time being we do not intend to accept contributions from political action committees. As we get closer to 1992, we will again assess the circumstances and the possible challenges we will face, including whether my opponent refrains from accepting PAC contributions, to decide if PAC funds are necessary. In any event, small contributions—$10, $20, $30 gifts—will once again make up the vast bulk of the campaign funds.

For the better part of the last 2 weeks we have debated reforming the way we fund campaigns and we have talked about the political process and the role of the candidate. I fully support reform. But adopting reform means putting the voter first and keeping the voters involved in the political process—not by a taxpayer-funded checkoff but by genuine, direct participation. That is the kind of reform I will support but unfortunately that does not describe the provisions of S. 2.

REGARDING CAMPAIGN PRACTICES

Mr. D’AMATO. Mr. President, one would think that, in the course of a week in which the Senate has been in session almost 24/7, up through Monday morning—not a record, but more than long enough—just about everything has been said on the subject of campaign finance reform that could be said.

But after all this time, I find much of the focus of this debate still strangely misplaced. ALREADY OFFERED TO ABOLISH PACS

For myself, Mr. President, I am not here to argue for or against PAC’s. My own position about political action committees has been clear throughout this Congress. I remain unconvinced that PAC’s are evil; but if the American people think they might be, then we should do away with them. No fiddling with this or that technical requirement. No adjustment of contributions or expenditure units. Large or small, up or down. Just get rid of them.

I know many of my colleagues on this side of the aisle agree with me. Senators Packwood and McConnell have submitted alternatives that would zero out PAC’s. I am an original co-sponsor of those bills.

But the proponents of S. 2 have found those PAC-eliminating amendments unacceptable. While railing against the supposedly pernicious influence of PAC’s, it is they who refuse to do without them. If PAC’s are the problem, Mr. President, why not just do away with them? We are willing. We’ve said so. We’ve offered. It is the other side that has refused to do so.

TAX EXEMPT ABUSES

I would, however, like to draw my colleagues’ attention to a form of abuse that I find particularly outrageous—that is, the abuse of tax exempt organizations for political purposes.

I am referring to the activities of a number of so-called 501(C)(3) and 501(C)(4) organizations. I find these abuses particularly outrageous, Mr. President, because they are already illegal. They are illegal under the election law; they are illegal under the Internal Revenue Code and regulations.

And yet, Mr. President, such activity by these organizations was pervasive in the last senatorial election.

That activity took many forms. It included:

Direct mail and advertising against specific Federal candidates.

Provision of mailing lists to candidates.

Provision and recruitment of volunteers.

Provision of trained professional staff assistance.

Availability of phone banks.

Voter education, membership contact, and voter turnout programs.

Issue development and research.

Provision of office space and other facilities.

What’s wrong with these activities? Not a thing—except that the law is very clear on who can engage in them, and with whose money.
In order to obtain their tax exemptions, these organizations must be incorporated. Mr. President, the election law is murky on a lot of points. Corporate participation in Federal elections is one of them. If the law is clear on any thing, it is that the involvement of corporations in elections is illegal. They may not contribute, they may not underwrite election-related activity on behalf of or in opposition to any candidate (2 U.S.C. 441(b)).

Further, it is equally, if not even more clear, that taxpayers' dollars cannot be used to underwrite such activity. Those organizations granted tax-exempt status—in essence, a subsidy from the American people—must refrain from partisan political activity in order to keep that status. I think even my friends in this body who advocate public financing of campaigns would agree that this is not a proper kind of taxpayer support for political activity.

And yet, that is exactly what has been going on. In well-documented instances in the last cycle alone—in Missouri; in Wisconsin; in Pennsylvania; in Washington; and in my own race in New York, the law was ignored and tax-exempt privileges abused in the cause of partisan political ends.

Candidates—incurable and chal­lengers alike—found that rallies were organized and publicized, fund-raisers held, and volunteers recruited, all under the auspices of supposedly non­partisan, tax-exempt entities. What a cynical abuse, Mr. President. If we truly want reform; if we are truly convinced and publicized, fund-raisers organized and privi­leges abused in the cause for partisan political ends.

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Let me just take a moment to de­scribe the instance with which I am most familiar. In my own reelection campaign, my campaign staff noticed a remarkable overlap between donors to my oppo­nent's campaign and contributors to a 501(c)(3) organization of which he was the President. Nothing automatically wrong there. But it did start us thinking.

When we looked a little further, we found that the campaign and the foundation shared the same address. Imagine our surprise, Mr. President, when we called the campaign's phone number and were answered by someone identifying the line as the foundation's.

It was so blatant, Mr. President, it was almost comical. Almost. What wasn't, and isn't, funny, is the deliber­ate and cynical use of a taxpayer sub­sidized organization to provide staff and office space, at ridiculously re­duced cost, to a partisan political effort. In legal terms, this and other conduct, such as the ready availability of mailing lists and phone banks, con­stituted unlawful and unreported cor­porate electoral contributions.

I cannot resist adding that postelec­tion materials sent out by my oppo­nent brazenly confirmed this illicit re­lationship, inviting the faithful to stop by the foundation's offices—"there's still work to be done on the Senate campaign—and—* * * maybe the next campaign?"

Fortunately, my campaign was on a good enough footing that this illegality did not critically disadvantage us. The same was not true of other cam­paigns. Whatever these organizations called themselves—the citizen action group; the Wisconsin action coalition; the democracy project; Washington fair share—their illegal impact could have felt.

Mr. President, these groups are not PAC's. No change in the contribution or expenditure limits will affect them. Nothing short of addressing their con­duct, or the new note of cynicism and abuse they inject into the process.

We have heard the word "reform" in this Chamber in the last 36 hours more times than I would care to count. But how can there be any reform, Mr. President, so long as candidates and parties continue to countenance—or even encourage—illegal campaign ac­tivity, and violations of the election and tax laws on their behalf?

Mr. President, I yield the floor.

THE EUROPEAN CONVENTIONAL BALANCE DEBATE

Mr. WIRTH. Mr. President, today I wish to share with my colleagues another sound analysis of the conven­tional balance the United States and the U.S.S.R. faces in Europe.

In this article, Stephen Biddle criticizes the way the Eu­ropean conventional balance has come to be viewed, and calls for a reorientation of analy­tical thought. He argues that measuring the balance of material implements of war to­wards a view of how the actual dynamics of combat itself are likely to unfold. More spe­cifically, Biddle contends, it is vital to strive for a better understanding of what circumstance­stages engender combat stability or insta­bility, defined as under what conditions battle will reduce or magnify initial imbalance­s between warring armies.

Such an understanding of how combat works, and whether force ratios will con­verge over time toward an equilibrium or di­verge toward larger imbalances, brings with it enormous consequences for NATO strate­gic planning. If a situation of combat insta­bility exists, any imbalance from the proper equilibrium of force ratios will result in in­creasing imbalances as combat progresses, and marginal changes at present in Alliance defense spending will have little impact on the course of future hostilities. On the other hand, if the balance of combat stability can be brought about, there is little argu­ment for large spending increases or major changes in military doctrine of Alliance strategy. Simply put, it is much more effec­tive for NATO to try to shift the nature of the combat process toward stability rather than increasing its potential for destabilization in a situation of combat instability.

According to Biddle, the widely diverging estimates of the conventional balance the encounters indicate that nearly all of these assessments presently assume there to be a situation of combat instability. If correct, they will be used to justify an increasing American commitment to an American military forces abroad. If they are wrong, as Biddle asserts, it is a matter of extreme concern for all, regardless of one's position in the analytic debate over material adequacy. If not, these assessments do little to clarify the actual situation. The balance of forces and the consequences of basing policy on an incor­rect judgment are severe, as the resultant policy recommendation will do little good and inflict possible harm. The present situa­tion of ignorance can be resolved only through a broad-based process of study and debate.

Combat can be viewed as a process with inputs—in the form of men, material, and supplies—and outputs—in the form of casualties. Combat inputs and outputs can be brought about, there is little effect of military doctrine of Alliance strategy. Simply put, it is much more effec­tive for NATO to try to shift the nature of the combat process toward stability rather than increasing its potential for destabilization in a situation of combat instability.

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advance, including the nature of the crisis, the specific dynamics of various relations prior to the crisis, and the relative success of Soviet diplomacy in driving political wedges between NATO governments. Nor can one predict how any agreement will affect the military buildup on their eastern border in order to send forces to the West, or whether NATO will respond promptly to warning of Soviet mobilization.

The balance of input forces available to the two sides is subject to large, inherent uncertainties. Not only does the public debate has thus far failed to acknowledge. As for simple bean counts, these are typically interpreted in time-series form, showing that the numerical ratio of weapons has worsened for NATO in recent years. In conjunction with descriptions of Soviet technological improvements, this is often cited as evidence for a pessimistic view of the balance. The key question here, however, is not simply the pace of Soviet modernization and weapons acquisition, but rather the resulting effectiveness of the fielded arsenal relative to NATO’s. This cannot be discerned by simply counting inputs.

Most official assessments of the conventional balance have been conducted using variants of the input balance model, introduced by William Lanchester in 1914. Lanchester’s work focused on attrition (as opposed to movement), and in particular, on the casualty rates of the attacker to obrute fire. Lanchester argued that where the number of shots was fixed, and the kill rate was the same for each shot, the attacker would have a distinct advantage if he could concentrate his fire on a single target. The target result would be a disproportionate advantage for the numerically larger side.

The larger the initial divergence, the sooner the smaller side is destroyed, but even small advantages will eventually produce total defeat for the weaker side. Moreover, any given input imbalance will be teleologically transformed into a large outcome imbalance as a result of combat. Mathematical systems displaying this property are sometimes called unstable equilibrium models.

Models with this structure can thus predict surprisingly rapid defeat for powers which are only moderately inferior to their opponents. It is not necessary to assume an overwhelming Warsaw Pact superiority in material to produce a pessimistic assessment of the balance on the basis of Lanchester’s equations. As long as the input force ratio is higher than the equilibrium value, Lanchesterian output measures can produce a result of combat.

Conversely, some of the most optimistic assessments in the current debate are also the products of output measures. Dr. Joshua Epstein of the Brookings Institution argues that “…the Soviet military is not inferior to the West in quality or numbers.” Indeed, he claims that the only reason the West has not already been destroyed is that input force ratios neither diverge nor converge over time. Instead, the West can produce a rapid breakthrough, if it pushes the local force ratio above the equilibrium threshold. Of course, this requires that the attacker accept relative weakness elsewhere. To succeed, the attacker’s concentration must pay off before any of his smaller inputs produce defeat. By ignoring the consequences of small differences in force ratios, however, instability permits a small difference between the sizes of a local concentration and a smaller counterforce to produce a large difference in breakthrough rates. This is, if the attacker’s local advantage is any larger than the disadvantages he gives up elsewhere, instability allows him to break through in the key sector long before any of his (smaller) weaknesses produce decisive results.

Of course, this is only a problem if the Soviets can concentrate faster than NATO can counter-concentrate, and NATO does have the flexibility to make it easier to respond. On the other hand, the Soviets have one crucial advantage simply by virtue of being more able to concentrate an unstable equilibrium model. The small difference between the sizes of a local concentration and an unstable equilibrium implies a volatile balance. Small differences in inputs produce larger differences in output. This implies that disagreements over the precision balance of military material can result in larger differences in combat outcomes, and instability makes a situation even more precarious in scenario conditions that can change success to decisive defeat, or vice versa.

If this assumption of instability that underlies Lanchester’s approach is correct, however, there are larger implications for NATO which are potentially very unfavorable—regardless of one’s position in the analytic debate over material adequacy. Instability implies extreme sensitivity to variation in the input balance of forces. If NATO could be confident that the input balance would be below equilibrium, instability could produce very favorable combat results. Unfortunately, NATO cannot be confident of this, for the inequality of the input balance is not a constant over time. The Washington Mutual Commanders Conference, for example, takes place in the year of the attack. As a strategic defender, NATO desires to the advantage of the first move, and the potential for surprise. It is typical for the Soviet commander to misread a Soviet feint, or respond too slowly to a properly identified concentration. An unstable combat process could produce a decisive defeat for NATO. Such a defeat could result even if the nominal theaterwide force ratio is below equilibrium, and the attacker’s defivoting effectiveness works out to NATO’s advantage. To be confident of its defenses under instability, NATO must, therefore, be confident that political uncertainties in future crisis will always break in its favor, and that NATO military commanders will not misstep in responding to Soviet concentration attempts. Either possibility could mean disaster, if the nature of combat is unstable.

It is not clear that instability is the only alternative, however— or even that the current balance is best described by an unstable model of combat. Two other possibilities can be discerned: a combat process in which the equilibrium ratio is stable, and one in which it is dynamically neutral.

(In a stable combat process… as with instability, an equilibrium force ratio exists above which the threat to be met is only to national losses and for which the force ratio thus remains the same over time. The difference is that force ratios above or below equilibrium can result in a successful defense, rather than diverging away from it as they do under instability. Initial imbalances thus become smaller over time rather than larger. An attacker may still overwhelm a weaker defender if his input superiority is large enough, but a given difference in inputs always produces a smaller difference in outcomes.

If a dynamically neutral combat process (takes place) … input force ratios neither diverge nor converge over time. Initial imbalances are roughly equivalent to outcome imbalances. Conventional balance assessments using input methodologies typically imply an underlying, intuitive model of combat that corresponds to a dynamically neutral process. Under a neutral process, if the initial balance is slightly unfavorable, the attacker will lose a battle that value, rather than diverging away from it as they do under instability. Initial imbalances thus become smaller over time rather than larger. An attacker may still overwhelm a weaker defender if his input superiority is large enough, but a given difference in inputs always produces a smaller difference in outcomes.

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Which, then, of these three alternatives best describes the modern battlefield? Unfortunately, the current conventional balance debate offers us no guidance. This disconnect results in a ripple effect of effects that have cascaded over the parable models on stability in both the long and short run. It is much more likely that at least somewhat increase their own expenditures, the results can be substantial pressure for major spending increases.

Under instability, on the other hand, it is unlikely that increase spending could ever be sufficient to match the condition in the Alliance's ability to defend itself. Higher expenditures would certainly be helpful, but they can neither guarantee diplomatic success nor lead to a potential for error in responding to Soviet strategic initiative. Instead, if the combat process is viewed as inherently more stable and if strategic uncertainty is a serious threat, a strategic defender has a substantial incentive to combine increased defense spending with an offensive military doctrine. Presently established doctrines are, in fact, becoming increasingly popular among NATO militaries.

Given the inherent problems of instability, the primary policy recommendation of the determinants of stability must be to avoid it, if at all possible. To the extent that the current balance is unstable, our first priority should thus be to shift the combat process in the direction of greater stability. (Indeed, greater stability constitutes the only recommendation which makes sense, whatever the current state of the combat process.) Unfortunately, however, as yet we have no systematic understanding of the determinants of stability to guide such an attempt.

Each of these conditions is thus plausible. It implies, however, that it is at least possible that the current balance can be achieved through a broad-based process of political circumstances, which we can know. Without a better understanding of the determinants of stability, we cannot know even whether such a shift is possible.

The only way to develop such an understanding is through a broad-based process of political circumstances, which we can know. Without a better understanding of the determinants of stability, we cannot know even whether such a shift is possible.

The politics of war, however, is unlikely to produce such an outcome. While we dispute analytic views of the nature and problems of the determinants of stability, which may involve lack of understanding, we can neither predict nor control, the crucial questions about the conditions for Alliance defense policy. At the very least, the result of this unawareness has been a conventional balance clouded by the failures to recognize the underlying causes of analytical disagreement, and consequently, a debate argued over the wrong issues. If we are to prepare to address the real security, it is essential that this debate be redirected, and that the crucial questions of stability and the implications of offense and defense in conventional warfare receive the attention they deserve.

REQUEST FOR INVESTIGATION INTO CIA ACTIVITIES WITH RESPECT TO PANAMA

Mr. HELMS. Mr. President, disturbing allegations were made during Mr. Blonder's appearance before the Subcommittee on Terrorism, Narcotics and International Operations, on Tuesday, February 9.

Jose I. Blonder, a former confidant of Panama Gen. Manuel Antonio Noriega included in his testimony before the subcommittee that the Central Intelligence Agency and the National Security Council prepared "intelligence designed to create an environment for Congress and their staffs and furnished these reports to General Noriega. General Noriega is head of the Panama Defense Forces and is the de facto head of government in Panama. I am required by the law to bring to your attention any allegations made officially inasmuch as I have received similar reports coming from sources in other countries which parallel the sworn testimony with regard to the CIA furnishing similar information on other Senators.

On February 18, during a closed hearing with CIA Director William Webster, I presented Judge Webster with a written request for an internal investigation of Mr. Blonder's charges. Specifically, I asked that an internal investigation be conducted and all employees in contact with Panamanian Government or military officials be questioned.

It was interesting, Mr. President, to note that on the day of Mr. Blonder's charges, the CIA denied that it furnished any information to Noriega. However, I have learned that after this denial was issued, the agency made inquiry to its field offices about whether such actions indeed might have taken place.

These are serious charges, and they raise significant questions about the integrity of U.S. intelligence operations. Indeed, many of Mr. Blonder's charges bring into focus questions about the CIA's involvement in other aspects of United States-Panama relations.

In all likelihood, these issues will need to be addressed by the Committee on Foreign Relations in future hearings with appropriate representatives of the intelligence community.

Mr. President, I ask unanimous consent that a copy of my letter to the Director of Central Intelligence and a similar letter to the Director of the Federal Bureau of Investigation be printed in the Record at the conclusion of my remarks.

There being no objection, the letter was ordered to be printed in the Record, as follows:


Hon. William Webster,
Director of Central Intelligence,
Washington, D.C.

DEAR DIRECTOR WEBSTER: As you know, the Committee on Foreign Relations received very significant sworn testimony last week that indicated that the CIA and the National Security Council have maintained, and/or furnished to certain Panamanian officials information on certain members of Congress and their staffs. Since you are charged with responsibility for all agencies...
February 23, 1988

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,

Hon. William S. Roth, Chairman.

Dear Senator Roth:

As you know, the Committee on Foreign Relations recently received very disturbing news last week that indicated that the CIA and the National Security Council have maintained, and/or furnished to certain Panamanian officials, information on certain Members of Congress and their staffs.

Inasmuch as Mr. Jose Blandon has appeared at the request of U.S. law enforcement agencies as a witness in major criminal procedures, his credibility appears to be high. Additionally, I have received similar reports coming from sources in other countries which parallel the sworn testimony with regard to the CIA furnishing similar information on other Senators.

I have no fear of correct information maintained on me; nonetheless, it is improper and illegal for the CIA to maintain such files. This is especially so inasmuch as the CIA has access to background check files, which include much uncorroborated data, for all security clearances.

Should a situation ever develop in which information, particularly unverified information, is transferred to another government, thereby interfering with the constitutional responsibility of Members of Congress and their staffs, it calls into question the integrity of our intelligence security institutions.

For these reasons, I submit the following questions, answers to which I hope can be provided in unclassified form. In answering these questions, please do not rely on files alone, since the information allegedly passed may have been passed back channel, without files being maintained. Furthermore, I am interested in knowing whether an internal investigation be conducted and all employees in contact with Panamanian government or military officials be questioned.

Has any employee, contract employee, or agent of the CIA—or any other entity associated with it, including other agencies under the National Security Act of 1947, as amended—ever maintained information—including biographies, reports of activities, summaries of political philosophy, or other information—on Members of Congress or their staffs? If so, which persons, when, and under what circumstances?

Has any employee, contract employee, or agent of the CIA—or any other entity associated with it, including other agencies under the National Security Act of 1947, as amended—ever furnished verbal or written information—whether orally or unofficially on Members of Congress or their staffs to any official of a foreign government, and specifically to the government of Panama or the Panama Defense Forces under General Manuel Noriega? If so, which persons, when, and under what circumstances?

I understand that after the CIA publicly denied Blandon’s testimony, an inquiry was made to CIA field offices and to FBI agencies querying whether the denial was accurate. Please include a copy of this message and all responses.

Because of your previous association with the Federal Bureau of Investigation, I would also ask the following questions, also to be answered in unclassified form to the maximum extent possible.

Did the FBI ever turn over to the CIA or other intelligence agencies any information on Members of Congress or their staffs?

Has the FBI ever initiated wiretaps or surveillance on me or members of my staff, with or without warrant? If so, when, for what reasons, and under what legal authority?

Sincerely,

Jesse Helms

S. 1586, THE TECHNOLOGY TO EDUCATE CHILDREN WITH HANDICAPS ACT

Mr. ADAMS. Mr. President, I rise today in support of S. 1586, the Technology to Educate Children With Handicaps Act. I applaud the work of Senator KERRY and his staff in developing this legislation and support their commitment to promoting a discussion of efforts for improving access to assistive technology.

While I believe that there are few things more fascinating than the potential of the human mind, it is also true that there are few things more tragic than the failure to develop this potential. It is truly tragic, therefore, that the tremendous resource represented by the capable minds of millions of handicapped individuals goes untapped due to the inability of educators and loved ones to achieve a sufficient level of communication. Still, other handicapped individuals are unable to participate in a normal environment due to disabilities that prevent them from maintaining the necessary posture for following classroom activities.

Fortunately, recent advances in modern science have lead to the development of technology which assists disabled individuals in overcoming these barriers and allowing them in the pursuit of educational achievement. This new technology includes everything from specially adapted computers that give disabled individuals the ability to read, write and speak to computerized voice synthesizers that read aloud the messages printed on a video screen. Further advances in specialized equipment, wheelchairs and assistive apparatus have made it possible for families, teachers and parents to participate in the classrooms of public and private institutions on an equal basis with the rest of our Nation’s student population.

With the advent of this advanced technology, we must now focus our attention on the need to improve the access to and use of these devices. Presently, handicapped students and parents are blocked by a number of difficult, which prevents them from gaining access to assistive technology. While it is often the case that the cost of such equipment is prohibitively expensive for families, more children suffer from limited access because neither the students nor their parents have been exposed to the availability and application of developing technology. This legislation addresses these issues through the establishment of a network of assistive technology resource centers in each State. These centers are designed to coordinate information, and provide training and financial mechanisms that will expose students and educators to the availability of assistive devices and the procedures for applying this technology to their educational environment. Followup counseling will also be available through the resource centers which will assist children to readily adjust to this advanced technology.

In order to help individuals with handicaps achieve their greatest degree of independence and productivity, we must ensure that they receive an education that best reflects their needs and learning environments. Access to assistive technology provides disabled students the opportunity to participate in regular classroom activities and exposes them to other handicapped and nonhandicapped students. Such interactions are essential to the development of critical interpersonal skills that are necessary for adjustment to life beyond the classroom. The ability to practice implementation of these assistive devices in an educational environment will assist them in applying their skills to future employment settings and independent living situations. Most significantly, access to assistive technology will help bridge the educational gap that many disabled children face and aid them in developing the depth of their intellectual capacity.

While I feel we must address the need to improve access to assistive technology for disabled individuals of all ages, I appreciate Senator KERRY’s efforts on behalf of handicapped children. I am happy that we have begun
to entertain a positive discussion in this area and I look forward to adding my voice in support of future initiatives that promote the use of assistive technological devices.

THE SPIRIT OF DAKOTA AWARD—A TRIBUTE TO THE WOMEN OF SOUTH DAKOTA

Mr. PRESSLER, Mr. President, this Friday evening in Huron, SD, a special tribute will be held honoring the many women who helped build South Dakota. The occasion is the presentation of the first annual “Spirit of Dakota” award to Winifred Lorentson of Miller, SD.

The Spirit of Dakota award will be represented by a 9-foot statue of a pioneer woman, sculpted by Dale Lampsphere, a South Dakota artist from the Black Hills. The unveiling of this statue on Friday evening is the first statewide recognition of the important role women played in shaping South Dakota. I personally feel this recognition is long overdue and commend all of those responsible for putting this event together.

Winifred Lorentson, over 70 women from across South Dakota were nominated for this prestigious award. These women are all winners in their own right. I rise today to honor Mrs. Lorentson in particular, and all of the nominees who have contributed so much to the great State of South Dakota and its citizens.

Mr. President, I ask unanimous consent that an article which appeared in the Huron Daily Plainsman be printed in the Record. It describes the life and many contributions of Mrs. Lorentson in further detail and includes a list of all of the nominees who were considered for this prestigious award.

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

A LIFE OF GIVING TO OTHERS DESCRIBES FIRST SPIRIT WINNER—WINIFRED LORENSTON

The Spirit of Dakota sculpture portrays a pioneer woman facing the future, undaunted by adversity. The woman to receive an award reflecting this spirit in South Dakota is Winifred Lorentson, a former county school superintendent and single parent who still serves as a role model in the Miller community.

“I have always thought of her as the perfect lady,” recalls Loretta King, who served as a teacher under Lorentson’s administration.

Like the image in the sculpture, Mrs. Lorentson has been swept by the winds of the prairie and of life. While teaching at St. Lawrence High School from 1922 until 1924 she spent 35 minutes on the train from her home in Miller to the school—even through the cold winter months.

Her husband, Carl “Edwin” Lorentson, born in 1926, was admitted to Dakota Wesleyan University in 1942 and was admitted to the Miller Library Association in 1978.

Mrs. Lorentson was named delegate to the Millennial council on Youth, Washington, D.C., in 1950, and Merit Mother of the Year by the Miller Jaycettes in 1970.

She was admitted to Dakota Wesleyan University’s Centennial Club in 1979 and Matthew D. Smith Club in 1978.

The educator began serving as a trustee of the Miller Public Library in 1945 and saw it grow from a county library by the teachers and pupils.

Mrs. Lorentson was presented the “Trustees of the Year” award from the South Dakota Library Association in 1978.

The community-spirited woman served as chairman for Hand County Christmas Seal Society from 1934 to 1972.

This woman of achievement credits her success as an education administrator to the loyalty and cooperation of the teachers. “The people made it as difficult as possible. They helped in every fashion they could,” recalls Mrs. Lorentson with the self-efficiency remembered by the teachers and pupils.

Mrs. Lorentson beams as she speaks about her school and wonderful learning place. A wonderful place where children learned to help each other.

One of her former students recalls “we never were afraid to have her come visit our school. In fact, we loved to have her come.”

The only grimmace to cross the face of Mrs. Lorentson occurs when she tells of the two-year elections required of the county superintendents.

“Because it was just a formality for Mrs. Lorentson,” Mrs. King praises. “No one had the nerve to run against her.”

Glorian Blackburn of Miller, a former teacher, tells of how the administrator saw to the needs of her teachers. “I remember her efficiency and how she kept current in her education. She provided us with workshops and updated curriculum.”

James Hart of Miller grew up next door to Mrs. Lorentson who still lives in her own home, the same one she has lived in for more than 50 years.
February 23, 1988

CONGRESSIONAL RECORD—SATE

The ANC at its founding in 1912 was a nationalist, but non-Communist, organization for blacks in South Africa. Complete in the 1940's, it was transformed into a front organization for the South African Communist Party. It is widely recognized that the South African Communist Party is a Soviet line orthodox Marxist-Leninist Party patterned under Moscow's guidance and control.

A declassified biography of the executive committee of the African National Congress, released in 1986, demonstrated that over half the membership of the ANC executive committee were Communists.

The flavor of the contemporary ANC—which can hardly be described as freedom loving—was provided last fall by the National Forum Foundation. This organization originally established under the auspices of our former colleague, Senator Jeremiah Denton, Republican of Alabama.

The National Forum Foundation did an excellent research paper which catalogued statements made by various members of the African National Congress with respect to the ANC's views on the Soviet Union, its relationship with the South African Communist Party, and revolutionary violence. The paper presents the ANC's views in its own words, and was carefully researched with newspaper and other sources footnoted.

Perhaps Mr. Donaldson and other journalists would be considerably enlightened by these statements which clearly reveal the violent, pro-Soviet, pro-Communist, nature of the African National Congress.

Mr. President, this is the organization, lest we forget, that has engaged in the infamous practice of "necklacing," by which hundreds and hundreds of South African blacks have been subjected to the most brutal and gruesome deaths—tires, filled with gasoline, placed around their necks, and then set afire.

Mr. President, I ask unanimous consent that the article, "The Ideology of the African National Congress and the Future of South Africa," be printed in the Record at the conclusion of my remarks.

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

THE IDEOLOGY OF THE AFRICAN NATIONAL CONGRESS AND THE FUTURE OF SOUTH AFRICA

In the ongoing debate over the situation in South Africa, much attention has been focused on the brutal and repressive nature of the South African regime. Little attention, however, has been given to the ideology of the opposition, specifically the most vocal and radical of the opposition: the African National Congress (ANC).
Using numerous sources, we have compiled a list of quotations from Winnie Mandela, Oliver Tambo, Alfred Nzo, Yusuf Dadoo, and others, which are identified to allow verification. These statements have been classified into 3 areas, allowing an examination of the ANC’s version of the South African Union and the ANC’s relationship with the South African Communist Party (SACP); (3) revolutionary vision.

This collection is not intended to be a comprehensive survey of ANC ideology. However, we believe that the consistent and unambiguous nature of these statements warrant serious attention when addressing the beliefs of the ANC.

SELECTED QUOTATIONS

"In Soviet Russia genuine power of the people has been transformed from dreams into reality."—Winnie Mandela, Pravda, February 14, 1986.

"The CPSU [Communist Party of the Soviet Union] program calls for the further broadening of cooperation between the Soviet Union and the other socialist countries. This is of tremendous importance in strengthening the entire socialist community, which is the bulwark of peace on earth."—Alfred Nzo, Kommunist, No. 6, 1986.

"The ANC speaks here today, not so much as a government, but as a fighting organiza­tion. Rather we speak of and to our own."—Oliver Tambo, Speech at the 60th Anniversary of the South African Commun­ist Party, African Communist, No. 87, fourth quarter, 1981.

"As a movement, we need to be conscious of this all the time and protect our friend­ship and cooperation with the socialist com­munity of nations very jealously."—Oliver Tambo, Political Report to the Second National Consultative Conference of the ANC, June 16-23, 1985.

"It would be a grave error on our part if we did not, at this point, refer, however briefly, to the socialist countries. The period we are discussing—at once more confirmed these countries as allies we can always rely upon, a secure rear base without which our struggle would be even more difficult and protracted."—Documents of the Second National Consultative Conference of the ANC, June 16-23, 1985.

"We highly appreciate the fraternal as­sistance and support rendered to us by so­cialist countries."—Oliver Tambo, TASS News Service, July 8, 1985.

"The ANC is a consistent champion of the cause of world peace, and voices it full support for recent Soviet peace ini­tatives which are aimed at making this planet a secure place."—Alfred Nzo, Sechaba, January 1984.

"The Socialist countries remain a solid pillar of support to our national liberation fight for victory. The socialist countries, all of them by the socialist countries headed by the Soviet Union. All of this is in sharp contrast with the capitalist world."—Alfred Nzo, Kommun­ist, no. 6, 1986.

"In my view, it is necessary to emphasize above all in it [the CPSU programme] as in its previous edition, the task of further propelling the world in the interests of the people remains pivotal. This is the perma­nent trend of the entire social policy of the Soviet Union. All of this is in sharp contrast with the capitalist world."—Alfred Nzo, Kommun­ist, no. 6, 1986.

"We recognize instead that the Soviet Union and other socialist countries are our dependable allies, from whom no force is going to succeed in separating us."—Sechaba, August, 1984.

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"The ANC invariably stresses that the so­cialist countries and all democratic, progres­sive forces which help the oppressed masses of the world to struggle against the apartheid regime at home and against imper­ialist pressure from abroad, are friends we can rely on."—Alfred Nzo, World Marxist Review, December, 1984.

"We, as a peace-loving and neutral country, firmly linked with the world-wide movement for peace, the standard-bearer of which is your great country, We, as a peace-loving and threat of nuclear explosion, are particular­ly clear against the background of the imperialist policy of arms race and threat to peace."—Alfred Nzo, Kommunist, no. 6, 1986.

"The entire significance of the efforts of the Soviet Union and other members of the socialist community who, despite the obsta­cles erected by the aggressive imperialist cir­cles, are trying to protect mankind from the forces of progress. The Soviet people's sup­port for our course is inspiring and revital­izing strength."—Winnie Mandela, TASS interview; quoted in Moscow News, no. 14, February 18-21, 1986.

"The CPSU [Communist Party of the Soviet Union] program calls for the further broadening of cooperation between the Soviet Union and the other socialist coun­tries. This is of tremendous importance in strengthening the entire socialist commu­nity, which is the bulwark of peace on earth."—Alfred Nzo, Kommunist, no. 6, 1986.

"In my view, it is necessary to emphasize above all in it [the CPSU programme] as in its previous edition, the task of further propelling the world in the interests of the people remains pivotal. This is the perma­nent trend of the entire social policy of the Soviet Union. All of this is in sharp contrast with the capitalist world."—Alfred Nzo, Kommun­ist, no. 6, 1986.

"We recognize instead that the Soviet Union and other socialist countries are our dependable allies, from whom no force is going to succeed in separating us."—Sechaba, August, 1984.
The ANC speaks here today, not only as a guest invited to address a foreign organization, but also as a guest invited to address our people, to quote Lenin, 'is a necessary ally of the proletariat revolution.'—Moses Mabhida, African Communist, no. 87, fourth quarter, 1981.

"And members of the ANC fully understand why both the ANC and the SACP are two hands in the same body, why they are two pillars of our revolution."—Moses Mabhida, African Communist, no. 87, fourth quarter, 1981.

"The ANC and the SACP are not an accident of history."—Oliver Tambo, African Communist, no. 87, fourth quarter, 1981.

"The relationship between the ANC and the SACP is not an accident of history."—Oliver Tambo, African Communist, no. 87, fourth quarter, 1981.

"The ANC and the SACP are not merely a paper alliance... it is a living organism that has grown out of struggle."—Oliver Tambo, Speech at the 60th Anniversary of the SACP, African Communist, no. 87, fourth quarter, 1981.

"Our Party's relationship with the ANC is based on the principle of mutuality, cooperation in battle and a common strategy for national liberation and a common understanding of the character of the African situation and its role in our struggle especially in the seizure of power."—Moses Mabhida, African Communist, no. 87, fourth quarter, 1981.

"The relationship between the ANC and the SACP is not an accident of history."—Oliver Tambo, African Communist, no. 87, fourth quarter, 1981.

"And members of the ANC fully understand why both the ANC and the SACP are two hands in the same body, why they are two pillars of our revolution."—Moses Mabhida, African Communist, no. 87, fourth quarter, 1981.

"The national liberation movement in South Africa largely owes its present scope and clarity of perspectives to our party's tireless activity in the organizational, political and ideological spheres. The well thought out and clear-cut concepts and tenets based on the theory of scientific socialism are few. To separate the excluded asset of the communists, but have been variously spread to broad sections of the fighters of liberation. Many communists have risen to leading posts in various sectors of the national liberation movement. We were also a party to the decision to go over to armed struggle. The ANC and the SACP are the Umkhonto We Sizwe combat units, including their commanders—Yusuf Dadoo, World Marxist Review, December 1984.

"Individual members of the Communist Party are like any member of the ANC."—Oliver Tambo, Interview with The Guardian (U.K.), African Communist, no. 87, fourth quarter, 1981.

"Today the ANC and the SACP have common objectives... we share the strategic perspectives of the task that lies ahead."—Umsebenzi, vol. 1, no. 1, 1985.

"The national revolution... is the special province of the oppressed nationalities; the socialist revolution takes the form of class struggle led by the working class of all national groups. The two revolutions co-exist... they interact... they are closely knit... to separate them would need a surgical operation which might kill or cripple both."—Sechaba, June, 1985.

"From the earliest days communists have worked unstintingly to strengthen the ANC."—Message from the SACP to the ANC Consultative Conference; Documents of the Second National Consultative Conference of the ANC, June 16-23, 1985.

"Dear Comrades and Brothers: your victories are our victories. Let us march forward hand in hand, side by side, towards the future with the ANC."—Message from the SACP to the ANC Consultative Conference; Documents of the Second National Consultative Conference of the ANC, June 16-23, 1985.

"The South African Communist Party has a long history of association with the ANC—an alliance which has now developed into a brotherly alliance."—Message from the SACP, Documents of the Second National Consultative Conference of the ANC, June 16-23, 1985.


"The alliance between the Communist Party and the ANC has no secret clause."—Joe Slovo, in the Washington Post, February 1, 1986.

"The communist Party is the only party that stands behind..."—J.J. Gumede, Umsebenzi, vol. 2, no. 1, 1986.

"The ANC was established in 1912 and the South African Communist Party in 1921... and so there has been an overlap membership all along the line."—Oliver Tambo, in New York Times, June 24, 1986.

"The ANC is a truly non-racial and non-sexist organization..."—Members of the Communist Party.—"Oliver Tambo, in New York Times, June 24, 1986.


"If today, the South African Communist Party can look back with pride at its contribution to the struggle, it is precisely because of the ANC..."—Bob Futterman, in the Washington Post, August 2, 1986.

"Our movement, as other revolutionary movements before it, has a responsibility to take advantage of such moments when the activity of the masses is increased a thousand-fold, when the masses are prepared to make the first move on the road to the destruction of the national liberation movement. We were also a party to the decision to go over to armed struggle."—Sol Dubula, African Communist Party in 1921... who know something of our history...—Joe Slovo, in Washington Post, September 1, 1987.

"The alliance between the Communist Party and the ANC has no secret clause."—Joe Slovo, in the Washington Post, February 1, 1986.

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The ANC will no longer try to prevent the people decide to use to necklacing, we shall liberate this country. - Winnie Mandela, in the New York Times, September 8, 1985.

The ANC was a meeting of high-level ANC officials, All text taken from ANC publications available from ANC offices in London. Joe Slovo is the former Chairman of the South African Communist Party and is a leading military strategist for the military wing of the ANC.

Oliver Tambo is the President of the African National Congress.

Umkhonto We Sizwe is the military wing of the African National Congress.

Umsebenzi is an occasional newsletter of the African National Congress, published in the German Democratic Republic.

Second Consultative Conference of the ANC was a meeting of high-level ANC officials. All text taken from ANC publications available from ANC offices in London. Joe Slovo is the former Chairman of the South African Communist Party and is a leading military strategist for the military wing of the ANC.

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World Marxist Review is a monthly journal published in East Germany.

NORIEGA’S DISMISSAL

Mr. HELMS. Mr. President, today the President of Panama has formally asked Panama’s military dictator, General Noriega, to step down. At the moment, the situation is uncertain. It is not clear whether General Noriega will relinquish power, and return Panama to the Panamanians.

I hope for the sake of the people of Panama that General Noriega will do so peacefully. He has trampled upon the hopes of the Panamanian people for freedom and democracy, using his position of power for his own personal accumulation of illegal wealth. He has catered to the international banking system on the one hand, and to the Marxists and Communists of Central America on the other. He has callously indulged in drug trafficking, gun-running, and every other kind of illegal activity for private gain.

Mr. President, it is now clear that General Noriega has lost the support of every segment of the U.S. Government, with the possible exception of the Central Intelligence Agency. The CIA has counseled with this notion, whether he has been an individual for a decade or more, even though his aims and methods were clear to any decent observer. It is time for the CIA to review its policies and methods of supporting corrupt, left-of-center power brokers in the Third World. Such activities undermine freedom and strengthen the grip of Marxist regimes around the world.

I have long been deeply concerned, for over a decade, about the criminal and subversive activities of Panama’s dictator, General Noriega.

The damage that General Noriega has done to the security of the United States and to the security of the hemisphere as a whole may never be fully known. The damage that Noriega has done is massive and may never be repaired in full.

Mr. President, it is no exaggeration to say that General Noriega has betrayed the security of the American republics to the masters of the Kremlin and their Cuban viceroy, Fidel Castro.

Not only has he betrayed the military security of the hemisphere, he has betrayed millions of the families throughout the hemisphere who suffer from the terrible effects of drug...
abuse. General Noriega has compromised the public health of every republic in the Western Hemisphere through his dealings with the Colombian based cocaine-Mafia.

On February 5, the U.S. Attorney for the Southern District of Florida announced a 12-count indictment charging General Noriega and his associates withrial and television commentary bashing the Senator from North Carolina for having to deal with the corruption of the Mexican and Panamanian regimes.

Mr. President, who was right? The media or the Senator from North Carolina? Events have proven this Senator right. His investigations of the Panamanian dictator and his role in international drug trafficking. I have no doubt that events will do likewise with respect to Noriega.

I should point out that the distinguished Senator from Massachusetts (Mr. Kerry) attended these hearings and indicated that he shared my concerns about Mexico and Panama. We agreed to work together in a bipartisan spirit in order to get to the bottom of the drug trafficking crisis in the hemisphere which is destroying family after family here at home. We agreed that we should pursue our investigations to the fullest extent and let the chips fall where they may.

Mr. President, the chips have fallen all over General Noriega, and the whole world is aware of it. He is a menace to the security of this hemisphere. He is a menace to the youth of this hemisphere.

It is time that we get the Noriega years behind us and begin to do whatever we can to help in the reconstruction of Panama. Panamanians deserve democracy. Panamanians deserve domestic tranquility and economic progress. We need to move forward together into the next century as friends, as neighbors, and as partners in the Americas.

DEMONSTRATIONS IN ARMENIA

Mr. RIEGLE. Mr. President, after 70 years, the Kremlin is finally being forced to deal with the injustices imposed by its harsh ethnic policies. In the wake of continued ethnic unrest, General Secretary Gorbachev has called for a Central Committee plenum to develop a new policy addressing the nationalities question in the Soviet Union. It's about time.

This morning's New York Times and Washington Post carry front page stories about major nationalist demonstrations in the Soviet Armenian Republic, involving tens of thousands of citizens—the latest in a series of public protests which have broken loose in the Soviet Union.

Within the last year or so, riots in Kazakhstan over the promotion of a Russian official, the proliferation of independence groups around the country, and a series of demonstrations in the Baltic states, including one occurring today, all point to mounting nationalist feelings which are sweeping through the Soviet Republics.

In Armenia, where the largest protests ever reported in the Soviet Union are occurring, demonstrators are demanding action to address the serious pollution problem affecting their Republic. Apart from Chernobyl, pollution there from chemical factories is believed to be the most serious in the Soviet Union. They are also asking that they be reunited with their Armenian brothers and sisters in the neighboring Republic of Azerbaijan.

For 25 years, the Armenian majority living in Nagorno-Karabakh, located in the Republic of Azerbaijan, has appealed to the Soviet leadership protesting economic and cultural discrimination by the Azerbaijanis, and requesting that Nagorno-Karabakh be restored to Armenia.

Earlier this month, the local government council again asked that the region be made a part of Armenia, citing the constitutional guarantee of the right of self-determination. The Kremlin rejected the request.

Without the presence of an international force and without an agreement, these demonstrations differ in important ways from those occurring in the Baltic States, the common thread that connects them all is a strong sense of ethnic nationalism and a growing desire on the part of the Soviet citizens to assert greater control over their destinies.

Just last week, General Secretary Gorbachev stated that the need to develop a new nationalities policy is "the most vital, fundamental issue of our society." So far, his glasnost policies have emboldened the people to speak up for their rights, and we will be watching closely to see what this new policy envisioned by Gorbachev will bring. All freedom-loving people hope it will lead to greater respect for the rights of ethnic minorities in the U.S.S.R., and not a retrenching of the gains they have made this past year.

Mr. President, I ask unanimous consent that a series of articles concerning the Armenian demonstrations be printed in the Record.

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

[From the New York Times, Feb. 24, 1988]

Soviets Say Armenian Unrest Broke Out in Southern Area

(Moscow, Feb. 23—The Soviet Union today reported major Armenian disturbances in an ethnically volatile area in the southern part of the country.

Protests, including a rare show of defiance against Soviet policy by local government officials, appeared to be the most serious outbreak of nationalist protests since the collapse of anti-Soviet risings shook the central Asian city of Alma-Ata in December.

The press agency Tass said there had been a "breaching of public order" in the Nagorno-Karabakh Autonomous Region, a remote mountainous area within the Azerbaijani Republic near the border with Iran.
Nationalist Protests Are Building

Tass said part of the Armenian population, the predominant ethnic group, was demanding that the territory be attached to the neighboring Armenian Republic. The republic had long been the source of dispute between the two republics.

The protests are the latest in nationalist demonstrations throughout the Soviet Union that have alarmed party leaders in Moscow. The protests apparently led Mikhail S. Gorbatchev, the Soviet leader, to call last week for a Central Committee meeting devoted to nationality policy, which he described as "the most fundamental, vital issue of our society."

The Government newspaper Izvestia said the Armenian protests began 10 days ago and included public rallies and school boycotts. Said they had spread to the Armenian capital, Yerevan, where a "noisy" demonstration demanded the transfer of Nagorno-Karabakh to Armenia.

Unofficial accounts reaching Moscow said that large demonstrations were held in Yerevan the last four days and that the local party leader, Mr. Demirchyan, had appealed for calm on television Monday evening.

In an indication of Moscow's concern, Izvestia said two nonvoting members of the Politburo, Pyotr N. Demichev and Georgi P. Razumovsky, had been sent to Stepanakert, capital of Nagorno-Karabakh. The reports followed unconfirmed reports that Vladimir L. Dolgik, a nonvoting member of the Politburo, and Andronov, a Central Committee secretary had been sent to Yerevan.

Demands Are Rejected

Tass said the Central Committee had rejected demands for uniting Nagorno-Karabakh with Armenia and had called for maintaining order. Soviet officials said the decisions were made last week in a full meeting of the committee.

Izvestia reported that a group of members of the Nagorno-Karabakh Soviet, the region's legislature, approved a resolution Saturday calling for high-level consideration of the transfer of the region to Armenia.

Several factors apparently prevent the unification of Nagorno-Karabakh with Armenia. Izvestia said that the Soviet Central Committee had announced in the streets of their regional capital last night to demand that they be joined with their countrymen in a neighboring republic, dissident sources reported today.

Izvestia reported that Mr. Razumovsky, who is also a Central Committee secretary, said at a meeting of the local party organization in Stepanakert on Monday evening that any attempt to break Nagorno-Karabakh away from Azerbaijan was unacceptable.

The local party organization adopted a resolution that conformed with his statement, Izvestia said. Tass said the demands for succession "contradict the interests of the working people in Soviet Azerbaijan and Armenia and damages interethnic relations."

From the Washington Post February 24, 1988

Soviet Armenians Protest Their Separation

(By Gary Lee)

MOSCOW, Feb. 23—In one of the largest nationalist demonstrations ever held in the Soviet Union, tens of thousands of Armenians demonstrated in the streets of their regional capital last night to demand that they be joined with their compatriots in a neighboring republic, dissident sources reported today.

It was the second ethnic protest in the Soviet Union this month and came only days after Soviet leader Mikhail Gorbatchev told a Communist Party plenum that nationalist tensions were "the most fundamental, vital issue of our society."

According to the Soviet government newspaper Izvestia and the official news agency Tass, demonstrations erupted in the streets of the Armenian capital, Yerevan, and in Stepanakert, in the neighboring republic of Azerbaijan, as Armenians in both areas protested the Soviet decision to divide them by setting up an autonomous region in Azerbaijan.

The official Soviet media did not provide estimates of the number of protesters, but Armenian dissident sources in Moscow said that at least 50,000 were involved.

The demonstrations were so much by Monday that Armenian Communist Party leader Karen S. Demirchyan appealed on television and in newspapers for calm to be restored, assuring the workers that the Armenian national problem would be addressed.

Armenia and Azerbaijan are two of the 15 Soviet republics. The demonstrations taking place are part of a wave of nationalist protests that started in late 1986 when a violent reorganization of the Soviet Asian republic Kazakhstan. Last week a peaceful nationalist demonstration was broken up by Soviet police in the Baltic republic of Lithuania.

Activists in another Baltic republic, Estonia, have urged residents to gather on Wednesdays in the streets of the Estonian capital, Tallinn, and four other cities to demonstrate their desire for autonomy.

The Armenian demonstrations started in Azerbaijan's autonomous region of Nagorno-Karabakh two weeks ago, eventually spread to Yerevan and continued until today. Soviet demonstrations in Yerevan continued through the weekend and Demirchyan made his appeal to the public yesterday.

Relations between Azerbaijan and Armenia are usually tense because of religious differences. Azerbaijan is largely Shiite Moslem while Armenia is predominantly Christian. Protests in the region have occurred before, but have always been contained in a limited area.

The Kremlin leaders, in reaction to the flow of ethnic nationalist outbursts in the neighboring republic, dissident sources said today. It was the second ethnic protest in the Soviet Union this month and came only days after Soviet leader Mikhail Gorbatchev told a Communist Party plenum that nationalist tensions were "the most fundamental, vital issue of our society."

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A TRIBUTE TO OLYMPIC GOLD MEDALIST BONNIE BLAIR

Mr. DIXON. Mr. President, I rise to congratulate Bonnie Blair of Champaign, Ill., who won America's second gold medal in the 18th Winter Olympics. Bonnie's rival in the women's 500-meter speed skating, East Germany's Christa Rothenburger, skated first in the event and set a new world record with a time of 39.12. Bonnie remained confident, however, because she had beaten that time in a practice lap earlier in the week. Bonnie started quickly and skated with determination. When she crossed the finish line, she had broken Rothenburger's record by two one-hundredths of a second and won the gold medal.

Twenty-three-year-old Bonnie Blair has lightened the heart of every American who has watched the American Olympic athletes abroad. As a coauthor, with Senator Alan Cranston, of the bill, if either Commission failed to report to the Secretary their approval or rejection of the Commission's report to the Congress, the Secretary is required within 30 days after the date of the enactment of this act to decide whether or not to approve the design and plans for the proposed placement of the statue at the end of the Wall opposite to the end where the existing statue is placed, would, as Secretary Hodel has pointed out, provide a sense of completion and balance to the Memorial, allowing visitors to walk in a full circle as they view the different elements of the Memorial site.

Mr. Brown has further said that women are recognized through the symbol of the statue of the combat soldiers and by the inscription on the Wall of the names of the eight women who died in Vietnam. I do not agree that women veterans are sufficiently honored by the proposed placement of statues at the Wall.

Mr. Chairman, I am delighted to note that S. 2042 is now sponsored by 54 members of the Senate. The goal of the bill is to recognize the sacrifices and contributions made by women who served in the Vietnam conflict and to educate the public about the role of these women. As a charter member of the VWMP Congressional Advisory Panel, I have great admiration and respect for the commitment, effort, and dedication of the individuals associated with the VWMP in working to obtain their goal.

As the Chairman of the Veterans Affairs Committee, I know the women who served in and with our Armed Forces with honor, strength, and commitment are often overlooked when our Nation recognizes its veterans.

And women veterans are still much less likely than their male counterparts to use veterans' benefits such as home loan guarantees and VA health care—in part because they are not aware that such benefits are available. I do not realize that some of their stress-related symptoms may have been caused by their service in Vietnam. I believe that the VWMP proposed statute, by acknowledging the sacrifices made by women during the Vietnam conflict, would accelerate the healing process for the women who served during this very difficult time.

Unfortunately, the efforts of supporters of the VWMP to complete the VVM with a statue of a woman veteran have been stymied. Late last year, Secretary of the Interior Donald P. Hodel endorsed the VWMP proposal and concluded that it was authorized by Public Law 96-297 by providing VA health care. I believe that the VWM proposed statute, by acknowledging the sacrifices made by women during the Vietnam conflict, would accelerate the healing process for the women who served during the Vietnam conflict.

The bronze statue proposed by the VWMP is similar in appearance and demeanor to the statue of the three combat soldiers already in place at the Wall. The proposed placement of the statue at the end of the Wall opposite to the Wall where the existing statue is placed, would, as Secretary Hodel has pointed out, provide a sense of completion and balance to the Memorial, allowing visitors to walk in a full circle as they view the different elements of the Memorial site.

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I was deeply disappointed by the CPA's shortsighted decision. It prompted the introduction of separate bills last year by Senators Durenberger and me—S. J. Res. 213 and S. 1896—with the common goal of authorizing construction of the VWMP proposed statute but providing for different approval processes for the proposal. We have now merged our view points and developed a new proposal which resulted in S. 2042. As I proposed in S. 1896, S. 2042 includes the CPA in the approval process. I believe that bypassing the CPA, which has advised the President on the matter of the Wall, would give the Secretary of the Interior the power to make a decision not only as to the value and merit of the proposed statute, S. 2042 would also provide a timetable for the approval process. Under this measure, the Secretary of the Interior would be required within 30 days after the date of the enactment of this act to decide whether or not to approve the design and plans for the project. Should the Secretary fail either to approve or reject the plans within that 30 days, Secretarial approval would be considered, by operation of law, to have been given, and the VWM proposal would be forwarded to the Fine Arts and National Capital Planning Commissions. Then, under the procedure described above, the VWM proposal would be forwarded to the Secretary of the Interior to report to the Secretary their approval or rejection of the proposal within 90 days after the bill is submitted to them, the approval of one or both of the Commissions, as appropriate, would be determined, by operation of law, to be given.

If the proposal is further approved by the Congress, it will be presented to the President for his signature. The President will then have the opportunity to sign or veto the bill, as he sees fit. If the President signs the bill, it will become law. If he vetoes the bill, he will return it to Congress with his objections. If Congress overrules the President's veto, the bill will become law.
and healing for the men and women who served in the Vietnam conflict. In addition, the bill expresses the sense of the Congress that establishment of the statue is well within the scope of Public Law 96-297 and that the Secretary of the Interior and the Commissions should give weighty consideration to the establishment of a statue or the commemoration of a memorial for a woman Vietnam veteran should be constructed at the Vietnam Veterans Memorial site.

S. 2042 also expresses the sense of the Congress that with the addition of the VWMP statue the Vietnam Veterans Memorial would be completed and that no further additions to the site should be authorized or undertaken. This provision should help alleviate concerns expressed by CFA Chairman Brown that the statue would become the first in a long string of additions to the VVM. I believe that with the addition of the servicewoman the VWMP would fulfill the original intent of the authorizing legislation enacted to honor the dedication and sacrifices of the men as well as the women who served in the military services designated to honor the Vietnam conflict. If your Subcommittee believes it would be appropriate and desirable, I urge that you seriously consider converting the above subsection into a statutory direction as to the completeness of the VVM with the addition of the VWMP statue. Both Senator Durenberger and I would strongly support such a statutory direction.

Finally, I would like to address the issue of the royalty arrangement for the Wall.

During the recent controversy over the VWMP, the copyright agreement for the "Three Fighting Men" statue—the statue that is now part of the Wall—received a great deal of publicity. According to a November 11, 1987, Washington Post article, the sculptor had, as of that date, collected $85,000 in royalties from the sale of souvenir reproductions of his combat soldier statue. In contrast, the designer of the Wall receives no royalties and holds no copyright for that exquisite, extraordinary design. I am deeply concerned that other sculptors of national memorials will also seek royalties and that they be denied the artistic freedom and opportunity to honor individuals who have served our country. For example, the sculptor of the "Lone Sailor" statue which is now part of the Navy Memorial left the "Three Fighting Men" copyright agreement when he negotiated the royalty arrangement for his sculptor's rights in $100,000 in royalties from the sale of souvenirs.

Regarding the reservations which you and I must take account in these evaluations, I ISS notes the utility (especially for arm control) while stressing the limitations of numerical comparisons. Among other things, one must consider respective strategies, that is, for what purpose are the weapons intended, in order to evaluate the balance between them. Furthermore, the assumptions one must necessarily make in assessing the balance will be magnified, for example, in attempting to reduce the cost of two attack (or defense); analyses of relative combat potential, a measure that includes pace of combat, time to mobilize and reinforce, and ratio of forces to space; examination of relative tactical effectiveness and efficiency; and various military "war-gaming" analyses.

Unlike previous editions of The Military Balance, ISS has chosen this year not to offer any overall evaluations of the conventional balance in Europe. Consistent with past editions, however, ISS does conclude that "under a wide range of circumstances, general military aggression is a high risk option with unpredictable consequences, particularly where the possibility of nuclear escalation exists." The ISS essay follows:

[From The Military Balance, 1987-88]


Mr. WIRTH. Mr. President, each year, the prestigious International Institute for Strategic Studies (IISS) publishes its highly regarded The Military Balance. This year, recognizing the discussion at the previous session, the latest edition of the Military Balance includes a section on the conventional forces in Europe.

The essay reproduced below examines several reasons for assessing the balance, discusses various considerations that one should include in such assessments, and describes different methodologies for making these assessments.

IISS offers several reasons for studying the balance. Among them are evaluating relative force effectiveness, determining priorities for defense expenditures, identifying possible arms control measures to reduce tension and promote stability, and even rallying public opinion to support a country's foreign or defense policies.

Regarding the considerations which one must take account in these evaluations, IISS notes the utility (especially for arms control) while stressing the limitations of numerical comparisons. Among other things, one must consider respective strategies, that is, for what purpose are the weapons intended, in order to evaluate the balance between them. Furthermore, the assumptions one must necessarily make in assessing the balance will be magnified, for example, in attempting to reduce the cost of two attack (or defense); analyses of relative combat potential, a measure that includes pace of combat, time to mobilize and reinforce, and ratio of forces to space; examination of relative tactical effectiveness and efficiency; and various military "war-gaming" analyses.

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several methodologies that might be employed. Together, the relationship is summarized in a summary table of NATO and Warsaw Pact conventional forces is included at the end, drawn from the country entries. No single overall statement of the "balance" will, however, be offered.

WHAT AFFECTS MEASURE THE BALANCE?

There are a variety of possible reasons for attempting to assess the relationship between conventional military forces of the two blocs in Europe. It is critical for any analysis to understand the range of these policies that will be reflected in differences that are appropriate will differ depending on the reason chosen.

Analysts may be designed to assess relative force effectiveness, either to judge the ability of one side to deter aggression by the other, or to determine the likely outcome of conflict in which both sides' forces have for reinforcement? For the Warsaw Pact, will the East- and West-European forces be equal in size and equipment for operations in Europe? How will the readiness and combat capability of equipment or formations be introduced? The scenario. Why has the conflict begun? What are the political and military objectives of each side? What, if anything, is happening in other theatres (particularly in the Far East), and what access to their bases will be required? How will equipment, personnel, and troops? How will equipment, personnel, and air defenses of both sides.

The nature of the combat. What will be the tempo of battle (in terms of rate of fire, attrition, etc.)? What is the likely relationship between offence and defence, given the terrain and each side's ability to mass troops? How will equipment, personnel, C4I (command, control, communications and intelligence) systems, etc., perform in actual combat? The scenario. Why has the conflict begun? What are the political and military objectives of each side? What, if anything, is happening in other theatres (particularly in the Far East, the European balance, for example) and thus produce a variety of potential outcomes.

Assessing the Intangibles

Efforts to characterize the military balance inevitably face the problem of quantifying factors that are difficult, if not impossible, to measure. The Military Balance has identified a number of such factors: including quality of units or equipment, military technology, deployment, training, logistic support, morale, leadership, tactical initiative, terrain, weather, political will, alliance cohesion and morale. Some analysts have argued that these factors far outweigh more common numerical indicators.

"Battle outcomes are quite insensitive to differences in military technology and logistic support, will be difficult but perhaps not impossible to quantify.

Evaluating the Data

Even relatively tangible variables—such as numbers of tanks or personnel—are subject to varying degrees of confidence in the accuracy of the data. For example, data on some weapons are more reliable than that on the Warsaw Pact, and, for Warsaw Pact forces, data on the Central Region are more accurate than that on the European balance, for NATO, according to some analysts, is an edge in leadership, training and morale and it is available resources in what are known as "force multipliers" such as C4I and surveillance. These intangibles seem inherently incapable of being measured in the same way that technology and logistic support, will be difficult but perhaps not impossible to quantify.

Alternative Approaches to Assessing the Balance

A number of analysts both in and out of government have attempted to build models to capture elements of The Military Balance. The models fall into two broad categories of approach: those that present static comparisons of forces, but attempt to capture elements of the NATO/Warsaw Pact balance. The models include aggregate data on quantities of equipment to give some measure of the firepower and combat capability of forces. Some analysts have gone one step further, to create indices of combat capability for whole formations. Such an approach uses assessments of firepower capabilities derived from more or less authoritative estimates of weapon effectiveness to bring all NATO and Warsaw Pact forces onto a common scale for comparative purposes. They also assign separate values for each force depending on whether it is operating in offence or defence. The outcome has typically been expressed in terms of "Armoured Division Equivalents", "Firepower units", "Standard Division Equivalents". This approach can lead to some misleading divisional counts. For example, in the studies cited, the Warsaw Pact advantage is reduced.

While establishing common units of measurement should facilitate more meaningful...
comparisons between force capabilities, such units are not without limitations. They necessarily ignore most of the significant in­
tangible asset, including leadership, morale, and training. They require continuous updating; force ef­

tiveness alters with every equipment update or structural change, and changes on one side (e.g., the Soviet tank’s reactive armour) will change the effective­ness of the other side’s equipment (e.g., NATO’s anti-tank weapons). Moreover, any attempt to measure the effectiveness against uniform standards of offensive and defen­
capability is likely to require some sweeping assumptions about the mix of combat circumstances typical of each role, and also to pose the difficult problem of how to take proper account of the differing tactics and concepts and practices of national forces.

This approach to comparing force capa­bilities can be enhanced to distinguish combat-ready in-place forces from those which must be mobilized and deployed. Given data, or assumptions, about realistic force mobilization rates, and using a common unit of measurement, one can plot over time the growing availability of in-the­
atre ground and air force capabilities for each side; this plot can be compared at any point in time, and the implications can be seen of delays between Warsaw Pact and NATO mobilization, or between mobilization and the capability once they fully mobilize—some­thing that requires 48-96 hours.”

A notable difficulty in such analyses is that experts differ considerably in their esti­mates of how quickly Soviet divisions in the theater could be trained and deployed, as well as of how soon NATO’s re­inforcement divisions would arrive. While Cordesman’s tank study assumes the availability of Soviet Category II divisions at about M-30 days, and Category III divi­sions at M+130, the author notes that “other US and most European experts feel that the USA and USSR would rely on mass and ignore problems of training and the ability to fight as a cohesive unit. They credit Cate­
gory II units with almost immediate combat capability once they fully mobilize—some­thing that requires 48-96 hours.” Uncertain­ties of this magnitude significantly diminish the accuracy of the model for resolving ques­tions of relative capability.

Yet another key aspect of static force comparisons is sustainability—an advantage in tank numbers is illusory if the ammuni­tion or fuel to sustain them is lacking. Com­parison between NATO and the Warsaw Pact in this respect are difficult; stock levels are not generally made public, and expenditure rates will be highly dependent upon the intensity of combat. Comparisons are further complicated by the fact that offensive and defensive operations may have dif­
fering logistic requirements for ammunition and fuel.

Dynamic Measures

Although the static models described pro­vide additional data on capabilities, they do not examine the interaction between the two forces, and so do not help the analyst seek to understand “how well” the offen­
dive and defensive operations may have dif­
fering logistic requirements for ammunition and fuel.

Analysts have long employed criteria based on force ratios to judge the probabili­ty of an attack succeeding. The two best­
known examples are: (a) “concentration of firepower” approach (which sug­
gests that, other things—terrain considera­tions, training, morale, etc.—being equal, a force twice as large should be able to win by a ratio of 1:1); and the long-standing military rule of thumb reflected in the 1976 edition of the US Army Field Manual 100-5 (which suggests that the defense can hold against an attack at a ratio of 3:1. Other analy­sists have argued in favour of force ratios which range between 5:1 or 6:1. (It is, however, notable that the in-theatre balance of forces at the time of the successful German offensive on the Western Front was approximately 1:1, and that operations in the Falkland Islands appear similarly to lie outside the theoreti­cal norms.) Any effort to devise a reliable rule of thumb therefore has its pitfalls, with the danger that such key factors as the ability to use surprise and deception, or to ex­
plot a key vulnerability of the other side (for example by destroying vital command and control nodes), may affect the outcome totally independently of the two sides’ combat capability. It is also important to keep in mind that, insofar as force ratios may be relevant to the outcome, it is likely to be local and in-theatre-styles, ratios that are determinative.

Some analysts both inside and outside governments have constructed more com­plex models which include the interaction of military forces in Central Europe. Some are interested in assessing how successful NATO would be in resisting a Warsaw Pact conventional attack; others use the models to define requirements for ammunition stocks and war reserve materials, while yet others focus on sectors of the Front to decide how best to allocate scarce resources between different kinds of new equipment: e.g. helicopters or tanks.

Dr. Richard Kugler has developed the “Attrition/FEBA Expansion Model”, which the US Department of Defense has used as part of its programming and budgeting review process, and Dr. Barry Posen has ap­plied this to the scenario of a concentration of Warsaw Pact forces attacking along three corridors of attack. His analysis was to assess the likelihood of a Pact break­through (or, conversely, a successful NATO resistance). His analysis takes into account relative combat potential (using Armored Division Equivalents), time (mobilization rates), the “pace” of combat (attrition rates) and the ratios of force to space, and—above all—the effect of tactical aviation on the ground battle.

This model uses a number of simplifying assumptions, the uncertain validity of which the author explicitly recognizes. Tac­
tical skill and innovation is ignored, and so is the potentially very significant factor of terrain. Also, the model gives a poor repre­sentation of the situation as it would exist in a surprise attack with only a few days of mobilization—that is, before NATO could establish a true defensive line. Perhaps most important, the analysis is highly sensi­tive to the values assigned to the variables, which can lead to widely different outcomes. It does, however, have the advantage of treating NATO and Warsaw Pact forces alike in one case, and then introducing a variable. The ${\text{second variable with a}}$ (“combat enhancement factor”) to reflect assumed advantages in command, control, communications and logistics. The model also has scope to allow for variations in the delay between Warsaw Pact and NATO M­Days, and between both of these and the start of combat operations.

Andrew Hamilton has constructed a dif­ferent dynamic model, which also seeks to establish the number of NATO forces required to halt a Warsaw Pact conventional attack by looking at two principal variables. The first of these is “relative technical effectiveness” of the attack, while the second is the relative defense’s ability to exploit a key vulnerability of the other side (“efficiency index”). The second is an “efficiency index” (the fraction of NATO forces which could be moved to the theatre of operations). As the attack is moved away from the most heavily defended areas, the model suggests that the defense will have a better than even probabili­ty of defeating an attack.” The second is also a “rule of thumb” for determining the probability of a Warsaw Pact success—which he defines as a breakthrough sufficient to make substantial gains.

William Kaufman has constructed a third model to try to determine the proba­bility of a Warsaw Pact success—which he defines as a breakdown sufficient to make substantial gains—and the Federal Republic of Germany and eventually defeat NATO. He also seeks to show the degree of Warsaw Pact penetration after seven days of mobilization, the probability of defeat, and the “efficiency index.” The model employs “scripted scenarios”, to allow consideration of contingencies (e.g., an early Warsaw Pact attack, the type of attack—broad front or concentration) and the impact of alternative oper­
ations strategies (e.g., mobile defences). Through the development of “war-gaming,” Rand is able to integrate the contextual richness of war-gaming with the predictive power of analytic modelling. Rand’s app­roach allows for multi-scenario analysis, considering the various aspects of force capabilities (by the simple variables of warning time and rate of mobilization), permitting the analyst or policy-maker to manipulate factors in the model to determine their relative importance to the outcome. Its model employs “scripted scenarios”, allowing the analyst or policy-maker to assess the relative importance of various factors to the overall outcome. The second is “relative technical effectiveness” of the attack, while the second is the relative defense’s ability to exploit a key vulnerability of the other side (“efficiency index”). The second is also a “rule of thumb” for determining the probability of a Warsaw Pact success—which he defines as a breakdown sufficient to make substantial gains. The model also has scope to allow for variations in the delay between Warsaw Pact and NATO M­Days, and between both of these and the start of combat operations.

The preceding discussion has focused on the relationship between NATO and Warsaw Pact forces, but…

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the issues are applicable outside the European theatre as well, and models developed for this context can be adapted to other regional settings. Although the scenario of bipolar conflict in Europe in some respects makes the analysis easier, it is important to remember that the models do not take into account the possible role of neutral states—which in some cases (for example, Finland and Sweden on the Northern flank) could have a significant impact on the outcome of a conflict.

**NATO and Warsaw Pact Forces**

In the light of the considerations discussed above, the IISD has decided not to present any overall judgements of the state of the conventional balance between NATO and the Warsaw Pact. This is not to differ with the conclusions in earlier editions of The Military Balance that under a wide range of circumstances general military aggression is a high-risk option with unpredictable consequences, particularly where the possibility of nuclear escalation exists. Nonetheless, it is important to underline that a numerical comparison of the forces presented in this volume cannot by itself answer basic questions about the relative capabilities of each side’s forces to perform their required mission.

In using the data in The Military Balance 1987-1988, it is important to keep all the foregoing factors and considerations in mind—especially when seeking to draw any conclusions from the Tables which follow.

The first of these, Table A, provides aggregated data on NATO and Warsaw Pact military manpower and key equipment, derived from the relevant country entries. This table has been designed with conventional arms-control negotiations in mind (since it is in this context that static comparisons of aggregated figures may be of greatest relevance and utility) and shows the relevant holdings of ground forces and land-based air forces within three geographical areas.

The NATO Guidelines Area (NGA), consisting of the area under discussion in the Mutual and Balanced Force Reduction (MBFR) negotiations. This comprises the Federal Republic of Germany and the Benelux countries for NATO; the German Democratic Republic, Poland and Czechoslovakia for the Warsaw Pact.

The Atlantic-to-Urals area now subject to the Confidence- and Security-Building Measures (CSBM) recently negotiated in the Conference on Disarmament in Europe (CDE) at Stockholm, and likely to be the subject of further CSBM and force-reduction/stability negotiations. For the purposes of this table, the (‘zone of application’) of the Stockholm agreement is used, with the exception that all Turkish forces are included. For NATO, this means that Iceland and the Atlantic Islands are included, and for the Warsaw Pact, Soviet forces in the Moscow, Volga, Ural, North and Trans-Caucasus Military Districts (as well as the Western, North-Western and South-Western TVDs).

Global holdings include all forces of NATO and Warsaw Pact countries, even those committed to other theatres of operation (e.g. US forces in Korea, Soviet forces in Vietnam, French forces in Chad, etc.).

Maritime forces (naval and air) are aggregated on two geographical bases: 

- Atlantic/European—comprises forces in the Atlantic and European waters north of the Tropic of Cancer and the Mediterranean, including the Soviet Northern, Baltic and Black Sea Fleets and Mediterranean squadron; for the US it includes all forces belonging to CINCLANT.

- Global comprises all holdings of NATO and Warsaw Pact countries, wherever deployed.

*Footnotes*


**Table A—Conventional Force Data: NATO and Warsaw Pact**

([N.B. This table presents aggregated data for a large number of national forces, divided on the basis of their geographical deployment. The level of confidence as to the many components varies; the aggregated figures therefore embody a measure of estimation]

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<th>NATO guidelines area</th>
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<th>Global</th>
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<td>Total in peace time</td>
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<td>Tanks</td>
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<td>MCMV</td>
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**Footnotes**

1. **NATO** refers to the North Atlantic Treaty Organization.

2. **WP** refers to the Warsaw Pact, comprising the member states of the Warsaw Pact.

3. **Global** refers to all forces of NATO and Warsaw Pact countries, wherever deployed.

**European-Atlantic waters**

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<tr>
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<th>NATO</th>
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Amphicat Mk 3.
Challenger operations.
M-48A2
M-48A3
Leopard 1A4
M-60A3

between attack and bomber and between fighter and ground attack (FGA = attack) cannot be drawn with certainty. Moreover, training aircraft have been assumed to be M-77 is a Romanian modification of the T-55.

T-62...
T-54/55
T-64...

', 'SANDY SANBORN'S NATURE PLACE
Mr. WIRTH. Mr. President, an understanding of notice, the outdoors, and the balance of man in his environment is one of the hallmarks of the educated person.

And from time to time great educators show up and to them we are all indebted. One of these great educators is Roger "Sandy" Sanborn, founder, director and guru of Sanborn's Western Camps and the Nature Place in Florissant, CO.

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I want to share with my colleagues a fine article on Sandy—a teacher to whom so many of us owe a great debt. The article follows:
Sanborns own If From academic groups to business executives other aspects that make up nature. Ornithologists, geologists and historians give a week-long crash course on the different they finally built a place for adults—called The Nature Place, which started in 1983. As a young man, he began taking a longer view right before World War II. As a young man, he was selling eyeglass frames for American Optical, apprenticing with an older salesman. “One day I went to an oculist convention and this guy had all the frames set out in the room. I thought, ‘Wow, I could do that.’”

“If you’re going to sell something, you have to know what you’re selling,” he says.

As a child, Sanborn says, he was fascinated by the environment. He and his wife Laura started Sanborn Western Camps in 1948. First came the boys camp, called Big Springs. Fourteen years later, came the girls camp, called High Trails. But it wasn’t until eight years ago that they finally built a place for adults—called The Nature Place, which started in 1983. As a young man, he began taking a longer view right before World War II. As a young man, he was selling eyeglass frames for American Optical, apprenticing with an older salesman. “One day I went to an oculist convention and this guy had all the frames set out in the room. I thought, ‘Wow, I could do that.’”

“When you meet youth the world over, wars will cease.”

But World War II interrupted the teaching years. A good skier, he ended up fighting with the 10th Mountain Division in World War II. After the war, he and his wife sat down and decided that their goal was to educate children by exposing them to the outdoors. Their camp slogan would be, “Fun and adventure with a purpose.”

So, in 1946, when the男孩子 got his own land near Canon City, he purchased it and opened The Nature Place with a handful of dollars. “We were kind of hippies 40 years ago, if there was such a thing. We were living in this tent, and it looked like hell,” he says. But he also preaches that everyone is lost scientifically but emotionally. How we fit in, we have to take a longer view.

As the camp grew, the Sanborns retired and moved to Colorado Springs. Sandy Sanborn is a 46,000-acre laboratory, five miles outside Florissant, for studying the natural world. The Sanborns own 6,000 acres and lease the other 40,000 from the government. The Nature Place caters to everyone—from academic groups to business executives to nature aficionados throughout the country.

Sanborn’s goal is to acquaint everyone in the importance of our natural world, how it is all interwoven, and why we all must serve as its guardian. “The whole Earth is built like a business, not like a factory,” he says.

“People need to live in nature. If you love nature, you can’t do anything. If you use up all your capital, you’re going to end up in bankruptcy court,” he says with the broad accent of a New Hampshire native who grew up in Manchester.

“If we are going to sustain our business, we have to value nature.”

Sanborn began taking a longer view right before World War II. As a young man, he

CONGRESSIONAL RECORD—SENATE

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MESSENGES FROM THE PRESIDENTMessages from the President of the United States were communicated to the Senate on February 25, 1988, by Ms. Emery, one of his secretaries.
EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

[The nominations received today are printed at the end of the Senate proceedings.]

REPORT ON UNITED STATES PARTICIPATION IN THE UNITED NATIONS—MESSAGE FROM THE PRESIDENT—PM 112

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

To the Congress of the United States:

I am pleased to transmit herewith a report of the activities of the United States Government in the United Nations and its affiliated agencies during the calendar year 1986, the sixth year of my Administration. The report is required by the United Nations Participation Act (Public Law 264, 79th Congress).

Ronald Reagan.


SUPERCONDUCTIVITY COMPETITIVENESS ACT OF 1988—MESSAGE FROM THE PRESIDENT—PM 113

The Presiding Officer laid before the Senate the following message from the President of the United States, together with accompanying papers; which was referred to the Committee on the Judiciary:

To the Congress of the United States:

I am pleased to transmit today for your immediate consideration and participation the “Superconductivity Competitiveness Act of 1988.” This legislation is needed to help translate superconductivity breakthroughs into leadership in inter­national commerce.

Scientific advances in superconductivity have taken place at a remarkable pace recently. In the estimation of one noted physicist, in the past year we have made 200 years worth of progress. As additional breakthroughs occur, the effect on our standard of living—indeed, our way of life—could be dramatic and unprecedented, in areas as diverse as transportation, energy, health care, computers, and communication.

By funding basic research, the Federal government has played a key role in these scientific breakthroughs. In Fiscal Year 1987, the Federal government spent about $55 million in superconductivity research. In Fiscal Year 1988, the Federal government will spend significantly more—increasing the annual spending to more than $100 million. Ultimately, however, our success in superconductivity will depend on the private sector, which will make the critical decisions on how much capital, time, and effort to invest in commercializing superconductivity.

On July 28, 1987, I announced an 11-point superconductivity initiative designed to help the private sector in its efforts to commercialize superconductivity. This initiative has these three objectives:

To promote greater cooperation among the Federal government, academia, and American industry in the basic and enabling research that is necessary to continue to achieve superconductivity breakthroughs;

To enable the U.S. private sector to convert scientific advances into new and improved products and processes more rapidly; and

To better protect the intellectual property rights of scientists, engineers, and other professionals working in superconductivity.

The Superconductivity Competitiveness Act of 1988 (“the Act”) is a key part of this initiative. It will help ensure our readiness in commercializing recent and anticipated scientific breakthroughs.

Title I of the Act states the title of the legislation.

Title II amends the National Cooperative Research Act (NCRA) to cover joint production ventures. This is a particularly important step toward allowing U.S. firms to become more competitive with firms overseas in moving important research involving superconductivity and other fast-moving high technology areas from the laboratory to the marketplace.

Title II recognizes that unless U.S. firms are encouraged to organize their research and development activities in the most efficient manner possible, they cannot compete effectively with overseas firms. I should stress that the purpose of the NCRA is not to provide firms with immunity for anti-competitive behavior. Our antitrust statutes will continue to protect American consumers and businesses from harmful practices where they occur. This extension of the NCRA should promote innovation and productivity and will permit this country to maintain—or in some instances to regain—its position of world technological leadership.

Title III of the Act increases the protection of the U.S. patent laws for holders of U.S. process patents. Currently, there is no court-ordered remedy for patent infringement when a product made overseas, using a process that is patented in the United States, is imported into the United States. Title III would establish such a remedy and permit U.S. manufacturing patent process holders to sue for injunctive relief and damages.

Relief of this nature is already available to process patent holders for products made in the United States which are patented in the United States. Title III would not extend the territorial application of American law. It would not prevent a foreign manufacturer from using a process overseas that is patented in the United States, as long as items manufactured under that process are not exported to the United States.

Title IV of the Act would provide protection for certain commercially valuable scientific and technical information generated in Federal government-owned and -operated laboratories. In particularly, Title IV recognizes that commercially valuable scientific and technological information generated in Federal facilities loses potential commercial value when it is released wholesale under the Freedom of Information Act (FOIA). In addition, mandatory disclosure of such information under FOIA could encourage U.S. competitors to exploit the knowledge, while denying it to U.S. firms.

This legislation is intended to end the U.S. tradition of sharing the benefits of our excellence in science and technology; it merely provides that the Freedom of Information Act may not always be the appropriate or best avenue for doing so.

I should note that my Administration is currently developing a uniform policy to permit Federal contractors to own the rights to technical information that they develop for the government. This is intended to provide these contractors with proprietary rights equal to those of other firms that submit technical information to the government that was developed at private expense. Because our policy in this area is still under development, Title IV has been drafted to apply only to Federal government-generated, government-owned scientific and technical information.

Title V specifies the effective date of the Act.

There is a growing realization that, although the United States has long been a leader in breakthroughs in the laboratory, it has occasionally failed to convert these breakthroughs into commercial applications. This Act, in conjunction with the other components of our superconductivity initiative, can and will speed the process of commercialization. There is no time to waste in this effort. I urge the Congress to
ANNUAL REPORT OF THE U.S. ARMS CONTROL AND DISARMAMENT AGENCY—MESSAGE FROM THE PRESIDENT—PM 114

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

To the Senate of the United States:

I am pleased to transmit the 1987 Report of the United States Arms Control and Disarmament Agency. It reviews the negotiation process used in achieving the INF Treaty and contains a copy of the Treaty itself. That Treaty, signed by George Bush and me on December 8, 1987, is the first treaty of the nuclear disarmament era requiring the elimination of an entire category of U.S. and Soviet nuclear weapons.

The report provides information about the ongoing negotiations for a 50-percent reduction to equal levels in U.S. and Soviet strategic nuclear offensive arms, an effective and verifiable ban on chemical weapons, and the correction of disparities in conventional forces. Also described are the ancillary activities of the Arms Control and Disarmament Agency in support of our arms control policies and, concomitantly, the security of the United States.

The INF Treaty constitutes a breakthrough in verification, the most far-reaching in the history of arms control, and should serve as a guide for other treaties to come. The political and economic advantages of carefully negotiated and effectively verifiable arms reductions hold great promise of peace, security, and continued prosperity for our country. The 1987 record of progress toward those goals is contained in this 27th ADCA Report.

R. W. Clement Stone, of Chicago, IL; Mr. George Bush, of Washington, DC; and Mr. John G. Layne, of Fairfax Station, VA; Mr. McMillian, of Washington, DC; and Mr. Murriel F. Price, of Fairfax, VA; vice chairman; Mr. Gibbons; Mr. Rangel; Mr. Miller of California; Mr. Gejdenson; Mr. Coleman of Texas; Mr. Lagomarsino; Mr. Dreier of California; Mr. Delay; Mr. Gilman; and Mr. Goodling.

The message also announced that pursuant to the provisions of section 276(h) of title 22 of the United States Code, the Speaker appoints as members of the United States delegation of the Mexico-United States Intergovernmental Group for the second session of the 100th Congress, the following Members on the part of the House: Mr. de la Garza, chairman; Mr. Gatling, vice chairman; Mr. Gibbons; Mr. Rangel; Mr. Miller of California; Mr. Gejdenson; Mr. Coleman of Texas; Mr. Lagomarsino; Mr. Dreier of California; Mr. Delay; Mr. Gilman; and Mr. Goodling.

The message further announced that pursuant to Public Law 96-114, as amended by Public Law 98-33 and Public Law 99-161, the majority leader appoints the following individuals from the private sector as members of the Congressional Award Board on the part of the House: Mr. George R. Layne, of Fairfax Station, VA; Mr. Santee C. Riffin, of Reston, VA; and Mr. Murriel F. Price, of Fairfax, VA, vice Mrs. Roberta Van De Voorde, of Kansas City, MO; Mr. John G. McMillian, of Washington, DC; and Mr. W. Clement Stone, of Chicago, IL; resigned.

To the Congress of the United States:

I am forwarding today for your immediate consideration and prompt passage a legislative proposal entitled the "Truth in Federal Spending Act of 1988." On November 20 of last year, I agreed with congressional leaders on a package designed to reduce the Federal deficit. That Bipartisan Budget Agreement between the President and the joint leadership of the Congress reflects a strong consensus that Federal spending must be brought under control.

Continued spending growth, particularly where wasteful or unnecessary, adds to the all legislation that would absorb resources that would otherwise be employed more fruitfully in the private sector of the economy. The Bipartisan Budget Agreement represents an important step in reducing spending growth. But protecting the Federal budget from special interest, budget-busting legislation requires a continued, ongoing commitment.

On July 3 of last year, when I outlined our Economic Bill of Rights, I described a proposal for the legislation that I am forwarding to the Congress today. It is designed to discourage wasteful Federal spending by requiring both the Legislative and Executive branches of government to be fully accountable for their respective actions. Key provisions of this draft bill would: require that all legislation that would result in increased Federal spending is deficit-neutral by requiring the concurrent enactment of equal amounts of program reductions or revenue increases; require that all legislation include a "financial impact statement" detailing the measure's likely economic effects upon the private sector and State and local governments; require that all regulations and proposed regulations promulgated by executive branch agencies also be accompanied by financial impact statements; and permit waiver of the requirements of the act during time of war or during a national security emergency.

In making this important proposal, one point deserves special emphasis. In complying with the deficit neutrality requirements of the Truth in Federal Spending Act of 1988, some may be tempted simply to shift spending requirements, either expressly or implicitly, from the Federal government to State and local governments. This is not, however, and should not be interpreted as being the intent of this initiative. Instead, through enactment of this landmark legislation, we seek to achieve an historic breakthrough: to make the Federal Government—both the Legislative and Executive branches—fully accountable for its actions and the effects of those actions on all the citizens of our Nation and, in so doing, get its fiscal house in order.

The committee's report, which was referred to the Senate Finance Committee and the Senate Budget Committee, was well-received. The committee's report, which was referred to the Senate Finance Committee and the Senate Budget Committee, was well-received. The committee's report, which was referred to the Senate Finance Committee and the Senate Budget Committee, was well-received.

R. W. Clement Stone, of Chicago, IL; Mr. George Bush, of Washington, DC; and Mr. John G. McMillian, of Washington, DC; and Mr. W. Clement Stone, of Chicago, IL; resigned.

MESSAGES FROM THE HOUSE

At 3:37 p.m., on February 23, 1988, a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills:


The message also announced that pursuant to the provisions of section 276(h) of title 22 of the United States Code, the Speaker appoints as members of the United States delegation of the Mexico-United States Intergovernmental Group for the second session of the 100th Congress, the following Members on the part of the House: Mr. de la Garza, chairman; Mr. Gatling, vice chairman; Mr. Gibbons; Mr. Rangel; Mr. Miller of California; Mr. Gejdenson; Mr. Coleman of Texas; Mr. Lagomarsino; Mr. Dreier of California; Mr. Delay; Mr. Gilman; and Mr. Goodling.

The message further announced that pursuant to Public Law 96-114, as amended by Public Law 98-33 and Public Law 99-161, the majority leader appoints the following individuals from the private sector as members of the Congressional Award Board on the part of the House: Mr. George R. Layne, of Fairfax Station, VA; Mr. Santee C. Riffin, of Reston, VA; and Mr. Murriel F. Price, of Fairfax, VA, vice Mrs. Roberta Van De Voorde, of Kansas City, MO; Mr. John G. McMillian, of Washington, DC; and Mr. W. Clement Stone, of Chicago, IL; resigned.

RANDEL.
At 2:45 p.m., on February 25, 1988, a message from the House of Representatives, delivered by Mr. Hays, one of its dispensers of the message, announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 246. A concurrent resolution condemning the bombing by North Korean agents of Korean Air Lines flight 858; and

H. Con. Res. 250. A concurrent resolution expressing confidence that the people of El Salvador will reject efforts to disrupt the election to be held in that country on March 20, 1988, and will avail themselves of the opportunity to vote in that election.

MEASURES REFERRED
The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 246: To the Committee on Foreign Relations.

H. Con. Res. 250: To the Committee on Foreign Relations.

MEASURES PLACED ON THE CALENDAR
The following bill was read the first time and ordered to a select committee to be reported back by unanimous consent, and placed on the calendar:

H.R. 3980. An act to make technical corrections to the agricultural credit laws.

REPORTS OF COMMITTEES
The following reports of committees were submitted on February 24, 1988:

By Mr. BYRD (for Mr. BIDEN), from the Committee on the Judiciary, with an amendment and an amendment to the title and with a preamble:

S.J. Res. 59: A joint resolution to designate the month of May 1987 as "National Postpartum Depression Month." 

S.J. Res. 147: A joint resolution designating the week beginning on the third Sunday of September in 1987 and 1988 as "National Adult Day Care Center Week."

By Mr. BYRD (for Mr. BIDEN), from the Committee on the Judiciary, without amendment and with a preamble:

S.J. Res. 199: A joint resolution to designate the month of May, 1988, as "Trauma Awareness Month."

S.J. Res. 212: A joint resolution to designate the period commencing May 8, 1988, and ending on May 14, 1988, as "National Tuberous Sclerosis Awareness Week."

S.J. Res. 227: A joint resolution to express gratitude for law enforcement personnel.

S.J. Res. 229: A joint resolution to designate the day of April 1, 1988, as "Run to Daylight Day."

S.J. Res. 234: A joint resolution designating the week of April 17, 1988, as "Crime Victims Week."

S.J. Res. 237: A joint resolution to designate May 1988, as "Neurofibromatosis Awareness Month."

S.J. Res. 240: A joint resolution to designate the period commencing on May 18, 1988 and ending on May 22, 1988, as "National Safe Kids Week."

S.J. Res. 247: A joint resolution to designate the month of April, 1988, as "National Know Your Cholesterol Month."

By Mr. BYRD (for Mr. BIDEN), from the Committee on the Judiciary, without amendment:

S.J. Res. 249: A joint resolution designating June 14, 1988 "Battle Freedom Day."

S.J. Res. 250: A joint resolution designating the week of May 8, 1988, through May 14, 1988, as "National Osteoporosis Prevention Week of 1988."

By Mr. BYRD (for Mr. BIDEN), from the Committee on the Judiciary, with amendment and with a preamble:

S.J. Res. 251: A joint resolution designating March 4, 1988, as "Department of Commerce Day."

S.J. Res. 252: A joint resolution designating June 5-11, 1988, as "National NHIS Neighbor Works Week."

By Mr. BYRD (for Mr. BIDEN), from the Committee on the Judiciary, with an amendment and an amendment to the title and with a preamble:

S.J. Res. 254: A joint resolution to designate the period commencing on May 15, 1988, and ending on May 21, 1988, as "National Health Awareness Week."

By Mr. BYRD (for Mr. BIDEN), from the Committee on the Judiciary, without amendment:

S.J. Res. 255: A joint resolution to authorize and request the President to issue a proclamation designating April 24 through April 30, 1988 as "National Organ and Tissue Donor Awareness Week."

S.J. Res. 257: A joint resolution to authorize and request the President to issue a proclamation designating March 21, 1988, as "AFGHANISTAN Day. a day to commemorate the struggle of the people of Afghanistan against the occupation of their country by Soviet forces."

S.J. Res. 260: A joint resolution to designate the week beginning April 10, 1988, as "National Child Care Awareness Week."

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

S. 2097: An original bill to provide for a viable domestic uranium industry, to enable the corporation to manage the Nation's uranium enrichment enterprise, operating as a continuing, commercial enterprise on a profitable and efficient basis, and for other purposes.

Mr. JOHNSTON. Mr. President, today I am reporting a clean bill from the Committee on Energy and Natural Resources. This bill, the Uranium Revitalization, Tailings Reclamation and Enrichment Act, is substantially the same bill I introduced in S. 846, the comprehensive uranium legislation reported out of the Energy Committee on October 1, 1987. There are two important differences between this bill and S. 846.

First, the new bill lacks the system of liens for the use of foreign uranium above a certain percentage that was contained in S. 846. Second, this bill does not address the status of the United States Enrichment Corporation (USEC) with respect to Federal taxation.

This is not to indicate that these issues are unimportant. Unfortunately, however, the Finance Committee has objected to the consideration of S. 846, and has asked for referral of certain sections of that legislation to their committee. They believe that section 1602, which provides that the USEC be exempt from Federal income taxation, and section 113, which imposes a fee on the use of foreign uranium above a certain percentage, contain matters within the jurisdiction of the Finance Committee.

We have removed these provisions from our bill in order to expedite consideration of this important legislation on the Senate floor. We have not forgotten them.

In fact, Mr. President, I would like to submit an amendment for myself, Mr. McClure, Mr. FORD, Mr. DOMENICI, Mr. BINGAMAN, and Mr. WALLOP that contains the language that has been deleted from S. 846.

Mr. President, there will be no report filed on the new uranium legislation. The committee intends that the language contained in Senate Report 100-214 apply to both the new uranium bill, as well as to the amendment we are currently introducing to that new bill.

Mr. President, in addition, I would like to submit for myself and Mr. McClure, an amendment to the bill reported today that had been previously introduced as amendment 1375 to S. 1846. This amendment alleviates the concerns of the Senate Budget Committee regarding the budgetary status of the USEC.

Also, I understand that Senator FORD will be submitting an amendment to the uranium bill reported today that he had introduced as amendment 1383 to S. 1846. His amendment acknowledges an agreement between the Department of Energy and the Tennessee Valley Authority regarding contractual liabilit-
February 23, 1988

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ities for power not taken and other areas.
I hope that we can now clear the way for prompt floor consideration of the uranium mining, reclamation and enrichment acts as possible. I ask consent that the uranium bill introduced today be printed together in today's Record.

(The text of the amendments submitted to the legislation is printed in today's RECORD under "Amendments Submitted".)

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2097

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Uranium Revitalization, Tailings Reclamation and Enrichment Act of 1987".

FINDINGS AND PURPOSE

Sec. 2. (a) FINDINGS.—The Congress finds for purposes of titles I and II of this Act that:

(1) the United States uranium industry has long been recognized as vital to United States energy independence and as essential to United States national security, but has suffered a drastic economic setback, including a 90 per cent reduction in employment, closure of almost all mills, more than 55 per cent drop in production, closure of many mines, and a permanent loss of uranium reserves;

(2) during the remainder of this century approximately 20 per cent of United States electricity is expected to be produced from uranium fueled powerplants owned by domestic electric utilities;

(3) the United States has been the leading uranium producing nation and holds extensive proven reserves of natural uranium that offer the potential for secure sources of future supply;

(4) a variety of economic factors, policies of foreign governments, foreign export practices, new Federal regulatory requirements, and cancellation of nuclear powerplants have caused most United States producers to withdraw from production over the past five years and have resulted in the domestic uranium industry being found "not viable" by the Secretary of Energy under provisions of the Atomic Energy Act of 1954, as amended;

(5) re-establishing a viable domestic uranium industry is essential to:

(A) preclude an undue threat from foreign supply disruptions that could hinder the Nation's common defense and security;

(B) assure an adequate long-term supply of domestic uranium for the Nation's common defense and security and the Nation's nuclear power program;

(C) re-establish a viable domestic uranium industry; and

(3) establish, facilitate, and expedite a comprehensive, systematic approach to remedial reclamation and other remedial action at active uranium and thorium processing sites.

DEFINITIONS

Sec. 3. For purposes of titles I and II of this Act—

(1) the terms "active uranium or thorium processing site" and "active site" mean—

(A) any uranium or thorium processing site, including the mill, containing by-product material for which a license (issued by the Nuclear Regulatory Commission or its predecessors) is required under the Atomic Energy Act of 1954, as amended, or by a State as permitted under section 274 of such Act (42 U.S.C. 2121) for the production at such site of any uranium or thorium derived from ore—

(i) was in effect on January 1, 1978;

(ii) was issued or renewed after January 1, 1978;

(iii) for which an application for renewal or issuance was pending on, or after, January 1, 1978;

(iv) any other real property or improvement on such real property that—

(A) is in the vicinity of such site; and

(B) is determined by the Secretary to be contaminated with residual by-product material.

(2) the term "Administrator" means the Administrator of the Environmental Protection Agency;

(3) the term "by-product material" has the meaning given such term in section 114(e)(2) of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2140(e)(2));

(4) the term "civilian nuclear power reactor" means any civilian nuclear power plant required to be licensed under section 103 or section 104 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2133);

(5) the term "Commission" means the Nuclear Regulatory Commission;

(6) the term "Department" means the Department of Energy;

(7) the term "overfeeding" means the use of natural uranium from stockpiles or inventories to produce enriched uranium when—

(A) an enrichment services customer supplies less natural uranium than the amount actually used to produce its enriched uranium requirements; and

(B) for purposes of achieving efficient operation of enrichment facilities, natural uranium from stockpiles or inventories is used to satisfy the shortfall in natural uranium supplied by such customer;

(8) the term "pre-production of enriched uranium" means the ginning of a given point in time of natural uranium from existing stockpiles or inventories to produce enriched uranium, and includes any action required to satisfy then current obligations to provide enrichment services;

(9) the term "reclamation, decommissioning, and other remedial action" includes short-, long- and short-term monitoring, except for the purpose of determining the date when reclamation, decommissioning, and other remedial action is complete for the purpose of making refunds under section 215. Such term shall include mill decommissioning only if the owner or licensee of an active site elects to make the contribution provided for in section 213(b)(1)(C);

(10) the term "Secretary" means the Secretary of Energy;

(11) the terms "source material" and "special nuclear material" have the meanings given such terms in section 11 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2014); and

(12) the term "tailings" means the wastes produced by the extraction of uranium or thorium from mined ore and reprocessed primarily for its source material content.

TITLE I—URANIUM REVITALIZATION

Sec. 110. GOVERNMENT URANIUM PURCHASES.—(1) After the date of enactment of this title, the United States of America, its agencies and instrumentalities, shall not enter into contracts or orders for the purchase of uranium other than for domestic uranium. Provided, That this section shall not affect purchases under a contract for delivery of a fixed amount of uranium entered before the date of enactment of this Act, or options exercised for fixed amounts prior to the date of enactment of this Act.

The use of natural uranium contained in stockpiles or inventories owned by the United States, including its agencies and instrumentalities, shall be restricted to military purposes and Government research and to overfeeding and pre-production of enriched uranium by the United States Enrichment Corporation. The amount of natural uranium equivalent of enriched uranium contained in stockpiles or inventories owned by the United States, including its agencies and instrumentalities, as of the date of enactment of this title shall, to the extent practicable, be reduced to the extent that the United States, including its agencies and instrumentalities, discontinue the use of enriched uranium or decrease the amount of enriched uranium.

(b) Subsection (a) shall not apply to the Tennessee Valley Authority.

TITLE II—TAILINGS RECLAMATION

REMEDIAL ACTION TO BE PERFORMED IN ACCORDANCE WITH APPLICABLE STANDARDS.—Any reclamation, decommissioning, or other remedial action shall be performed in accordance with applicable standards which shall be as appropriate, requirements established by a State that is a party to a discon-
(c) Costs of Remedial Action To Be Paid From the Fund—The costs incurred by the owner or licensee for reclamation, decommissioning and other remedial action, performed by the owner or licensee under this title shall be reimbursed under sections 214, 215, and 216 from the Uranium Mill Tailings Fund established in section 211.

(d) The following active site shall qualify for reimbursement from the Uranium Mill Tailings Fund in accordance with the terms of this title:

<table>
<thead>
<tr>
<th>Site</th>
<th>Estimated tons of mill tailings</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cotter—Cannon City, CO.</td>
<td>2,200,000</td>
</tr>
<tr>
<td>UMETCO—Uranvan Mill, Uranvan, CO.</td>
<td>10,300,000</td>
</tr>
<tr>
<td>Snoha Western—L-Bar Mill, Seboyeta, NM</td>
<td>2,100,000</td>
</tr>
<tr>
<td>United Nuclear—Churchrock Mill, Churchrock, NM</td>
<td>3,500,000</td>
</tr>
<tr>
<td>Anaconda—Bluewater Mill, Grants, NM</td>
<td>23,600,000</td>
</tr>
<tr>
<td>Quivera Mining—Silver矿山 Lake Mill, Grants, NM</td>
<td>9,100,000</td>
</tr>
<tr>
<td>Homestead—Grants, NM</td>
<td>33,000,000</td>
</tr>
<tr>
<td>Conoco—Pioneer Nuclear, Conquinta Project, Pineny City, TX</td>
<td>21,800,000</td>
</tr>
<tr>
<td>Chevron Resources—Pampa Maria Mill, Hobson, WY</td>
<td>4,600,000</td>
</tr>
<tr>
<td>Exxon—Felder Facility, Three Rivers, TX</td>
<td>400,000</td>
</tr>
<tr>
<td>Rio Algom—Lisbon Mill, Moab, UT</td>
<td>3,000,000</td>
</tr>
<tr>
<td>Atlas—Moab Mill, Moab, UT</td>
<td>10,500,000</td>
</tr>
<tr>
<td>Dawn—Pord Mill, Ford, WY</td>
<td>3,000,000</td>
</tr>
<tr>
<td>Western Nuclear—Sherwood Mill, Wellpinit, WA</td>
<td>2,900,000</td>
</tr>
<tr>
<td>American Nuclear—Gas Hills Mill, Riverton, WY</td>
<td>9,500,000</td>
</tr>
<tr>
<td>Pathfinder—Lucky Mc Mill, Riverton, WY</td>
<td>9,500,000</td>
</tr>
<tr>
<td>Western Nuclear—Silt River Mill, Jeffrey City, WY</td>
<td>7,700,000</td>
</tr>
<tr>
<td>UMETCO—East Gas Hills Mill, Riverton, WY</td>
<td>9,200,000</td>
</tr>
<tr>
<td>Exxon—Highland Mill, Douglas, WY</td>
<td>7,200,000</td>
</tr>
<tr>
<td>Rocky Mountain Energy—Bear Creek Mill, Douglas, WY</td>
<td>5,000,000</td>
</tr>
<tr>
<td>Paladin—Shirley Basin Mill, Shirley Basin, WY</td>
<td>5,800,000</td>
</tr>
<tr>
<td>Petrotronics—Shirley Basin Mill, Shirley Basin, WY</td>
<td>6,300,000</td>
</tr>
<tr>
<td>Energy Fuels/UMETCO—Window Mesa Mill, Blanding, UT</td>
<td>1,900,000</td>
</tr>
<tr>
<td>Minerals Exploration—Red Desert, Rawlins, WY</td>
<td>1,000,000</td>
</tr>
<tr>
<td>UMETCO—Maybell, Maybell, CO</td>
<td>2,000,000</td>
</tr>
<tr>
<td>Tennessee Uranium Authority—Edgemont, SD</td>
<td>2,000,000</td>
</tr>
</tbody>
</table>

(2) Within one hundred and eighty days of the date of the enactment of this title, the Secretary shall determine the actual amounts of mill tailings at each of the active site as listed in paragraph (1) on the date of the enactment of this title, and the dry tons of tailings at each active site listed in paragraph (1) as determined in accordance with the terms of this title for an active site not listed in paragraph (1) or for reclamation, decommissioning and other remedial action of mill tailings at a listed active site in excess of the actual amount of tailings determined by the Secretary under this paragraph to exist on the date of the enactment of this title.

URANIUM MILL TAILINGS FUND

SEC. 211. (a) ESTABLISHMENT OF URANIUM MILL TAILINGS FUND.—There hereby is established in the Treasury of the United States a separate fund, to be known as the Uranium Mill Tailings Fund (hereinafter referred to as the "Fund"). The Fund shall consist of—

1. All contributions made to the Fund by or on behalf of the Federal Government as provided in section 212(c);
2. All contributions made to the Fund by owners or licensees of active sites as provided in section 212(b);
3. All contributions made to the Fund by owners or licensees of active sites, whose owner or licensee has elected to participate in reclamation, decommissioning and other remedial action to be undertaken pursuant to this title, as provided in section 212(d); and
4. All fees received from owners or operators of civilian nuclear reactors as provided in section 212(d).

(b) USE OF FUND.—The Secretary may, subject to subsection (c), make expenditures from the Fund only for purposes of compliance with this title.

(c) ADMINISTRATION OF THE FUND.—(1) The Secretary of the Treasury, after consultation with the Secretary, shall annually submit to the Congress a report on the financial condition and operation of the Fund during the preceding fiscal year.

(2) The Secretary shall submit the budget of the Fund, the Office of Management and Budget annually along with the budget of the Department in accordance with section 211(d) of title 31, United States Code. The budget of the Fund shall consist of the estimates made by the Secretary of receipts by and expenditures from the Fund and other relevant financial matters for the succeeding three fiscal years, and shall be included in the Budget of the United States Government.

(3) If the Secretary determines that the Fund contains at any time amounts in excess of current needs, the Secretary shall request the Treasury to make disbursements of such amounts as the Secretary determines to be appropriate, in obligations of the United States—

(A) having maturities determined by the Secretary of the Treasury to be appropriate to the needs of the Fund; and

(B) bearing interest at rates determined to be appropriate by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the maturities of such investments, except that the interest rate on such investments shall not exceed the average interest rate applicable to existing borrowings.

(4) Receipts, proceeds, and recoveries realized by the Secretary from the sale or lease of the Fund's assets shall be credited to the Fund.

(5) The Secretary may make disbursements from the Fund in amounts provided by this title in advance to pay amounts that shall be made available until expended.

CONTRIBUTIONS TO THE FUND

SEC. 212. (a) CONTRIBUTIONS BY OWNERS OR LICENSEES.—(1) Each owner containing an active site or sites may contribute from non-Federal funds to the Treasury of the United States to be deposited in the Fund the sum of $0.10 for each dry ton of tailings, the uranium from which was processed for commercial sales as established in accordance with section 210(d) at an active site listed in section 210(d)(1) within such State whose owner or licensee has elected to participate in reclamation, decommissioning and other remedial action to be undertaken pursuant to this title.

(2) Such payment shall be made in five equal annual installments commencing January 1, 1990.

(B) CONTRIBUTIONS BY OWNERS OR LICENSEES.—(1) Each owner or licensee of an active site listed in section 210(d)(1) who elects to participate in reclamation, decommissioning and other remedial action shall, in accordance with section 210(d)(1), contribute an additional amount as the Secretary shall determine to be appropriate, in obligations of the United States to the Treasury of the United States, to be deposited in the Fund.

(1) $2,000,000 per site as to which it is the owner or licensee of:

(i) $1,000,000 shall be contributed on or before January 31, 1990; and

(ii) $1,000,000 shall be contributed on or before January 31, 1991.

(2) $1 per dry ton for all tons of tailings at such active site, the uranium from which was processed for commercial sales prior to the effective date of the Act of which—

(i) $0.50 per dry ton for all tons of tailings at such active site, the uranium from which was processed for commercial sales prior to the effective date of the Act of which—

(ii) $0.50 per dry ton for all tons of tailings at such active site, the uranium from which was processed for commercial sales prior to the effective date of the Act of which—

(C) each owner or licensee of an active site listed in section 210(d)(1) who elects to decommission the mill at such site as a part of the reclamation, decommissioning and other remedial action to be undertaken pursuant to the Fund shall contribute an additional $500,000 on or before January 31, 1994.

EXPIRATION OF THE FEDERAL GOVERNMENT.—(1) There is authorized to be appropriated to the Fund,
$300,000,000, to remain available until expended.

(2) Funds to be paid into miscellaneous receipts of the Atomic Energy Act of 1954, as amended, shall not be available for the fiscal year 1987, or any fiscal year thereafter, unless appropriated. Funds to be paid into the Fund under this subsection shall not be available for any fiscal year if those funds shall have been utilized to reimburse an amount equal to the sum of contributions made by the owner or licensee of such active site plus interest earned thereon, such owner or licensee shall be deemed to have earned thereon, when considered with the $4.50 per dry ton limit on reimbursement, the excess cost incurred by the owner or operator of such active site, plus interest earned thereon, is less than one-third of the cost of reclamation, decommissioning, and other remedial action at such site, then the amount by which one-third of the cost of reclamation, decommissioning, and other remedial action at such site exceeds the amount of contributions made by the owner or licensee of such active site plus interest earned thereon, shall be borne by the owner or licensee thereof.

(4) From the contributions made by licensees of civilian nuclear power reactors as provided in section 212(d) and interest earned thereon, the owner or licensee of such active site shall be reimbursed the amount by which the cost of reclamation, decommissioning, and other remedial action at such active site exceeds the sum of—

(A) the amounts reimbursed to the owner or licensee of such active site as provided in paragraph (1), paragraph (2), paragraph (3); and

(B) the amounts to be borne by the owner or licensee of such active site as provided in subparagraph (3)(B).

(5) Notwithstanding paragraphs (1) through (4), the owner or licensee of an active site shall also bear, and not be reimbursed for, any amount by which the cost of reclamation, decommissioning and other remedial action at such site exceeds a sum equal to $4.50 multiplied by the dry tons of tailings at such site as determined in section 210(d)(1).

(6) The successor to the owner or licensee of an active site (other than the United States or agency thereof or a State as provided by law) shall be entitled to credit for contributions made by its predecessor and interest earned thereon and be entitled to receive any reimbursements or refunds.

(b) In General.—The Secretary shall refund the excess contributions annually after January 31, 1996, whether an excess as calculated pursuant to subsection (d) has been or has not been refunded, and each January 31 thereafter, the Secretary determines that the Fund contains an excess as calculated in subsection (d). Provided, however, That no amounts contributed to the Fund by the participating owners or licensees of the active sites and interest deemed earned thereon shall be refunded to any person or entity other than the owner or licensee making such contribution, or their successors or assignees.

(c) CONGRESSIONAL RECORD—SENATE

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ELECTION TO PARTICIPATE

SEC. 213. OWNER OR LICENSEE ELECTION TO PARTICIPATE.—The owner or licensee of an active site listed in section 210(d)(1) may elect to perform reclamation, decommissioning and other remedial action at the Fund and be entitled to receive reimbursement as provided in this title. Provided, however, That no amounts contributed to the Fund by the participating owners or licensees of the active sites and interest deemed earned thereon shall be refunded to any person or entity other than the owner or licensee making such contribution, or their successors or assignees.

(d) CONTRIBUTIONS BY LICENSEES OF CIVILIAN NUCLEAR POWER REACTORS.—(1) Licensees for civilian nuclear power reactors shall not be required to contribute into the Fund a fee of $22 per kilogram of uranium contained in fuel assemblies initially loaded into each civilian nuclear power reactor during each of the calendar years 1989 through 1993.

(2) The fee shall apply to fuel on its initial loading into the reactor and not to previously loaded fuel being loaded again. In calculating the total annual obligation by a licensee, fuel loaded in loadings during refueling outages that begin in a calendar year and are completed in the subsequent year may be deemed to have occurred in either year.

(3) The fee from each user so affected will be due on January 31 the following year with the first such payment due on January 31, 1989.

(4) The contribution for the years 1989 through 1993 shall constitute the total obligation of licensees of civilian nuclear power reactors for uranium tailings reclamation, except to the extent that a user may be the owner or licensee of a uranium mill or as provided by contract executed prior to the effective date of this Act.

(5) Not later than one hundred and eighty days after the date of enactment of this Act the Secretary shall establish an account in the Treasury to receive and disburse the collection and payment of the fees established by this title.

ELECTION TO PARTICIPATE

SEC. 213. OWNER OR LICENSEE ELECTION TO PARTICIPATE.—The owner or licensee of an active site listed in section 210(d)(1) may elect to perform reclamation, decommissioning and other remedial action at the Fund and be entitled to receive reimbursement as provided in this title. Provided, however, That no amounts contributed to the Fund by the participating owners or licensees of the active sites and interest deemed earned thereon shall be refunded to any person or entity other than the owner or licensee making such contribution, or their successors or assignees.

REIMBURSEMENT OF COSTS INCURRED FOR RECLAMATION, DECOMMISSIONING AND OTHER REMEDIAL ACTION

SEC. 214. (a) IN GENERAL.—The Secretary shall reimburse the Fund from the owner or licensee of an active site listed in section 210(d)(1) who has elected to participate as provided in section 213, the costs incurred by such owner or licensee for the reclamation, decommissioning, and other remedial actions in connection with such site as follows:

(1) From the contributions made on behalf of the Federal Government as provided in section 212(c), such owner or licensee shall be reimbursed an amount equal to the cost of reclamation, decommissioning, and other remedial action at such site multiplied by the percentage which the dry tons of tailings at such site, the uranium from which was processed for sales to the United States or agency thereof or a State as provided by law, shall be entitled to credit for contributions made by its predecessor and interest earned thereon and be entitled to receive any reimbursements or refunds.

(b) IN GENERAL.—The Secretary shall reimburse an amount equal to the cost of reclamation, decommissioning, and other remedial action at such site, the uranium from which was processed for sales to the United States or agency thereof or a State as provided by law, shall be entitled to credit for contributions made by its predecessor and interest earned thereon and be entitled to receive any reimbursements or refunds.

(c) ACCOUNTS FOR OTHER CONTRIBUTIONS TO THE FUND.—The Secretary shall establish and maintain accounts for each such person or entity making contributions to the Fund, reflecting the effective date of the Act (such two-thirds being determined as provided in section 212(a)), and from interest deemed earned upon such contributions.

(d) REFUNDS TO CERTAIN PERSONS.—The Secretary shall maintain accounts for each such person or entity making contributions to the Fund, reflecting the effective date of the Act (such two-thirds being determined as provided in section 212(a)), and from interest deemed earned upon such contributions.
or licensees of active sites shall be deemed to bear interest during any such year only to the extent that the contributions made by or on behalf of such active sites exceed the costs reimbursed out of the Fund to such owner or licensee up to that time.

LIMITATION OF REIMBURSEMENT

SEC. 215. (a) $4.50 PER TON LIMIT.—The total reimbursement from the Fund to the owner or licensee of an active site shall not exceed an amount equal to $4.50 multiplied by the dry tons of tailings generated by such site after the date of the enactment of this title.

(b) DRY TONS OF TAILINGS GENERATED.—The $4.50 per dry ton multiplier provided in subsection (a) shall be increased annually based upon an inflation escalation index. The Secretary shall determine the appropriate index to apply.

TAILINGS GENERATED AFTER THE DATE OF THE ENACTMENT OF THE TITLE

SEC. 216. (a) IN GENERAL.—An owner or licensee of an active site who has elected to participate pursuant to section 213 shall be entitled to reimbursement from the Fund, to be calculated in accordance with the cost incurred for the reclamation, decommissioning and other remedial action in connection with such site as measured on the basis of the effective date of this Act, as determined in accordance with the requirements of section 210(d)(2), in excess of $4.50 per ton shall be borne by the owner or licensee of the active site on its own account outside the Fund.

(b) DRY TONS OF TAILINGS GENERATED.—The amount of such costs incurred shall be determined by the Secretary as if the work was done after the date of the enactment of this title.

(c) REIMBURSEMENT.—The amount of such costs incurred shall be reimbursed from the Fund to the owner or licensee of an active site from the Fund.

INTEREST ON COSTS INCURRED

SEC. 219. IN GENERAL.—Reimbursement from the Fund for costs incurred shall include interest at the rate provided in section 210(d) on the participation of the owner or licensee of an active site from the date a statement for reimbursement of such cost is submitted by the owner or licensee to the Secretary until reimbursement for such cost is made from the Fund.

LIMITATION OF FINANCIAL OBLIGATIONS

SEC. 220. LIMITATION ON FINANCIAL OBLIGATIONS OF ACTIVE SITE OWNERS AND LICENSEES USING SOURCE MATERIAL OR SPECIAL NUCLEAR MATERIAL FOR A CIVILIAN NUCLEAR POWER REACTOR TO GENERATE ELECTRICAL ENERGY.—The contributions made and work performed by the owner or licensees of the active sites and the contributions made and fines paid by persons using source material or special nuclear material for a civilian nuclear power reactor to generate electrical energy shall be the sole liability and obligation imposed upon Federal agencies in connection with the reclamation, decommissioning and other remedial action at active uranium and thorium sites:

(1) Provided, however, that nothing herein contained shall affect the obligation of every owner or licensee to provide for such long-term care or other reclamation requirements with respect to the Uranium Mill Tailings Radiation Control Act of 1978, the regulations of the Commission thereunder, and the regulations of the Environmental Protection Agency thereunder.

(2) Reclamations already undertaken

SEC. 221. IN GENERAL.—The owner or licensee of a participating active site who has undertaken reclamation, decommissioning and other remedial action at such site prior to the date of the enactment of this title shall be entitled to reimbursement for the cost thereof as if the work was done after such date if such work, including disposals of solid waste, was accomplished in order to comply with the standards under section 210(b).

The timing of such reimbursement shall be subject to the management of the Fund as specified in section 218. An owner or licensee of an active site which has elected to participate in the Fund and has performed reclamation work prior to the date of the enactment of this title may have any sums to which it is entitled to be reimbursed credited against any amounts needed to contribute. The Commission shall determine whether work performed at a site prior to such date was accomplished in order to comply with the standards under section 210(b) and advise the Secretary accordingly.

SECRETARY’S AUTHORITY TO MAKE REGULATIONS AND REIMBURSEMENTS

SEC. 222. IN GENERAL.—The Secretary shall adopt and issue regulations to accomplish the purposes of this title and shall review statements by participating owners or licensees for reimbursement from the Fund of costs incurred for reclamation, decommissioning and other remedial actions. Any such statement for reimbursement found appropriate shall be approved by the Secretary and reimbursement therefore shall be made from the Fund.

ATOMIC ENERGY ACT OF 1954

SEC. 223. STANDARDS AND INSTRUCTIONS FOR BONDING, SURITY, OR OTHER FINANCIAL ARRANGEMENTS, INCLUDING PERFORMANCE BONDS.—Section 161 x. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2201 x.) is amended by inserting after the word “ensures” in the matter preceding paragraph (1) a comma and the following: “for the share of costs for which the licensee is responsible”.

TITLE III—UNITED STATES ENRICHMENT CORPORATION

SEC. 230. REDIRECTION OF THE URANIUM ENRICHMENT CORPORATION.—The Atomic Energy Act of 1954, as amended (42 U.S.C. section 2111-2296) is further amended by inserting at the commencement thereof after the words “ATOMIC ENERGY ACT OF 1954”:

“TITLE I—ATOMIC ENERGY”;

and

“TITLE II—UNITED STATES ENRICHMENT CORPORATION”.

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Chapter 21. Findings

Chapter 22. Definitions, Establishment of Corporation, and Purposes

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Chapter 30. General powers of the Corporation

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Chapter 32. Certain pending litigation
The present operation of the uranium enrichment enterprise must be changed so as to further the national interest in the uranium enrichment enterprise and respond to the competitive market conditions to which it must be subjected, rather than the taxpayers at large, should bear the costs of uranium enrichment services.

(a) The optimal level of expenditures for the uranium enrichment enterprise fluctuates and cannot be accurately predicted or efficiently financed if subject to annual authorization and appropriation.

(g) Flexibility is essential to adapt business operations to a competitive marketplace.

(b) The events of the recent past, including the emergence of foreign competition, have brought new and unforeseen forces to bear upon the management and operation of the Government's uranium enrichment enterprise.

(i) The present operation of the uranium enrichment enterprise must be changed so as to further the national interest in the enterprise and respond to the competitive demands placed upon it by market forces, while continuing to meet the paramount objectives of ensuring the Nation's common defense and security.

CHAPTER 25. CORPORATE OFFICES

Sec. 1201. CORPORATE OFFICES. The Corporation shall maintain an office for the service of process and papers in the District of Columbia, and shall be deemed, for purposes of venue in civil actions, to be a resident thereof. The Corporation may establish offices in such other place or places as it may deem necessary or appropriate in the conduct of its business.

CHAPTER 24. POWERS AND DUTIES OF THE CORPORATION

Sec. 1401. SPECIFIC CORPORATE POWERS AND DUTIES. (a) The Corporation shall—

(b) The Corporation shall—

(1) be established as a wholly-owned Government corporation subject to the National Industrial Reorganization Act, as amended (31 U.S.C. section 9101-9109), except as otherwise provided herein; and

(2) be an agency and instrumentality of the United States.

Sec. 1203. PURPOSES. The Corporation is created for the following purposes:

(1) to acquire, operate, and maintain facilities for uranium enrichment, enriched uranium, and the Department's uranium enrichment and related facilities;

(2) to operate, and as required by business conditions, to expand or construct facilities for uranium enrichment or both;

(b) to market and sell enriched uranium and uranium enrichment and related services to—

(A) the Department for governmental purposes;

(1) qualified domestic and foreign persons;

(3) to conduct research and development for purposes of identifying, evaluating, improving and testing processes for uranium enrichment;

(4) to operate, as a continuing, commercial enterprise, on a profitable and efficient basis;

(5) to maintain a reliable and economical source of enrichment services;

(7) to conduct its activities in a manner consistent with the health and safety of the public and the common defense and security (including consideration of United States policies concerning nonproliferation of atomic weapons and other nonpeaceful uses of atomic energy); and

(8) to take all other lawful action in furtherance of the foregoing purposes.

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(7) to conduct its activities in a manner consistent with the health and safety of the public and the common defense and security (including consideration of United States policies concerning nonproliferation of atomic weapons and other nonpeaceful uses of atomic energy); and

(8) to take all other lawful action in furtherance of the foregoing purposes.
the purposes of this title, or that advertising is not reasonably practicable;

"(b) As related to the functions vested in the Corporation by this title, all orders, determinations, rules, regulations, and policies of the Corporation in carrying out its functions shall be final, and such decisions and policies shall remain applicable to the Corporation in effect and remain applicable to the Corporation until modified, terminated, superseded, or set aside by the Secretary.

"(c) Except as provided elsewhere in this title, the transfer of functions related to the Corporation to other Government agencies or employees shall not affect proceedings, judicial or otherwise, relating to such functions which are pending at the time this title takes effect. All claims against the Corporation in effect at the time this title takes effect, whether or not filed, shall be continued with the Corporation, as appropriate.

"SEC. 1404. CERTAIN PENDING LITIGATION.—

(a) As soon as practicable after the enactment of this title, the Corporation shall pay to the Tennessee Valley Authority (hereinafter referred to as 'TVA') the total principal amount of $1,300,000,000, with interest as of the date of the enactment of this title, at an annual rate of 9 percent.

(b) Upon receipt by TVA of the payment made under subsection (a) and in consideration for such payment, the obligations of the Corporation to TVA for capacity charges to TVA for capacity in excess of 100 megawatts per year under Contract No. DE-AC05-76OR03760, TV-30613A, as amended, and to pay capacity charges under Contract No. DE-AC05-76OR03761, TV-30614A, as amended, and to make such payments at the end of the term of such contract, shall be a contract between the Corporation and TVA that are the subject of the litigation currently pending in Tennessee Valley Authority versus The United States of America, Clerk, filed in the United States District Court for the Middle District of Tennessee and transferred to the United States District Court for the Eastern District of Tennessee, which shall be the subject of the suit by the Secretary of the Interior concerning the procedure followed by the Corporation in the conduct of its business and on such terms as it may deem appropriate, with any agency or instrumentality of the United States, or with any state, territory or possession, or with any political subdivision thereof, or with any person, firm, association, or corporation:

(i) may settle and adjust claims held by the Corporation against other persons or parties and claims by other persons or parties against the Corporation;

(ii) may exercise, in the name of the United States, the right of eminent domain for the furtherance of the official purposes of the Corporation;

(iii) shall have the priority of the United States with respect to the payment of debts out of bankrupt, insolvent, and decedents' estates;

(iv) may define appropriate information as 'Government Commercial Information' and exempt such information from mandatory release pursuant to 5 U.S.C. §552(b)(3) when the Administrator determines that such information if publicly released would harm the Corporation's legitimate commercial interests;

(v) may request, and the Administrator of General Services, when requested, shall furnish the Corporation such services as he is authorized to provide agencies of the United States;

(vi) may accept gifts or donations of services, or of property, real, personal, mixed, tangible or intangible, of any kind or nature, of any purpose or design, and may supervise the use or distribution of the same; and

(vii) may exercise, in accordance with its bylaws, rules and regulations, all instruments necessary and appropriate in the exercise of any of its powers.

"SEC. 1405. CONTINUATION OF CONTRACTS, ORDERS, DIRECTIONS, AND REGULATIONS.—(a) Except as provided elsewhere in this title, all contracts, agreements, and leases with the Department, and licenses, and privileges that are in effect on the date of the enactment of this title, shall remain applicable to the Corporation in effect and remain applicable to the Corporation until modified, terminated, superseded, or set aside by the Secretary.

(b) As related to the functions vested in the Corporation by this title, all orders, determinations, rules, regulations, and policies of the Department shall continue in effect and remain applicable to the Corporation until modified, terminated, superseded, or set aside by the Secretary. Any order, determination, rule, or policy of the Department that is modified, terminated, superseded, or set aside shall be modified, terminated, superseded, or set aside by the Secretary.

(c) The Corporation may enter into or continue any contract in accordance with the powers provided to the Corporation or in accordance with the powers provided to the Department prior to the date of the enactment of this title and that relate to uranium enrichment, including all enrichment services contracts and power purchase contracts, all continu-
and shall have strong backgrounds in scientific, engineering, business, or financial management. At least one member of the Advisory Board shall be, or previously have been, employed by the Corporation who is not within the coverage of subchapter III of chapter 83 of title 5, United States Code. Employment by the Corporation shall be subject to the Federal Civil Service Retirement System (subchapter III of chapter 83 of title 5, United States Code). Employment by the Corporation shall be consistent with the principles of fairness and due process but without regard to those provisions of title 5 of the United States Code governing appointments and other personnel actions in the competitive service.

(f) The Corporation shall compensate members of the Advisory Board at a rate of not less than $10,000 per year as defined in §5c.314, in addition to reimbursement of reasonable expenses incurred when engaged in the performance of duties vested in the Advisory Board. Any Advisory Board member who is otherwise a Federal employee shall not be entitled to compensation for reasonable expenses incurred while attending official meetings of the Corporation.

(g) The Advisory Board shall meet at least annually to the Secretary and to the Administrator on the performance of the Corporation and the issues that, in the opinion of the Board, require the attention of the Secretary or the attention of the Administrator, or both. Any such report shall include such recommendations as the Board finds appropriate. A copy of any report under this subsection shall be transmitted promptly to the Committee on Energy and Natural Resources of the Senate and to the Speaker of the House of Representatives.

(2) Within 90 days after the receipt of any report under this subsection, the Secretary shall transmit a copy of the report to the Speaker of the House of Representatives. As an Administrator, as the case may be, shall respond in writing to such report and provide an analysis of such recommendations. Such response shall include plans for implementation of each recommendation or a statement of the reasons why that recommendation cannot be implemented.

"SEC. 1504. EMPLOYEES OF THE CORPORATION.—Officers and employees of the Corporation shall be officers and employees of the United States, and shall be officers and employees of the Corporation to exercise the powers and duties vested in the Corporation as defined in 5 U.S.C. §5313. The Administrator shall define responsibilities of officers and employees and provide a system of organization inclusive of personnel management system to fix responsibilities and promote efficiency. The Corporation shall assure that the personnel function and organization is consistent with the principles of 5 U.S.C. §2301(b) relating to merit system principles. Officers and employees shall be appointed, promoted and assigned on the basis of merit and fitness, and other personnel actions shall be consistent with the principles of fairness and due process but without regard to those provisions of title 5 of the United States Code governing appointments and other personnel actions in the competitive service."

"(a) The Administrator shall appoint all officers, employees, and agents of the Corporation as may be necessary to effectuate the provisions of this title without regard to any administratively imposed limits on personnel, and any such officer, employee or agent shall report to the Administrator. The Administrator shall fix all compensation in accordance with the comparable pay provisions of 5 U.S.C. §5301, with compensation levels not to exceed Executive Level II, as defined in 5 U.S.C. §5313. The Administrator shall define responsibilities of officers and employees and provide a system of organization inclusive of personnel management system to fix responsibilities and promote efficiency. The Corporation shall assure that the personnel function and organization is consistent with the principles of 5 U.S.C. §2301(b) relating to merit system principles. Officers and employees shall be appointed, promoted and assigned on the basis of merit and fitness, and other personnel actions shall be consistent with the principles of fairness and due process but without regard to those provisions of title 5 of the United States Code governing appointments and other personnel actions in the competitive service.

(2) Any Federal employee hired before January 1, 1989, who transfers to the Corporation and who on the day before the date of transfer is subject to the Federal Civil Service Retirement System (subchapter III of chapter 83 of title 5, United States Code) shall remain within the coverage of such system unless he or she elects to be subject to the Federal Employees' Retirement System. For those employees remaining in the Federal Civil Service Retirement System, the Corporation shall withhold pay and shall pay into the Civil Service Retirement and Disability Fund the amounts specified in chapter 83 of title 5, United States Code. Employment by the Corporation shall be subject to the Federal Civil Service Retirement and Disability Fund.

(3) Any employee who transfers to the Corporation under this section shall not be entitled to lump sum payments for unused annual leave under 5 U.S.C. §5551, but shall be credited by the Corporation with the unused annual leave at the time of transfer.

(4) Any employee who does not transfer to the Corporation and who does not otherwise remain a Federal employee shall be entitled to all rights and benefits available under Federal law for separated employees, except that severance pay shall not be payable to any such employee and employees shall accept an offer of employment from the Corporation of work substantially similar to that performed by that employee for the Corporation.

(5) This section does not affect a right or remedy of an officer, employee, or applicant for employment under a law prohibiting discrimination in employment on the basis of race, color, religion, age, sex, national origin, political affiliation, marital status, or handicap conditions.

"(c) Compensation, benefits, and other terms and conditions of employment in effect immediately prior to the effective date of this section shall continue in effect under the law or by the statute or rules and regulations of the Department or the executive branch of the Government of the United States shall continue to apply to officers and employees who transfer to the Corporation from other Federal employment until changed by the Corporation or Congress in accordance with the provisions of this title.

(1) The provisions of sections 3323(a) and 3344 of title 5, United States Code, or any other law prohibiting or limiting the reemployment of retired officers or employees or the simultaneous receipt of compensation and retirement pay or annuities, shall not apply to officers or employees who transfer to the Corporation from other Federal employment until changed by the Corporation or Congress in accordance with the provisions of this title.

(2) The Secretary, in consultation with the Administrator, shall establish the terms of employment and other personnel matters in accordance with the principles of fairness and due process but without regard to those provisions of title 5 of the United States Code governing appointments and other personnel actions in the competitive service."

"SEC. 1505. TRANSFER OF PROPERTY TO THE CORPORATION.—In order to enable the Corporation to exercise the powers and duties vested in it by this title, the Administrator may:

(a) Direct that the Department of Energy shall forthwith charge the Department's rights, title, or interest in and to, real or personal properties owned by the Department, or by the Oak Ridge K-25 plant in Oak Ridge, Tennessee, and to the gas centrifuge enrichment program shall not transfer under this subsection.

(b) The Secretary, in consultation with the Administrator, shall establish the terms of employment and other personnel matters in accordance with the principles of fairness and due process but without regard to those provisions of title 5 of the United States Code governing appointments and other personnel actions in the competitive service.

(2) The Secretary shall be entitled to all rights and benefits available under Federal law for separated employees, except that severance pay shall not be payable to any such employee and employees shall accept an offer of employment from the Corporation of work substantially similar to that performed by that employee for the Corporation.

(3) The Department's stocks of preproduced enriched uranium;

(4) The Department's stocks of feed materials for uranium enrichment except for such quantities as are currently allocated to national defense activities of the Department;

(5) All other facilities, equipment, materials (including depleted uranium and materials in process), processes, patents, technical information of any kind, contracts, agreements, and leases to the extent these items concern the Corporations functions and activities, except those items required for processing and separation of uranium and those items specifically excluded by this subsection.

The Secretary is authorized and directed to grant to the Corporation without charge the Department's rights and access to the atomic vapor laser isotope separation facility, to enter into agreements with the Corporation, and to provide on a reimbursable basis and at the request of the Corporation, the
necessary cooperation and support of the Department to assure the commercial development and deployment of AVLIS or other technologies, including all liabilities then chargeable to unexpired balances of appropriations, and other monies available to the Department (inclusive of funds set aside for accounts payable), and accounts receivable which related to functions and activities acquired by the Corporation from the Department pursuant to this title, including all advance payments.

(e) The President is authorized to provide for the transfer to the Corporation of the use, possession, and control of such other real and personal property of the United States which is reasonably related to the functions performed by the Corporation. Such transfers may be made by the President without charge as he may from time to time deem necessary and proper for achieving the purposes of this title.

(2) The Capital Structure of the Corporation.—(a) Upon commencement of operations of the Corporation:

(1) all liabilities then chargeable to unexpired balances of appropriations transferred under section 1505 shall become liabilities of the Corporation; and

(b) with respect to all assets transferred to the Corporation under section 1505, the Corporation shall use the book value of such assets as shown in the Uranium Enrichment Annual Report for FY 1988, modified to reflect continued depreciation and other usual changes that occur up to the date of transfer.

(3) At the time that decontamination or decommissioning, or both, of property or equipment transferred in accordance with section 1505 of this title may be necessary, the Administrator of the Department shall share the burden of such costs based on the ratio of the separate work that has been provided to the Corporation by the Department, and that is attributable to the property or equipment being decontaminated or decommissioned or both.

(c) The Corporation shall pay into miscellaneous receipts of the Treasury of the United States, or such other funds as provided by law, dividends from earnings of the Corporation in such manner as it may deem necessary or desirable.

(d) Bonds issued by the Corporation hereunder shall not be obligations of, nor shall payments of the principal thereof or interest thereon be guaranteed by, the United States.

(3) Bonds issued by the Corporation under this section shall be negotiable instruments unless otherwise specified therein, shall be in such forms and denominations, shall be sold at such times and in such amounts and at such prices, and shall mature from time to time at such times as the Corporation may determine: Provided, That at least fifteen days before selling each issue of bonds hereunder (exclusive of any commitment shorter than one year) the Corporation shall advise the Secretary of the Treasury as to the amount, proposed date of sale, maturities, terms and conditions and other matters, not inconsistent with this title, that the Corporation may deem necessary or desirable to enhance the marketability of said bonds.

(3) The Corporation shall be subject to and consistent with the provisions of this section.

(3) The Corporation shall be subject to the provisions of the Administrative Procedure Act, as amended.

1509. Reports.—(a) The Corporation shall prepare an annual report of its activities and financial performance; and

(b) A copy of the annual report shall be submitted to the Secretary, to the Committee on Energy and Natural Resources of the Senate, and the appropriate committees of the House of Representatives.

1510. Authorization.—(a) The Corporation is hereby constituted to determine the sole recovery by the United States of previously unrecovered costs that shall be charged to the United States (including the Department) for uranium enrichment activities prior to Fiscal Year 1988.

(b) The Corporation is hereby authorized to issue and sell, notes, and other evidences of indebtedness (hereinafter referred to as 'bonds') in an amount not exceeding $2,500,000,000 outstanding at any one time to assist in financing its activities and to acquire the use of such bonds. The principal of and interest on said bonds shall be payable from revenues of the Corporation.

(c) Notwithstanding any other provision of law, the Corporation may pledge and use its revenues for payment of the principal and interest on said bonds, for purchase or redemption of outstanding bonds, for the establishment of a sinking fund, and for the deposit of any funds or such other matters, not inconsistent with this title, that the Corporation may deem necessary or desirable.

(d) Notwithstanding any other provision of law, the Corporation is authorized to enter into lending covenants with the holders of said bonds—and with the trustee, if any—under any indenture, resolution, or other agreement or instrument with which the issuance thereof with respect to the establishment of reserve funds and other funds, stipulations concerning the subsequent issuance of bonds, and such other matters, not inconsistent with this title, as the Corporation may deem necessary or desirable to enhance the marketability of such bonds.

(e) Bonds issued by the Corporation hereunder shall not be obligations of, nor shall payments of the principal thereof or interest thereon be guaranteed by, the United States.

(f) Bonds issued by the Corporation under this section shall be negotiable instruments unless otherwise specified therein, shall be in such forms and denominations, shall be sold at such times and in such amounts and at such prices, and shall mature from time to time at such times as the Corporation may determine: Provided, That at least fifteen days before selling each issue of bonds hereunder (exclusive of any commitment shorter than one year) the Corporation shall advise the Secretary of the Treasury as to the amount, proposed date of sale, maturities, terms and conditions and other matters, not inconsistent with this title, that the Corporation may deem necessary or desirable to enhance the marketability of said bonds.
fiscal year end, inclusive of any impairment of capital or ability of the Corporation to comply with the provisions of this title.

(a) The term "Commission" shall be deemed to include the Corporation wherever such term appears in section 141 and subsections a. and b. of title I.

(b) No contracts or arrangements shall be made, nor any contract continued in effect, under section 1401, 1402, 1403 or 1444 unless in accordance with which such contract or arrangement is made, or the contractor or prospective contractor, agrees in writing to the Corporation to require that patents, inventions, or discoveries attributable to the ownership, management, operation, and activities of the Corporation, and to the isotopic separation of uranium by gaseous diffusion technology at facilities in existence as of the effective date of this title, the Corporation shall be subject to the regulatory jurisdiction of the Nuclear Regulatory Commission and the Department of Transportation with respect to the packaging and transportation of source, special nuclear and byproduct materials.

(c) The Corporation shall be subject to the regulatory jurisdiction of the Nuclear Regulatory Commission and the Department of Transportation with respect to the packaging and transportation of source, special nuclear and byproduct materials.

Sec. 1602. Exemption From Taxation and Payments in Lieu of Taxes. (a) In order to render financial assistance to those states and localities in which the facilities of the Corporation are located, the Corporation shall be subject to the regulatory jurisdiction of the Nuclear Regulatory Commission and the Department of Transportation with respect to the packaging and transportation of source, special nuclear and byproduct materials.

(b) The Corporation shall make annual payments, in amounts determined by the Corporation to be fair and reasonable, to the state and local governmental agencies having tax jurisdiction in any area where facilities of the Corporation are located. In making such determinations, the Corporation shall be guided by the following criteria:

(1) Amounts paid shall not exceed the taxes that would have been made by a private industrial corporation owning similar facilities and engaged in similar activities at the same location: Provided, however, That there shall be excluded any amount that would be payable as a tax on net income.

(2) The Corporation shall take into account the customs and practices prevailing in the industry with respect to the payment, assessment, and classification of industrial property and any special considerations extended to other industrial corporations.

(3) No amount shall be included to the extent that any tax unfairly discriminates against the class of taxpayers of which the Corporation would be a member if it were a private industrial corporation, compared with other taxpayers or classes of taxpayers.

(4) In no event shall the payment made to any taxing authority for any period be less than the payments which would have been made to such taxing authority for the same period by the Corporation and its cost-type contractors on behalf of the Corporation with respect to property that has been made available to the Corporation under section 1565 which would have been attributable to the ownership, management, operation, and maintenance of the Corporation's facilities with respect to the payment, assessment, and classification of industrial property and any special considerations extended to other industrial corporations.

Sec. 1601. Licensing. — Licensing of enrichment production facilities shall be subject to the provisions contained within this section.

(a) Notwithstanding any other provision of law, with respect solely to facilities, equipment and materials for activities related to the production of uranium and which includes the gaseous diffusion technology at facilities in existence as of the date of the enactment of this title, the Corporation shall be subject to the provisions contained in section 153c of title I and its contractors are exempt in respect to the Corporation's own functions and activities.

(b) No payments shall be made by the Corporation for any tax levied by any state, county, or other local government in respect of a tax which is the equivalent of the taxes levied by the Corporation on the account of the Corporation. The income received by such organizations for their own use shall be exempt from taxation.
tax would apply to a period prior to the en-
actment of this title.

"(d) The determination by the Corpora-
tion of the amounts due hereunder shall be final for purposes of this title.

"SEC. 1603. MISCELLANEOUS APPLICABILITY
OF THE ATOMIC ENERGY ACT.—(a) Any refer-
tences to the term 'Commission' or to the
Deputy Chairman, or to the Atomic Energy Com-
trol Act of 1985: Provided, That nothing in
this section shall affect the treatment for
purposes of budget authority and outlay
made by the Corporation to the United States Treas-
ury or funds appropriated to the Corpora-
tion after the date of the enactment of this
title.

"SEC. 1607. INTENT.—It is hereby declared
that the intent of this title to aid the
United States Enrichment Corporation in
the performance of its functions as set forth
in this title by providing it with adequate author-
ity and administrative flexibility to obtain nec-
essary or desirable to promote the Nation's
common defense and security with regard to
controlled ownership of, or possession of,
any equipment or device, or important compo-

 sectional part especially designed therefor, capa-

bility of discharging its responsibilities under this
title.

"SEC. 1608. REPORT.—(a) No earlier than
January 1, 1993, but no later than December
31, 1998, the Administrator shall submit
to the President and to Congress a report
setting forth the views and recommenda-
tions of the Administrator regarding transfer-
ance of an Act to protect
trade and commerce against unlawful restrains and monopolies, approved July 2, 1890 (15 U.S.C. 1-7), as amended;

"(b) As used in this subsection, the term 'antitrust laws' means—

(1) the Act entitled 'An Act to protect trade and commerce against unlawful restrains and monopolies', approved July 2, 1890 (15 U.S.C. 1-7), as amended;

(2) the Act entitled 'An Act to supplement
existing laws against unlawful restrains and monopolies, and for other purposes', approved August 27, 1894 (15 U.S.C. 8 and 9), as amended; and

(3) sections 73 and 74 of the Act entitled
'An Act to reduce taxation, to provide revenue
for the Government, and for other pur-

(4) the Act of June 10, 1862, chapter 592
(15 U.S.C. 13, 13a, 15b, and 21a);

"SEC. 1605. AFFILIATION OF OTHER
AGENCIES.—The Corporation is empowered to use with their consent the available serv-
tices, equipment, personnel, and facilities of other agencies, instrumentalities and services, equipment, personnel, and facilities of the Government, on a reimbursable basis and on a similar
basis with other agencies, instrumentalities and services, equipment, personnel, and facilities of the Corporation. Further, the Corpora-
tion shall have the discretion to determine how and by whom the fa-
cility in question will be operated.

"SEC. 1606. RELATION TO OTHER
AGENCIES.-The Corporation shall conduct
its activities in a manner consistent with the
policies expressed in the antitrust laws,
and the phrase "or" is inserted before the word
"grant" in section 103 (of title II, United
States Code, is amended to include "United
States Enrichment Corporation")..
and second time by unanimous consent, and referred as indicated:

By Mr. GRAHAM:
S. 2081. A bill to suspend temporarily the duty on calcium carbaboraphin; to the Committee on Finance.

By Mr. MATSUNAGA:
S. 2082. A bill to amend the Internal Revenue Code of 1986 to exempt retired public safety officers from the early withdrawal tax on pension distributions; to the Committee on Finance.

By Mr. HEINZ:
S. 2083. A bill to ensure that certain Railroad Retirement benefits paid out of the Dual Benefits Payments Account are not reduced, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. MELCHER (for himself, Mr. KASTEN, Mr. INOUYE, Mr. STEVENS, Mr. DECONCINI, Mr. WALLOP, Mr. BOSCHWITZ, Mr. DURENBERGER, Mr. GRASSLEY, Mr. GARN, Mr. COCHRAN, Mr. MCCAIN, Mr. BOND, Mr. LUGAR, Mr. DANFORTH, and Mr. SIMPSON):
S. 2084. A bill to establish a block grant program for child care services, and for other purposes; to the Committee on Finance.

By Mr. HATCH:
S. 2085. A bill to establish a block grant program for child care services, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. WECKER (for himself and Mr. O'CONOR):
S. 2086. A bill to establish a trust fund using civil penalties collected under the Occupational Health and Safety Act of 1970 to compensate victims of the collapse of the L'Am・・Blance Plaza in Bridgeport, Connecticut; to the Committee on Labor and Human Resources.

By Mr. BRADLEY:
S. 2087. A bill to suspend until January 1, 1991, the duty of Iohexol; to the Committee on Finance.

By Mr. MOYNIHAN:
S. 2088. A bill to provide for flexibility in the use of Federal highway program grants authorized under title 23, United States Code, and other Federal infrastructure grants, to establish a National Infrastructure Corporation, to provide additional financial assistance for a variety of public works improvements, and for other purposes; to the Committee on Environment and Public Works.

By Mr. MELCHER (for himself and Mr. Wirth):
S. 2089. A bill to provide for certain requirements relating to the conversion of oil shale mining claims located under the General Mining Law of 1872 to leases, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MELCHER:
S. 2090. A bill to amend the Internal Revenue Code of 1986 to provide a tax credit for new equipment used in the mining of coal; to the Committee on Finance.

By Mr. DURENBERGER:
S. 2091. A bill to protect ground water resources of the United States; ordered held at the desk.

By Mr. DURENBERGER:
S. 2092. A bill to amend chapter 38 of the Internal Revenue Code of 1986 to establish new environmental taxes, and for other purposes; to the Committee on Finance.

By Mr. HEFLIN (for himself, Mr. HELMS, and Mr. HELMS):
S. 2093. A bill to urge negotiations with the Government of France for the recovery and return to the United States of the CSS Alabama, to the Committee on Foreign Relations.

By Mr. KERRY:
S. 2094. A bill to amend title XVI of the Social Security Act to provide that the existing requirements for deeming a parent's income and resources to his or her children under age 18 shall not apply in the case of certain severely disabled children, and for other purposes; to the Committee on Finance.

By Mr. MELZENBAUM (for himself, Mr. PELL, Mr. WECKER, and Mr. HARKIN):
S. 2095. A bill to strengthen the protections available to private employees against reprisal for disclosing information, to protect the public health and safety, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. DOMENICI (for himself, Mr. BOREN, Mr. NICKLES, Mr. JOHNSTON, Mr. WALLOP, Mr. BREAUX, Mr. SIMPSON, Mr. BINGHAM, and Mr. MCCAIN):
S. 2096. A bill entitled the "U.S. Canada Free Trade Agreement Oil and Natural Gas Incentive Equalization Act of 1988"; to the Committee on Finance.

By Mr. JOHNSTON from the Committee on Energy and Natural Resources:
S. 2097. An original bill to provide for a viable domestic uranium industry, to establish a program to fund reclamation and remedial actions with respect to mill tailings at active uranium and thorium sites, to establish a wholly-owned Government corporation to manage the Nation's uranium enrichment enterprise, operating as a continuing, commercial enterprise on a profitable and efficient basis, and for other purposes; placed on the calendar.

By Mr. BRADLEY (for himself, Mr. STAFFORD, Mr. INOUYE, Mr. COCHRAN, Mr. GORE, Mr. GARN, Mr. LEVIN, Mr. WARNER, Mr. LAUTENBERG, Mr. MURkowski, Mr. PELL, Mr. DOMENICI, Mr. MURPHY, Mr. DOLE, Mr. SFARDO, Mr. HATCH, Mr. SARBADES, Mr. BURDICK, Mr. THIELE, Mr. BUMPERS, Mr. LUGAR, Mr. GRAHAM, Mr. BOSCHWITZ, Mr. DURBin, Mr. SIMPSON, Mr. RIEGLE, Mr. THURMOND, Mr. BOREN, Mr. BENTSEN, Mr. HELF LIN, Mr. HOL LINGS, Mr. QUAYLE, Mr. DANFORTH, Mr. MURPHY, and Mr. MIKULSKI):
S. Res. 263. A joint resolution to designate the period commencing November 13, 1988, and ending November 19, 1988, as "Geography Awareness Week"; to the Committee on the Judiciary.

By Mr. RIEGLE:
S. J. Res. 264. A joint resolution to designate the period commencing May 8, 1988, and ending May 14, 1988, as "National Correctional Officers Week"; to the Committee on the Judiciary.

By Mr. LEAHY (for himself, Mr. LUGAR, Mr. MELCHER, Mr. DOLE, Mr. BOREN, Mr. HELMS, Mr. CONRAD, Mr. COCHRAN, Mr. FOWLER, Mr. BOSCHWITZ, Mr. DASCHEL, Mr. BOND, Mr. KARNS, Mr. McCONNELL, Mr. FYSON, Mr. HELF IN, and Mr. BREAUX):
S. J. Res. 265. A joint resolution to designate March 20, 1988, as "National Agriculture Day"; placed on the calendar by unanimous consent.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. HATCH:
S. Con. Res. 100. A concurrent resolution expressing the sense of the Congress that the executive branch, in exercising authorities to restrict exports, use a standard definition of those goods which may be exported, and require the Committee on Banking, Housing, and Urban Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MATSUNAGA:
S. 2082. A bill to amend the Internal Revenue Code of 1986 to exempt retired public safety officers from the early withdrawal tax on pension distributions; referred to the Committee on Finance.

LEGISLATION TO EXEMPT PUBLIC SAFETY EMPLOYEES FROM THE PENALTY TAX ON EARLY PENSION DISTRIBUTIONS

Mr. MATSUNAGA. Mr. President, I am today introducing legislation which will exempt public safety employees from the penalty tax on early distributions from qualified retirement plans.

Mr. President, the Tax Reform Act of 1986 imposed a 10-percent penalty tax on early distributions from any qualified retirement plan. For purposes of this penalty tax, an early distribution is defined as a distribution made to an employee before the age of 55. Unfortunately, little or no consideration was given to the fact that many State and municipal retirement systems allow or require public safety employees such as firefighters, rescue workers, law enforcement officers, and correctional personnel to retire before the age of 55. In addition, certain Federal public safety employees are permitted or required to retire before age 55.

Mr. President, public safety employees who are allowed or required to retire before age 55 have no effective means of avoiding this penalty tax. In this instance, this penalty tax runs counter to the policy of encouraging and mandating early retirement in these special occupations.
Mr. President, the legislation I am proposing today will exempt public safety employees from this 10-percent penalty tax on early pension distributions. I believe that it is inequitable to apply this tax on early distributions to public safety employees who are permitted or required to retire before the age of 55. I urge my colleagues to join me in cosponsoring this legislation on the simple ground that it seeks to restore plain justice for a well-deserving, highly essential group of Americans.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2082

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION I. EXEMPTION FROM EARLY WITHDRAWAL OF DUAL BENEFIT FUNDS.

(a) IN GENERAL.—Section 212(c) of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new paragraph:

"(4) DISTRIBUTIONS TO PUBLIC SAFETY OFFICERS.—(A) IN GENERAL.—Paragraph (1) shall not apply to any distribution from a plan maintained by the Federal Government, a State or political subdivision thereof, or any agency or instrumentality of either, which is received by a qualified public safety officer on or after retirement under such plan.

"(B) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendments made by section 102(a) of the Tax Reform Act of 1986."

By Mr. HEINZ:

S. 2083. A bill to ensure that certain railroad retirement benefits paid out of the dual benefits payments account are not reduced, and for other purposes; to the Committee on Labor and Human Resources.

RAILROAD RESTORATION ACT

Mr. HEINZ. Mr. President, twice in the last 6 years when railroad retirement's vested dual benefits have been threatened by budget cuts, Congress has taken legislative action to ensure their protection. I call on my colleagues to join me in taking action to correct a regrettable mistake in the continuing resolution for appropriations of 1987. If this mistake is not adjusted, monthly retirement checks for some 275,000 retirees will be cut by as much as $63 per year.

Let me take a moment to explain what happened in the continuing resolution. The continuing resolution made a 4.26-percent across-the-board reduction in all discretionary spending for the fiscal year 1988. The 4.26-percent reduction, when applied to vested dual benefits, will not eliminate a COLA because there is no COLA for John Doe. Rather, it is an actual reduction in the basic benefit. Other retirement benefits are entitlements and are therefore automatically appropriated and, thus, are not affected by annual appropriations of discretionary spending accounts. Dual vested benefits, however, are funded for general revenues rather than through the railroad retirement trust funds and, therefore, run the risk of being reduced.

Vested dual benefits are treated differently than other railroad retirement benefits. These are benefits that had been earned by workers prior to 1974 and were protected in a special account when railroad retirement was restructured in 1974. Previously, railroad workers with extensive nonrail employment qualified for benefits under Social Security and railroad retirement that, in combination, were higher than the benefits of those who worked exclusively in rail employment.

Congress eliminated these dual benefits prospectively in 1974, but preserved in a special account dual benefits to the workers who had already vested. Congress chose to fund this account out of general revenues because of the inequity of charging rail workers for benefits that they could no longer receive. These benefits were fixed at that time, with no indexing for inflation.

Railroad retirement with vested dual benefits are continuously in danger of losing a portion of their benefits, due either to lack of attention or budget cutting. Twice the Congress has acted to prevent a reduction in these benefits.

In 1982, I sponsored an amendment included in the supplemental appropriations bill which restored full funding of dual benefits for the fiscal years 1983, 1984, and 1985. Once again in 1986, I introduced legislation which was added as an amendment to the Omnibus Reconciliation Act of 1986, to exempt dual vested benefits from further cuts under the automatic sequestration process.

Now, we face the necessity of acting again to rectify a cut in these benefits. What we have here is a case of congressional malpractice. We set out to slice the nonretirement accounts but slipped, and carved a chunk out of thousands of retirees' retirement checks as well. We need to suture this wound quickly. We in Congress have a meritorious one and one which can be justifiedly give all retirees cause to fear that Congress would cut their benefits.

With this in mind, Mr. President, I urge my colleagues to join me in correcting this unfortunate situation. Let us hope that in our efforts to remedy this oversight we may eliminate the fear railroad retirees have of losing their hard-earned benefits.

In so doing, we may restore their faith in the congressional process. I urge you to support the legislation I am introducing today. It is the responsibility of Congress to fix this oversight as quickly as possible, and to ensure railroad retirees that their benefits will not be cut.

By Mr. HATCH (for himself, Mr. KASTEN, Mr. INOUIE, Mr. STEVENS, Mr. DECONCINI, Mr. WALLOP, Mr. BOSCHWITZ, Mr. DURENBERGER, Mr. GRASSLEY, Mr. GARN, Mr. COCHRAN, Mr. McCaIN, Mr. BOND, Mr. LUGAR, Mr. DANFORTH, and Mr. SIMPSON):

S. 2084. A bill to establish a block grant program for child care services, and for other purposes; to the Committee on Finance.

CHILD CARE SERVICES IMPROVEMENT ACT

Mr. HATCH. Mr. President, I am very pleased to be reintroducing the "Child Care Services Improvement Act" along with 15 of my Senate colleagues. Our distinguished colleague in the House of Representatives, Representative CONNIE H. BULKLEY, of Colorado, is introducing an identical bill in that body.

Several improvements have been made to the bill I introduced in September and we are moving forward with this legislation. We are eager to discuss the details of our proposal during the upcoming hearings planned by Senator Dole's Subcommittee on Children, Family, Drugs and Alcoholism.

Several prominent national organizations have reviewed our proposal as well as the complex problem of child care and agree that this approach is realistic, workable, and most important, effective.

I am joined in sponsoring this bipartisan legislation by 15 Senators who share my concern about the lack of quality child care and the ramifications such shortages have on families, on our workforce, and on our future generations. I invite other members of this body to study the provisions of our bill and to lend us their support. I believe they will find our approach a meritorious one and one which can be
signed into law during this historic 100th Congress.

Mr. President, I ask unanimous consent that the text of the "Child Care Services Improvement Act of 1988" be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2024

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.
This Act may be cited as the "Child Care Services Improvement Act of 1988".

SEC. 2. PURPOSE.
It is the purpose of this Act to—
(1) expand the availability of child care for working families;
(2) increase the access of low income and minority families to child care;
(3) ensure the health and safety of children in child care programs;
(4) provide incentives for private sector participation in child care service delivery;
(5) provide incentives to minimize the need for child care.

SEC. 3. FINDINGS.
Congress finds that—
(1) more than a third of all women with children under the age of 14 are in the labor force and 52 percent of such women have children under the age of 6;
(2) of all the women in the labor force, two-thirds are employed due to economic need because they are the head of a household, and one in seven is a spouse that earns less than $20,000 per year;
(3) an estimated 70 to 90 percent of family day care providers are unregulated, unregistered, and difficult to find for potential consumers;
(4) since at least two-thirds of all children in child care are cared for in family or home-based environments, any sound social policy must recognize the dependence of families on this small business sector, assure that adequate time and resources exist to meet regulatory standards without interruption of services, and enhance parental access to the important service it provides;
(5) many private day care programs with accreditation or licensing standards by providers may require a substantial capital investment that can be a barrier to entry for potential providers who are minority families to child care;
(6) the shortage of day care slots discourages potential child care providers from entering the profession; and
(7) the shortage of day care slots jeopardizes the safety of thousands of children left unsupervised;
(8) a low compensation for child care personnel results in high turnover in day-care centers and discourages home-based providers from entering the child care profession and increase the cost of child care for families; and
(9) difficulties in obtaining affordable liability insurance and in complying with current requirements discourage potential child care providers from entering the profession; and
(10) the accumulated effects of the unavailability, unaffordability, and uncertain quality of child care in the United States will have a negative impact on the growth and development of children.

TITLE I—CHILD CARE BLOCK GRANT
SEC. 101. CHILD CARE BLOCK GRANT.
Title XIX of the Public Health Service Act (42 U.S.C. 300w et seq.) is amended by adding at the end the following new part:

PART D—CHILD CARE SERVICES BLOCK GRANT.

"SEC. 1931. AUTHORIZATION OF APPROPRIATIONS.
"For the purposes of all allotments to States to carry out the provisions contained in section 1934, there are authorized to be appropriated $250,000,000 for each of the fiscal years 1989, 1990, and 1991.

"SEC. 1932. APPROPRIATIONS.

(a) FORMULA.—
(1) IN GENERAL.—The Secretary shall make an allotment to each State for each fiscal year from amounts appropriated for allotments for such fiscal year. The amount of such allotment shall be equal to the product of—

(A) an amount equal to the amounts appropriated for allotments to States for such fiscal year; and

(B) the percentage described in paragraph (2).

(2) PERCENTAGE.—The percentage referred to in paragraph (1)(B) is a percentage equal to the sum of—

(A) an amount equal to the number of children under 12 years of age in the State involved living in a household whose income is not greater than 200 percent of the poverty level, adjusted for family size, as indicated by the most recent data collected by the Bureau of the Census; divided by

(B) an amount equal to the number of children under 12 years of age in the United States living in a household whose income is not greater than 200 percent of the poverty level, adjusted for family size, as indicated by the sum of the respective amount determined for each State under subparagraph (A).

(b) ADDITIONAL ALLOTMENT.—

(1) SOURCE OF ALLOTMENT.—A State shall receive an additional allotment if funds appropriated and available for allotment for a fiscal year are not allotted to States under subsection (a) because—

(A) at least one State has not submitted an application or description of activities in accordance with section 1935 for such fiscal year;

(B) at least one State has notified the Secretary that the State does not intend to use the full amount of the allotment; or

(C) at least one States' allotment is offset or repaid under section 1931(b)(3) (as such section applies to this part pursuant to section 1935).

(2) METHOD OF ALLOTMENT.—The excess amounts available for allotment under paragraph (1) shall be allotted among each of the remaining States in proportion to the amount otherwise allotted to such States for such fiscal year.

"SEC. 1933. PAYMENTS UNDER ALLOTMENTS TO STATES.

(a) IN GENERAL.—The Secretary shall make payments from amounts appropriated for each fiscal year, as provided by section 1932(a), to the extent that the amount of the allotment to the State from the State's allotment under section 1932, in an amount equal to the Federal share of the total sums to be expended by the State for project grants pursuant to section 1934(a) for the fiscal year for which payments are made. For purposes of calculating payments pursuant to section 1934(a), the total sums to be expended by the State for project grants pursuant to section 1934(a) shall include the value of any in-kind expenditures made by the State which are targeted for project grants, but shall not include any funds from Federal sources (other than those to be provided from the allotment under section 1932).

(b) FEDERAL SHARE.—The Federal share for each fiscal year shall be seventy percent.

(c) TIMING OF PAYMENTS.—The Secretary may make payments to a State at such times and amounts (with necessary adjustments for overpayments or underpayments) as he and the Governor of the State consider appropriate.

(d) CARRYOVER.—Any amount paid to a State for a fiscal year and remaining unobligated at the end of that year shall remain available, for the next fiscal year, to the State for the purposes for which the payment to the State was made.

"SEC. 1934. STATE USE OF ALLOTMENTS.

(a) PROJECT GRANTS.—Subject to subsection (d), amounts paid to a State under section 1933 shall be used by the State to make grants to eligible entities for projects described in subsection (c) that meet at least one of the purposes of the Child Care Services Improvement Act.

(b) ELIGIBLE ENTITIES.—For purposes of this section, the term 'eligible entity' means—

(1) a unit of a local government, including a school district;

(2) an organization which qualifies as a nonprofit organization under section 501(c) or 501(d) of the Internal Revenue Code of 1986;

(3) a professional or employee association;

(4) a consortium of small businesses;

(5) a hospital or health care facility;

(6) a family care program;

(7) a parent to use of employment-related or education-related expenses for child care by a registered, licensed, or accredited provider; or

(8) an entity that the State considers able and appropriate to carry out a project under this part.

(c) PROJECTS.—

(1) PURPOSE.—A State may make grants to eligible entities—

(A) for child care certificate programs or scholarships that enable low income families to obtain adequate child care;

(B) for the establishment and operation of community or neighborhood child care centers, including the renovation of public buildings for such purposes;

(C) for the establishment and operation of after school child care programs;

(D) to provide grants or loans to fund the start up costs of employer sponsored child care programs;

(E) for the establishment and operation of training programs for child care providers;

(F) for the temporary care of children who are sick and unable to attend child care programs in which such children are enrolled;

(G) for the expansion of existing part-day child care programs into full day child care programs;

(H) for the establishment and operation of child care programs for homeless children;

(I) for linking child care programs with programs designed to assist the elderly; or

(J) for any project consistent with the purposes of the Child Care Services Improvement Act of 1988.

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(2) LIMITATIONS.—A State may not use amounts paid to the State under section 1934 unless the State shall:

(A) provide inpatient health care services or other unrelated services, except temporary sick child care as authorized under paragraph (3), to the extent necessary to meet the requirements of section 1934;

(B) make cash payments to intended recipients of services other than pursuant to the State care certificate system authorized by paragraph (1)(A);

(C) purchase or improve land, purchase, construct, or permanently improve (other than through remodeling) any building or other facility, or purchase major medical equipment (except as provided in paragraph (1)(B)); and

(D) satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds.

(3) Waivers.—The Secretary, if the State under Secretary may waive the limitations contained in paragraph (2) on the request of a State if the Secretary finds that there are extraordinary circumstances to justify the waiver and that granting the waiver will assist in carrying out this part.

(4) Technical Assistance.—The Secretary, if the Secretary finds that there are extraordinary circumstances to justify the waiver and that granting the waiver will assist in carrying out this part.

(5) Fiscal Year.—The funds received under section 1932(c) for the fiscal year shall be used for administering funds reserved by the Secretary under section 1932(c) and shall remain available until expended.

(6) Local Activity.—The funds received pursuant to section 1933 for the fiscal year shall be used for the development and operation of local activity programs for the training of child care providers, to the State in planning and operating activities to be carried out in this part.

(7) Fiscal Year.—The funds received under section 1932(c) for the fiscal year shall be used for administering funds reserved by the Secretary under section 1932(c) and shall remain available until expended.

(8) Local Activity.—The funds received pursuant to section 1933 for the fiscal year shall be used for the development and operation of local activity programs for the training of child care providers, to the State in planning and operating activities to be carried out in this part.

(9) Technical Assistance.—The Secretary, if the Secretary finds that there are extraordinary circumstances to justify the waiver and that granting the waiver will assist in carrying out this part.

(10) Fiscal Year.—The funds received under section 1932(c) for the fiscal year shall be used for administering funds reserved by the Secretary under section 1932(c) and shall remain available until expended.

(11) Local Activity.—The funds received pursuant to section 1933 for the fiscal year shall be used for the development and operation of local activity programs for the training of child care providers, to the State in planning and operating activities to be carried out in this part.

(12) Technical Assistance.—The Secretary, if the Secretary finds that there are extraordinary circumstances to justify the waiver and that granting the waiver will assist in carrying out this part.

(13) Fiscal Year.—The funds received under section 1932(c) for the fiscal year shall be used for administering funds reserved by the Secretary under section 1932(c) and shall remain available until expended.

(14) Local Activity.—The funds received pursuant to section 1933 for the fiscal year shall be used for the development and operation of local activity programs for the training of child care providers, to the State in planning and operating activities to be carried out in this part.

(15) Technical Assistance.—The Secretary, if the Secretary finds that there are extraordinary circumstances to justify the waiver and that granting the waiver will assist in carrying out this part.

(16) Fiscal Year.—The funds received under section 1932(c) for the fiscal year shall be used for administering funds reserved by the Secretary under section 1932(c) and shall remain available until expended.

(17) Local Activity.—The funds received pursuant to section 1933 for the fiscal year shall be used for the development and operation of local activity programs for the training of child care providers, to the State in planning and operating activities to be carried out in this part.

(18) Technical Assistance.—The Secretary, if the Secretary finds that there are extraordinary circumstances to justify the waiver and that granting the waiver will assist in carrying out this part.

(19) Fiscal Year.—The funds received under section 1932(c) for the fiscal year shall be used for administering funds reserved by the Secretary under section 1932(c) and shall remain available until expended.

(20) Local Activity.—The funds received pursuant to section 1933 for the fiscal year shall be used for the development and operation of local activity programs for the training of child care providers, to the State in planning and operating activities to be carried out in this part.

(21) Technical Assistance.—The Secretary, if the Secretary finds that there are extraordinary circumstances to justify the waiver and that granting the waiver will assist in carrying out this part.

(22) Fiscal Year.—The funds received under section 1932(c) for the fiscal year shall be used for administering funds reserved by the Secretary under section 1932(c) and shall remain available until expended.

(23) Local Activity.—The funds received pursuant to section 1933 for the fiscal year shall be used for the development and operation of local activity programs for the training of child care providers, to the State in planning and operating activities to be carried out in this part.

(24) Technical Assistance.—The Secretary, if the Secretary finds that there are extraordinary circumstances to justify the waiver and that granting the waiver will assist in carrying out this part.

(25) Fiscal Year.—The funds received under section 1932(c) for the fiscal year shall be used for administering funds reserved by the Secretary under section 1932(c) and shall remain available until expended.

(26) Local Activity.—The funds received pursuant to section 1933 for the fiscal year shall be used for the development and operation of local activity programs for the training of child care providers, to the State in planning and operating activities to be carried out in this part.

(27) Technical Assistance.—The Secretary, if the Secretary finds that there are extraordinary circumstances to justify the waiver and that granting the waiver will assist in carrying out this part.

(28) Fiscal Year.—The funds received under section 1932(c) for the fiscal year shall be used for administering funds reserved by the Secretary under section 1932(c) and shall remain available until expended.

(29) Local Activity.—The funds received pursuant to section 1933 for the fiscal year shall be used for the development and operation of local activity programs for the training of child care providers, to the State in planning and operating activities to be carried out in this part.

(30) Technical Assistance.—The Secretary, if the Secretary finds that there are extraordinary circumstances to justify the waiver and that granting the waiver will assist in carrying out this part.

(31) Fiscal Year.—The funds received under section 1932(c) for the fiscal year shall be used for administering funds reserved by the Secretary under section 1932(c) and shall remain available until expended.

(32) Local Activity.—The funds received pursuant to section 1933 for the fiscal year shall be used for the development and operation of local activity programs for the training of child care providers, to the State in planning and operating activities to be carried out in this part.

(33) Technical Assistance.—The Secretary, if the Secretary finds that there are extraordinary circumstances to justify the waiver and that granting the waiver will assist in carrying out this part.

(34) Fiscal Year.—The funds received under section 1932(c) for the fiscal year shall be used for administering funds reserved by the Secretary under section 1932(c) and shall remain available until expended.

(35) Local Activity.—The funds received pursuant to section 1933 for the fiscal year shall be used for the development and operation of local activity programs for the training of child care providers, to the State in planning and operating activities to be carried out in this part.
SEC. 131. APPLICABLE PROVISIONS OF PART B. "Except where inconsistent with this part, sections 1914(d), 1917(b) (1) through (5), 1918, 1919, and 1920 shall apply to this part in any such manner as the Secretary shall determine that such sections apply to part B of this title."

SEC. 182. EFFECTIVE DATE.
This title and the amendments made by this title shall take effect no later than five months after the date of enactment of this Act.

TITLE II—CHILD CARE LIABILITY

PART A—CHILD CARE LIABILITY REFORM

SEC. 201. DEFINITIONS.
For purposes of this title—

(1) the term "family based child care" means child care located in or on the site of the principal residence (within the meaning of section 1034 of the Internal Revenue Code of 1986) of a person who is self-employed as a child care provider, and the children cared for in such facility shall include children who are not the children of such provider;

(2) the term "group child care center" means a child care provider which is a private profit or nonprofit corporation, not located in the principal residence of the provider, and includes on-site child care;

(3) the term "in-home care" means child care which is provided in a principal residence (within the meaning of section 1034 of the Internal Revenue Code of 1986) of a person and to which an outside individual child care provider comes, either for specific hours of the day or on a live-in basis to provide care for the children of such residence;

(4) the term "on-site child care center" means a child care facility—

(a) operated by an employer for the care of children, at least 30 percent of whom are dependent employees of such employer; and

(b) located on or near the business premises of such employer;

(5) the term "person" means an individual, corporation, company, association, firm, partnership, society, or any other entity;

(6) the term "Secretary" means the Secretary of Commerce and

(C) PREEMPTION.—This part shall preempt any provision of law;

(7) the term "Secretary" means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

SEC. 202. APPLICABILITY

(a) GENERAL.—This part shall apply to any civil action in any State or Federal court against any child care provider who is in compliance with the licensing or accreditation requirements of the State in which he is located.

(b) EXCEPTION FOR INTENTIONAL TORTS.—This part shall not apply to any civil action for an intentional tort.

(c) PREEMPTION.—This part shall preempt and supersede Federal or State law only to the extent that it is inconsistent with this part.

(d) DEFENSES NOT AFFECTED.—Nothing in this part shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any provision of law;

(2) waive or affect any defense of sovereign immunity asserted by the United States;

(3) affect the applicability of any provision of chapter 97 of title 28, United States Code, known as the Foreign Sovereign Immunities Act of 1976;

(4) preempt State choice-of-law rules with respect to claims brought by a foreign nation or to dismiss any action on the ground of inconvenient forum;

(5) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation on the ground of inconvenient forum.

SEC. 203. JOINT AND SEVERAL LIABILITY.
(a) IN GENERAL.—Except as provided in subsection (b), joint and several liability may not be applied to any action subject to this part. A person found liable for damages in any such action may be found liable, if at trial, court, or by law, on any claim or liability attributable to the pro-rata share of fault or responsibility for the injury, and may not be found liable for damages attributable to the pro-rata share of fault or responsibility of any other person (without regard to whether such person is a party to the action) if evidence which is relevant only to the claim or liability is excluded.

(b) COLLATERAL SOURCE.—Any issue arising under this part that is the basis, to provide care for the children of the principal residence within the meaning of section 1034 of the Internal Revenue Code of 1986, shall be construed to—

(1) affect the applicability of any provision of foreign law;

(2) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation on the ground of inconvenient forum.

SEC. 204. COLLATERAL SOURCE OF COMPENSATION.
(a) REDUCTION OF AWARD.—Any award of damages to a person in a civil action to which this part applies shall be reduced by any payment or benefit covered by this section which the person has received or for which the person has received or is entitled to receive for damages to a person in a civil action to which this part applies.

(b) PAYMENT OR BENEFITS DEFINED.—As used in this section, "payment or benefit" means—

(1) any payment or benefit by or paid for in whole or in part by any agency or instrumentality of the United States, a State, or a local government, or

(2) any payment or benefit by a health insurance program funded in whole or in part by an employer;

but does not include any such payment or benefit that is (or by law is required to be) the subject of a reasonably founded claim of subrogation, reimbursement, or lien.

SEC. 205. STANDARDS AND PROCEDURES FOR AWARD FOR PUNITIVE DAMAGES.
(a) STANDARDS.—Punitive or exemplary damages may, if otherwise permitted by applicable law, be awarded in any civil action to which this part applies only if the claimant establishes by clear and convincing evidence that the harm suffered was the result of conduct manifesting intentional or conscious disregard for the health or safety of those persons who might be harmed.

(b) PROCEDURES.—In any civil action to which this part applies, at the request of the defendant, the trier of fact shall consider in a separate proceeding whether punitive or exemplary damages are to be awarded and, if so, the amount of such award. If a separate proceeding is required, no evidence which is relevant only to the claim of punitive or exemplary damages, as determined by applicable law, shall be admissible in any proceeding to determine whether compensatory damages are to be awarded.

SEC. 206. LIABILITY OF NONPROFIT ORGANIZATIONS AND PUBLIC SCHOOLS.
(a) LIABILITY OF SEPARATE CORPORATION.—Any liability non profit organization or local educational agency which is the parent or majority owner of any entity incorporated or otherwise organized under applicable State law as a separate business organization providing child care shall not be liable for damages in any civil action to which this part applies brought against that separate organization or organization.

(b) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) the term "eligible nonprofit organization" means any State, the United States, or any entity incorporated or otherwise organized under applicable law that may be increased or maintained through mechanisms developed by the State.

(2) the term "local educational agency" means the Congress has given it under section 1001(f) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3301(f)).

(3) The term "foreign immunity asserted by any State under applicable law that may be increased or maintained through mechanisms developed by the State."
ministration of funds provided under this part.
(2) PARTICIPANTS IN RISK RETENTION GROUP.-The plan shall provide that all participants in the child care liability risk retention group are child care providers who are licensed or accredited pursuant to State or local law or standards. In addition, the plan shall provide for maximum membership of family-based child care providers in the risk retention group.

(3) USE OF FUNDS.—The plan shall provide that the State shall use at least the amount allotted to the State in any fiscal year to establish or operate a child care liability risk retention group.

(4) CONTINUATION OF RISK RETENTION GROUP.—The plan shall provide that which specify how the child care liability risk retention group will continue to be financed after fiscal year 1991, including financial contributions by the State or by members of such group.

SEC. 213. FEDERAL ENFORCEMENT.
(a) REVIEW OF PLANS.—The Secretary of Health and Human Services shall review and approve State plans submitted in accordance with this part and shall monitor State compliance with the provisions of this part.

(b) FINDING OF NONCOMPLIANCE.—If the Secretary, after reasonable notice to a State and opportunity for a hearing, finds—
(1) that there has been a failure to comply substantially with any provision or any requirements set forth in the State plan of that State;

(2) that there is a failure to comply substantially with any applicable provision of this part, the Secretary shall notify such State of the findings and of the fact that no further payments may be made to such State under this part until the Secretary is satisfied that there is no longer any such failure to comply, or that the noncompliance will be promptly corrected.

SEC. 214. AUTHORIZATION.
(a) AUTHORIZATION OF APPROPRIATIONS.—To carry out the provisions of this part, there are authorized to be appropriated $100,000,000 for fiscal year 1989 and $100,000,000 for fiscal year 1990.

(b) AMOUNTS TO REMAIN AVAILABLE.—The amounts appropriated pursuant to subsection (a) shall remain available for assistance to States for fiscal years 1989, 1990, and 1991 without limitation.

SEC. 215. RESERVATIONS FOR TERRITORIES AND ADMINISTRATIVE COSTS.
From the amounts appropriated to carry out the provisions of this part for each fiscal year, the Secretary shall reserve—
1 percent for payments to Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands, to be allotted in accordance with their respective needs and
3 percent for the administrative costs of carrying out the provisions of this part.

SEC. 216. ALLOCATIONS TO STATES.
(a) IN GENERAL.—The Secretary shall make an allotment to each State not referred to in section 215 for each fiscal year from the sums appropriated to carry out the provisions of this part for such fiscal year.

(b) ALLOTMENT FORMULA.—
(1) IN GENERAL.—The amount of each State's allotment under subsection (a) shall be equal to the product of—
(A) an amount equal to the sums appropriated to carry out the provisions of this part for each fiscal year minus the amount reserved pursuant to section 215 for such fiscal year; and
(B) the percentage described in paragraph (2).

(2) PERCENTAGE.—The percentage referred to in paragraph (1)(B) is a percentage equal to the quotient of—
(A) an amount equal to the number of children under 12 years of age living in the State, as indicated by the most recent data collected by the Bureau of the Census; divided by
(B) an amount equal to the number of children under 12 years of age living in the United States, as indicated by the most recent data collected by the Bureau of the Census.

(c) STATE ADMINISTRATIVE COSTS.—Of the amount allotted to a State pursuant to subsection (a), an amount not to exceed 10 percent shall be used by such State to provide for the administrative costs of carrying out such program.

SEC. 217. PAYMENTS.
(a) ENTITLEMENT.—Each State having a plan approved by the Secretary under this part shall be entitled to payments under this section for each fiscal year in an amount not to exceed its allotment under section 214 for such fiscal year, under the plan for the fiscal year for which the grant is to be made.

(b) METHOD OF PAYMENTS.—The Secretary may make payments to a State in installments, and in advance or, subject to the requirement of section 214, by way of reimbursement, with or without interest, on account of overpayments or underpayments, as the Secretary may determine.

(c) STATE SPENDING OR PAYMENTS.—Payments to a State from the allotment under section 216 for any fiscal year must be expended by the State in that fiscal year or in the succeeding fiscal year.

TITLe III—REVOLVING LOAN FUND
SEC. 201. PURPOSE; DEFINITIONS.
(a) PURPOSE.—It is the purpose of this title to—
(1) increase the availability of family-based child care by enabling family-based child care providers to meet accreditation or licensing standards; and

(2) provide States with a sufficient capital base to make loans that may be increased or maintained through mechanisms developed by the State.

(b) DEFINITIONS.—For purposes of this title, the following definitions shall apply:
(1) the term "Secretary" means the Secretary of Health and Human Services.

(2) the term "State" means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(3) METHOD OF PAYMENTS.
(a) SUBMISSION OF APPLICATION.—The form of application required in subsection (c) shall be made by a State to the Secretary, on such terms and conditions as the Secretary may by regulation prescribe.

(b) DETERMINATION.—The Secretary shall make determinations under paragraph (a) within 60 days after the submission of an application.

(c) fatally incorrect
(B) the percentage described in paragraph (2).

(2) PERCENTAGE.—The percentage referred to in paragraph (1)(B) is a percentage equal to the quotient of—

(A) an amount equal to the number of children under 12 years of age living in the State, determined by the most recent data collected by the Bureau of the Census; divided by

(B) an amount equal to the number of children under 12 years of age living in the United States, as indicated by the most recent data collected by the Bureau of the Census.

(c) STATE ADMINISTRATIVE COSTS.—Of the amount allotted to a State pursuant to subsection (a), an amount not to exceed 10 percent shall be used by such State to provide for the administrative costs of carrying out such program.

TITLE IV—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986

SEC. 101. SHORT TITLE.

This title may be cited as the "Child Care Facility Tax Incentive Act of 1988".

SEC. 102. CREDIT FOR EMPLOYERS PROVIDING QUALIFIED CHILD CARE FACILITIES.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business credits) is amended by adding at the end thereof the following new section:

"SEC. 43. QUALIFIED EMPLOYER-PROVIDED CHILD CARE FACILITY CREDIT.

"(a) In general.—For purposes of section 38, the qualified child care facility credit determined under this section for any taxable year is an amount equal to 25 percent of the qualified child care expenses for such taxable year.

"(b) Limitation.—The amount of the credit determined under subsection (a) for any taxable year shall not exceed $100,000.

"(c) Definitions.—For purposes of this section—

"(1) QUALIFIED CHILD CARE EXPENSES.—The term ‘qualified child care expenses’ means any amount paid or incurred by an employer during the taxable year to acquire, construct, or otherwise establish a qualified child care facility.

"(2) QUALIFIED CHILD CARE FACILITY.—

"(A) In general.—For purposes of section 38, the term ‘qualified child care facility’ means a facility operated by an employer for the care of enrollees—

"(i) at a location adjacent or within a family-based or in-home child care service program; or

"(ii) located on or near the business premises of such employer.

"(B) Definition of adjacent or within.—For purposes of this chapter, the term ‘adjacent or within’ means—

"(i) located on or near the business premises of such employer; and

"(ii) which is accredited or licensed as a child care facility under applicable State and local laws and regulations.

"(3) MULTIPLE EMPLOYERS.—In the case of a facility operated by more than 1 employer, such facility shall be treated as a qualified child care facility of each employer with respect to which the requirements of subsection (a) are met separately.

"(d) Basis adjustments.—For purposes of this section, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property (which would but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

"(e) Special rules.—For purposes of this section—

"(1) Allocation in case of multiple employers.—In the case of employers to whom subsection (c)(2)(B) applies, the amount of credit allocable to each such employer shall be its proportionate share of the qualified child care expenses giving rise to the credit.

"(2) Pass-through in the case of estates and trusts.—In the case of an estate or trust described in section 642, the term described in paragraph (1) shall be treated as a qualified child care facility.

"(e) State rules.—The Secretary, rules similar to the rules of subsection (d) of section 934 shall apply.

"(3) Allocation in the case of partnerships.—In the case of a partnership described in section 701, the credit shall be allocated among partners under regulations prescribed by the Secretary.

"(4) Receipt of child care project grant.—An employer is not eligible for a credit under this section for a taxable year if it receives a child care project grant pursuant to section 1934 of the Public Health Service Act during such taxable year.

"(b) Conforming Amendments.—

"(1) Section 38(b) of the Internal Revenue Code of 1986 is amended—

"(A) by striking out ‘plus’ at the end of paragraph (4),

"(B) by striking out the period at the end of paragraph (5), and inserting in lieu thereof a comma and ‘plus’, and

"(C) by striking out ‘plus’ at the end thereof the following new paragraph:

"(6) the qualified child care facility credit determined under section 43,

"(2) The amendments made by subsection (a) of section 1935 of the Internal Revenue Code of 1986 are made applicable to the qualified child care facility credit determined under section 43.

"(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1988.
"(i) the taxpayer has the same place of abode throughout the taxable year beginning with the birth (or, in the case of an adopted child, the adoption) of the child and ending on the date the child attains the age of 18 years;

(ii) the taxpayer performs no services for remuneration during such period.

In the case of a joint return, clause (i) and (ii) shall apply if either of the spouses satisfies the requirements of both such clauses.

SEC. 406. INDIVIDUAL RETIREMENT ACCOUNTS.

(a) REPEAL OF LIMITATION ON AMOUNT WHICH MAY BE CONTRIBUTED.—Clause (i) of section 402(a) of the Internal Revenue Code of 1986 (relating to special rules for contributions) is amended by striking "$2,000" and inserting "$2,250".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1988.

SEC. 407. COMPREHENSIVE CHILD CARE SERVICES.

The Secretary of Health and Human Services shall coordinate all activities of the Department of Health and Human Services relating to child care, and coordinate such activities with similar activities of other Federal agencies.

Mr. BOND. Mr. President, today I join my distinguished colleague from Utah [Mr. HATCH], who has already established a reputation in this area, in introducing a comprehensive child care package. The key to success of Federal child care efforts, I believe, is and must be State flexibility and responsibility.

The bill to be introduced will embrace this philosophy and includes provisions which will give the States the elbow room they need to make these programs effective. States will be able to receive block grants and use the money to develop programs tailored to their specific needs.

Mr. President, about two or three decades ago, perhaps only 10 to 20 percent of mothers were actually in the work force. Today that figure is up above 50 percent, and studies by the Department of Labor and by private groups in my home State, Missouri, have forecast that this percentage will rise to 63, to 64, or 65 percent. This rise has come about first because of need, but also because of rapidly expanding opportunities for women to participate and utilize their talents in the work force today. Theirs is a great contribution to our society. But at the same time working parents have a desire to ensure that their children are well cared for while they work.

I have discussed the needs of working parents with providers of child care, State officials, and with others concerned in my home State about the issue of child care. Based on these discussions, we have joined with Senator HATCH to promote legislation which will allow programs already underway in many States to be tailored to meet the particular needs of each State. I believe that the bill that is to be introduced will meet the tests of availability, affordability, and safety, and will come within the constraints of the Federal budget that we must recognize.

First, this measure would provide incentives to encourage private employers to provide onsite child care. The bill would allow qualified employers to deduct up to 25 percent of startup costs for establishing onsite child care programs. It also authorizes a $100 million pool to assist States in establishing liability insurance pools. Any accredited child care provider could be a beneficiary of this fund.

In addition, it would provide limits on collateral sources and joint and several liability, areas which threaten through expanded liability the assets of any organization undertaking child care services.

Second, the bill would provide assistance to States to allow them to tailor child care programs to individual employers. The block grant funds could be utilized to provide loans to employer sponsored care or to enable other providers to set up that care. It would allow these entities to receive child care assistance as needed in their particular situation.

Third, another interesting, and I think useful, part of this bill would permit the utilization of existing school facilities for constructive after-school programs, something that has come to be recognized as one of the greatest opportunities that we overlook in our society. Today about 25 percent of the children in this country are latchkey children. They go home after school to an empty house. Under this program, pilot projects similar to a very successful project which already exists in Independence, MO, could be set up to utilize school buildings after school to provide for the care of children.

Fourth, this bill would provide assistance to States to set up, establish, and enforce health and safety standards. This is very important and can best be done at the State level.

We would ask for the establishment by the Governor's Advisory Councils to advise the legislature, the Governor, and the administration on appropriate standards.

Fifth—and I think very important—States could implement sliding-scale eligibility to remove disincentives for poor and very poor families to seek job advance among the working poor. In the State of Missouri, if the funds were available, they could be used to ensure that a working mother who, by hard work and skill achieves a higher pay scale which might reach the eligibility cap would not lose all day care assistance. It would allow a parent to increase his or her income without becoming ineligible for child care assistance, so there would be no disincentive for the working mother to obtain a higher wage.

Sixth, this program would provide assistance to States to establish programs to inform parents as to the kind of child care they should be seeking and to help them make an informed choice.
When I served as Governor of Missouri, I saw that many Federal attempts to address problems often resulted in overly cumbersome Federal regulations.

Some believe that this bill will meet the needs of the States. I will be discussing it with my former colleagues in the National Governors Association today, and I urge my colleagues to support its passage.

Mr. GRASSLEY. Mr. President, at 9:30 this morning, Senator Harkin held a press conference on the introduction of his new bill for child care services. I am pleased to join the Senator from Utah as a cosponsor of the Child Care Services Improvement Act. It is my understanding that he will introduce this vital legislation in the Senate sometime today.

The makeup and needs of the American families have experienced many changes. As policy makers, we must be responsive to their concerns, which includes day care for children. I am especially concerned in this regard with Senator Harkin. I know that he also recognizes and supports strong family values.

The Child Care Services Improvement Act of 1988 addresses many of the crucial issues facing child care providers. It would also alleviate the concerns of working parents regarding quality care for their children. This legislation would accomplish these tasks without onerous Federal regulations. Most importantly, it recognizes the importance of parental involvement with their children.

Well over half of today's youngsters have mothers in the labor force. As reflected in all social indicators, this number will undoubtedly continue to increase. Also, economic demands are forcing more mothers to return to work much sooner after the birth of a child. Fewer parents have the luxury of staying home with their children during the tender preschool years.

Deciding to place offspring in day care can be a painful process for many parents. It can be further complicated by difficulties in obtaining affordable, high quality child care centers. The Senate's own child care center, for example, has a waiting list of 135 names. And that is for a center which cares for only 50 children. Most parents have to wait a year before they can get an opening at the center. It is especially challenging to obtain child care services in rural areas.

Even when parents have obtained child care, there are many special needs which can throw a monkey wrench into their arrangements. The most common example is temporary care for mildly ill children.

It is no wonder that there is a shortage of adequate child care providers. The business has many hidden expenses. This legislation would provide assistance for many of those costs. Block grants would be available to States and other local entities. Awards would be given to projects designed to improve delivery of child care services. The block grant program would provide seed money to local organizations to expand and create opportunities for child care services.

Another provision of the bill would alleviate some of the liability problems of child care providers. These liability provisions would not jeopardize the safety and well-being of children. They would simply limit the liability to those actions for which the provider is actually at fault.

Several incentives would diminish tax disincentives which now burden child care providers, such as opting out of employer Social Security requirements.

Of special importance to me, this bill also recognizes the importance of parental contact with their own children. It would double the personal exemption amount for families with a new born or newly adopted children at least 6 months. As we know well, nothing and no one can replace a parent's love and attention. This would encourage more parents to stay home longer with their children. Finally, the Child Care Service Improvement Act would allow equal contributions to IRA accounts for fulltime homemakers.

Mr. President, I am very pleased to join the Senator from Utah as a cosponsor of this very important legislation. I hope that my Senate colleagues will give it their full support.

Mr. DANFORTH. Mr. President, I wish to express my strong support for the Child Care Services Improvement Act. Our country is faced with an enormous child care problem that deserves Federal leadership and a significant Federal commitment to the problem. I commend my distinguished colleague from Utah, Senator Harkin, for recognizing the problem and aggressively attacking it. In my view this is a very positive first step in the fight to help ensure that America's children are cared for during the day.

In 1971, the White House Conference on Children voted child care as the most serious problem facing our Nation's children. The members of the conference urged the country to develop solutions. Today, a full 17 years later, we still have not addressed the problems adequately. According to a study completed by the Labor Department, only 2 percent of businesses now sponsor day care centers and 8 percent provide financial help or referral services. Existing programs designed to address this problem are woefully inadequate. In fact, the country's child care centers and State programs to assist in child care have long waiting lists. The needs simply are not being met by the supply of affordable, good quality care.

There is a great deal of uncertainty about what the effect of our current child care system, or lack thereof, will be on the development of our Nation's children. In my mind, purchasing child care is an ongoing investment that will help determine the development of the child. These uncertainties are very disturbing given the numbers of children who are currently in child care programs. Today, some 5.6 million children are estimated to be in out-of-home child care programs. In our country, one half of the children in our country do not have a parent in the home during the day as both parents are in the out-of-home work force. The Bureau of Labor Statistics reports that nearly 10 million children under age 6—or nearly half the children in the United States in that age group—are in households where the mother is in the labor force. Professor Ziegler, a well-known professor of child development, estimates that if the child care problem in our country, has been estimated that by the year 2000, 75 percent of all two-parent families will have both parents working in the outof-home work force for the most significant numbers of children who need child care, our Nation must address these problems aggressively. We must ensure that these children are given good quality care that will allow them to develop into healthy, contributing members of society.

I certainly believe that child care should be the first and foremost of the family's responsibility. Parents best understand their children and obviously have a primary responsibility to those children and to their development. However, the changes in the family and workforce structures in recent years have meant that for many families there is no choice. Today, one in four children live in single parent families. More than half of our Nation's black children live in single parent families. In 1983, 25 percent of the two-parent families with both people working had incomes below $10,000 and 50 percent had incomes below $20,000. For these families, child care is a necessity rather than a luxury.

It is my understanding that four basic problems are straining the ability of many families to balance work and child-rearing responsibilities: availability, affordability, accessibility and quality of day care. The Child Care Services Improvement Act begins to address these problems. It would provide a series of payments to the States that would help establish and develop programs. There is a block grant that would serve as seed money to local organizations to establish or expand a variety of child programs. There is also a revolving loan fund from which family based child care providers may borrow to make capital improvements required to meet accreditation or li-
censing standards; and money that would be awarded to projects designed to improve child care services. In addition, the bill would provide tax incentives to encourage greater private involvement in the provision of child care and would begin to address the liability problems.

With respect to the liability issue, S. 2084 attempts to decrease the insurance burden suffered by many competent day care providers. To achieve this goal, Title II of the bill modifies rules concerning joint and several liability, collateral sources of compensation, and the awarding of punitive damages. In addition, it establishes a pool for the funding of State-operated child care risk retention groups.

The components of title II are well intended and should do much to reduce problems in this industry. However, because this legislation involves the interests of our children, we must be sure that these liability components will have no unintended effects on the responsibilities of child care providers. Specifically, we must ensure that any child who is injured as a result of the negligence of a child care provider will be given full compensation for any necessary medical treatment or related expenses.

In addition, attention should be given to the risk retention pool created by the act. Again, I am concerned about the possibility of unintended consequences, such as the unnecessary Federal regulation of certain private insurance companies.

In raising these concerns, my intentions are solely constructive. If these concerns prove to be well founded, I am prepared, at the appropriate time, to offer amendments to correct any problems.

In conclusion, I would like to commend the Senator from Utah for his attention to the problems surrounding child care. A solution is long overdue and to that end Congress had directed Hearings in both Houses of Congress and to that end Congress had directed Hearings in both Houses of Congress on child care and would begin to address the infrastructure grants issue.

By Mr. WEICKER:

S. 2086. A bill to establish a trust fund using civil penalties collected under the Occupational Health and Safety Act of 1970 to compensate victims of the collapse of the L’Ambiance Plaza in Bridgeport, Connecticut; referred to the Committee on Labor and Human Resources.

COMPENSATION FOR THE L’AMBIANCE PLAZA COLLAPSE VICTIMS

Mr. WEICKER. Mr. President, I rise today to introduce legislation to assure that the civil penalties assessed by the Occupational Safety and Health Administration (OSHA) in the aftermath of the L’Ambiance Plaza tragedy are set aside for the families of those who died. I would note that this bill has the support of the International Association of Bridge, Structural and Ornamental Iron Workers, which is affiliated with the AFL-CIO.

Ten months ago L’Ambiance Plaza, an apartment building under construction in Bridgeport, CT, collapsed, killing 28 workers. Based on the findings of an investigation conducted by the National Bureau of Standards, OSHA imposed fines totaling $5.1 million on five construction companies involved in the project.

Assuming OSHA succeeds in collecting these fines—for some are being contested—under current law the money would go into the General Treasury for the Federal Government to use as it sees fit.

The bill I am introducing today seeks to put the money received as civil penalties into a trust fund to compensate those who really lost their loved ones in the accident but, in many cases, their major source of financial support as well.

The fund would be administered by the U.S. district court which has jurisdiction for the Bridgeport area. Claims could also be filed with the district court where the employer in question has its principal office. Final decisions regarding who is compensated and how much is awarded will rest with the courts. Any money remaining in the fund after a reasonable period of time has elapsed would go to the Secretary of Labor for deposit in the U.S. Treasury.

Mr. President, we cannot bring back the men who died or truly compensate their families for their loss. But we can see to it that any financial settlement benefits those who are the victims.

I urge my colleagues to join me in support of the bill. True, it deals with an accident in a single State. But the recent rise in construction deaths is a nationwide phenomenon. The trust fund I am proposing today is one aspect of the answer. More aggressive field inspections by OSHA is another and to that end Congress had directed a review of OSHA’s onsite monitoring of new construction.

Hearings in both Houses of Congress have raised doubts about how well OSHA inspected the site and monitored the construction practices in use at L’Ambiance Plaza. Further hearings on the accident and on OSHA’s inspection procedures will be held in the Senate Labor and Human Resources Committee in mid-March.

It is my hope that we can move ahead on both fronts to insure that the L’Ambiance tragedy is not repeated elsewhere in America and to see to it that those who have been hurt are helped.

I ask unanimous consent that the text of the bill be printed in the Record at this point.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2086

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. COMPENSATION FOR L’AMBIANCE VICTIMS

(a) PAYMENT TO TRUST FUND.—Notwithstanding any other provision of law, all civil penalties recovered under the Occupational Health and Safety Act of 1970 (29 U.S.C. 651 et seq.) as a result of the collapse of the L’Ambiance Plaza in Bridgeport, Connecticut on April 23, 1987, shall be paid into a trust fund established by the United States district court for the district where the liability is alleged to have occurred or where the employer has its principal office.

(b) FILING OF CLAIMS.—Any person physically injured, or survivor of a person killed, by reason of the collapse of the Plaza may file a claim with the court to recover all actual and consequential damages resulting from the collapse or from the failure of an attorney’s fee, except that a person or survivor must exhaust civil remedies against private or public persons before restoring to the trust fund.

(c) PAYMENT OF CLAIMS.—The court shall use monies in the trust fund to compensate persons for whom claims filed under subsection (b), in an amount determined by the court.

(d) CIVIL ACTIONS.—No private party against whom a civil action has been filed may offer as a defense to or in such action any payment or potential payment under this section.

(e) REMAINDER TO TREASURY.—After compensation is provided in accordance with this section and a reasonable period of time has elapsed (as determined by the court), all funds remaining in the trust fund shall be paid by the court to the Secretary of Labor for deposit into the Treasury and shall accrue to the United States.

By Mr. MOYNIHAN:

S. 2088. A bill to provide for flexibility in the use of Federal Highway Program grants authorized under title 23, United States Code, and other Federal infrastructure grants, to establish a National Infrastructure Corporation, to provide additional financing for a variety of public works improvements and for other purposes; to the Committee on Environment and Public Works.

NATIONAL INFRASTRUCTURE DEVELOPMENT ACT

Mr. MOYNIHAN. Mr. President, I rise to introduce “The National Infrastructure Development Act of 1988.” The purpose of this proposed legislation is to establish new mechanisms for financing the much needed work that must be done to rehabilitate and expand the Nation’s public works infrastructure, the basic underpinnings of its well-being and economic growth.

OUR DECLINING INFRASTRUCTURE

The National Council on Public Works Improvement stated in its
report released today, Fragile Foundations, that there is "... convincing evidence that the quality of America's infrastructure is barely adequate to fulfill current requirements, and insufficient to meet the demands of future economic growth and development."

Federal, State, and local governments together devoted 6.8 percent (out of a $1.428 trillion total expenditures) of their budgets to public works in 1985, as compared to 19 percent (of $239 billion) in 1970.

According to an analysis prepared by the Federal Reserve Bank of Chicago, net public capital formation—the level of investment in roads, bridges, and so forth, after accounting for physical depreciation—tumbled from a high of 2.3 percent of GNP in the latter half of the 1960's to only 0.4 percent during 1980-1984.

In New York City, half the bridges are in poor or fair condition, some with visible cracks in their gratings. In the case of one bridge last year, as reported by the New York Times, a hole "the size of a Buick" was found in the pavement. Many bridges have been partially closed, others require replacement.

There has been no major airport built in the United States since 1974 at Dallas-Ft. Worth. Outside the small community of Amsterdam, NY, last April, a bridge on 23 lion gallons of gas per year—just in Los Angeles County, the cost of congestion in Los Angeles County is about 485,000 hours per day of wasted time by drivers. That converts to a minimum of $507 million per year in wasted time and about 72 million gallons of gas per year—just in one county.

Three studies that have received a great deal of attention presented their findings in terms of annual capital investment shortfalls for major categories of public works infrastructure. These studies by the Congressional Budget Office, the Congressional Joint Economic Committee, and the Associated General Contractors found an annual shortfall ranging from $17.4 billion to $71.4 billion.

The Clean Water Act of 1972, which has funded $52 billion in sewage treatment plants, will also be coming to an end with the passage of amendments to the Clean Water Act in 1987. We have turned most of this responsibility over to State and local governments.

At the beginning of the 100th Congress, we established the Water Resources, Transportation, and Infrastructure Subcommittee of the Committee on Environment and Public Works. Our intent was to examine the Nation's infrastructure, reevaluate our requirements and develop policies to meet them.

We have held five hearings, the first of which featured the historic appearance of the Speaker of the House, Jim Wright, as a witness. We have learned much through this hearing process. We have also had the benefit of the work of the National Council on Public Works Improvement, which was commissioned by the Public Works Improvement Act of 1984 to survey our Nation's infrastructure and report to the President and the Congress.

THE NATIONAL INFRASTRUCTURE DEVELOPMENT ACT OF 1988

"The National Infrastructure Development Act of 1988" has two purposes: First, to provide State and local governments with maximum flexibility to finance those projects and activities which are local in nature, and second, to reinforce the traditional and time-honored Federal role in providing financial assistance for large, capital intensive projects. The bill also recognizes that we must spend our money wisely by conducting research and development activities and stimulating technological innovation.

STATE INFRASTRUCTURE REVOLVING FUNDS (SIRF's)

To meet these two major objectives, the bill establishes both a set of State Infrastructure Revolving Funds (SIRF's) and the National Infrastructure Corporation (NIC). The bill's first section would allow States to deposit many of their present infrastructure grant payments from the highway, mass transit and airport trust funds into these new State infrastructure revolving funds (SIRF's), where they would then be loaned out to municipalities for local infrastructure initiatives of all kinds. States choosing to establish such funds would receive a bonus of 25 percent over their normal Federal payments. By putting those funds into State hands, this bill gives States and localities an increasingly large role in setting their own funding priorities.

States would have flexibility in setting the kinds of loans these SIRF's could provide. Even if all States chose to provide only no-interest loans, a Federal investment of $46 billion—including present Federal grants and the 25 percent bonus—would make available over $76 billion in the first 10 years. If the States were to choose to repay loans, money is again available to be loaned out, and the State revolving loan funds become self-sustaining. Therefore, in the following 10 years, these SIRF's would make available an additional $48 billion for no-interest loans.

The National Infrastructure Corporation (NIC)

This legislation also establishes a National Infrastructure Corporation to provide financial help to projects of regional and national importance that are beyond the resources of the SIRF's. Such might include new beltways around major cities, new major airports, or a new Williamsburg bridge over the East River, which alone could cost more than $600 million. The Corporation would be limited to providing loans for at most a 25 percent share of the cost of any project. This would force each and every undertaking to undergo the test of finding a majority of private financing for its balance, and that "market test" is a sound public policy principle which we developed in the Water Resources Development Act passed in the 99th Congress. By requiring local cost-sharing, we have seen a dramatic downsizing of projects—now that the Federal Government is no longer paying 100 percent of the project costs. The work of highest priority is the work that is being done.

MONETARY RETURN ON INFRASTRUCTURE INVESTMENT

The capitalization of this corporation does not require us to raise taxes. The Corporation would be funded from interest earned on the $23.5 billion in unexpended balances in the Federal transportation trust funds. Principal would not be touched and this interest will equal $2.3 billion per year. If we assume that corporation money is used only for no-interest loans, and that only 25 percent of project costs were covered by loans from the corporation, then a $16.7 billion Federal investment over 10 years could provide financial assistance to more than $85 billion worth of projects. By charging a modest interest rate of just 3 percent, 93 billion dollars' worth of projects can be funded.

I would stress that the specifics mentioned here are ideas only. I hope this bill will stimulate discussion and thinking, and that good ideas will breed more good ideas. Future additions may include modifications to the Tax Code to allow States and localities greater access to capital markets, or refinements to the basic structures outlined here.

Providing for the integrity and well-being of the basic structures and services required by a modern society will be one of the most problematic and challenging matters we will face in the
The construction and maintenance of public works have become increasingly important in the early- to mid-1980s; the recent net disinvestment in the Nation's public works infrastructure has led to deteriorating roads, bridges, and other critical public assets. The public capital investment in infrastructure has dropped from 31 percent of the Gross National Product, from a peak in the late 1960s, to 0.4 percent in the early to mid-1980s; shortfalls in public investment for infrastructure have been estimated to equal between $17 billion and $70 billion per year; local share has risen from 41 percent to 49 percent in the past decade; national, State, and local governments to encourage better use of public works; the need for an efficient and growing do-

DEFINITIONS
Sec. 3. For purposes of this Act:
(1) The term “infrastructure” includes the following:
(A) Highways;
(B) Roads;
(C) Streets;
(D) Bridges;
(E) Appurtenances to the items named in subparagraphs (A) through (D);
(F) Shoreline erosion prevention facilities;
(G) Flood control facilities;
(H) Storm sewer and drainage facilities;
(I) Ports and harbors;
(J) Navigation channels and inland navigation facilities;
(K) Water impoundment facilities;
(L) Water collection, treatment, and distribution facilities;
(M) Irrigation facilities;
(N) Sewerage;
(O) Solid waste disposal facilities;
(P) Tunnels;
(Q) Public buildings;
(R) Airports and airport facilities;
(S) Mass transit facilities; and
(T) High speed surface transportation systems.
(2) The term “SIRF means a State Infrastructure Revolving Fund established pursuant to title I.

TITLE I—STATE INFRASTRUCTURE REUSING FUNDS
Sec. 101. (a) For each fiscal year which begins on and after the effective date of this Act, the Secretary of Transportation shall pay to the appropriate Program Account of the State Infrastructure Revolving Fund of any State, established in accordance with section 102, such portion of:
(1) the funds allocated to the State under title 23, United States Code, for the Federal-aid secondary system,
(2) the funds allocated to the State under title 23, United States Code, for the Federal-aid urban system,
(3) the funds apportioned to the State under title 23, United States Code, for replacement or rehabilitation of bridges that are not on the Interstate highway system,
(4) the funds apportioned to the State by reason of section 102(c) of the Federal-Aid Highway Act of 1987 (23 U.S.C. 104, note),
(5) the funds apportioned to the State under the Airport and Airway Trust Fund established by section 9502 of the Internal Revenue Code of 1986, and
(6) the funds apportioned or otherwise available to the State under sections 3, 9(d), and 18 of the Urban Mass Transportation Act of 1966, as the Governor of the State may request.
(b) The purview of the Act is to provide new methods for financing investments in the Nation’s public works infrastructure and to provide the more efficient expenditure of such investments—
(1) by providing for the leveraging of new and existing infrastructure investment;
(2) by encouraging the more efficient expenditure and use of innovative technology for public works;
(3) by encouraging investment in both small and large scale public works projects; and
(4) by providing for technical assistance to both State and local governments to encourage better use of public works.

AGREEMENTS TO ESTABLISH STATE INFRASTRUCTURE REUSING FUNDS
Sec. 102. (a) Each State electing to partici-

February 23, 1988
(3) (a) There shall be established within each SIRF a General Infrastructure Account (hereafter in this Act referred to as the "Fund") which shall be credited with:

(i) all repayments of the principal of any loan made out of the SIRF; and
(ii) any interest accrued on, or investment income earned on, the funds transferred to the State by section 101.

(b) Loans from the GIA may be provided to any project meeting the definition of infrastructure under this Act.

(4) For each SIRF Program Account, the State shall establish a Priority List for projects to be funded, and the projects within each Program Account shall be in accordance with such Priority List.

(5) The State shall designate an instrumentality of that State to carry out the administration of the SIRF, and this instrumentality shall have the necessary powers and limitations required to carry out the purposes of this section. The State may use funds in the SIRF for the reasonable costs of administering the SIRF and conducting activities under this section, except that such amounts shall not exceed 4 percent of all deposits in the SIRF for the fiscal year in which these costs are incurred. Funds from the SIRF are authorized to remain available until expended to carry out the purposes of this section.

(d) Any State electing not to establish a SIRF, or a particular Program Account within a SIRF, shall continue to receive the Federal grants otherwise receivable by such State without regard to this Act.

PASS-THROUGH FUNDS TO CITIES

Sec. 102. Any city receiving direct pass-through grants from the Urban Mass Transportation Administration, the Federal Highway Administration, or the Federal Aviation Administration shall elect one of the following options:

(1) Such city may continue to receive these funds as before the effective date of this Act for use as direct project grants.

(2) Such city may deposit such funds in a set of accounts in the SIRF that is dedicated solely for projects within the jurisdiction of the municipality originally receiving such grants, and the repayment of principal and interest accrued on the amounts loaned from the capital generated by each such account would be deposited in a City General Infrastructure Account within the SIRF of the same form as the General Infrastructure Account. This City GIA shall be used to fund projects meeting the same specifications as for the State GIA, except that such projects must be within the jurisdiction of such city.

(3) Such city may establish its own City Infrastructure Revolving Fund (CIRF), which shall meet the same requirements and specifications as mandated for a SIRF under section 102. In order to receive Federal payments for deposit into the CIRF, a city shall enter into an agreement with the Secretary of Transportation to abide by the same terms and conditions as described in section 102.

GENERAL INFRASTRUCTURE ACCOUNT PRIORITY LIST

Sec. 104. (a) Each participating State shall establish a GIA Priority List that takes into account the relative priorities established under the several Program Account Priority Lists for projects that have not been funded from the Program Accounts. This GIA Priority List shall be in accordance with the criteria for funding from one of the Program Accounts. Any loans made from the GIA shall be made in accordance with this section.

(b) Prior to making a loan from the GIA Priority List, a State shall take into account:

(1) the financial hardship that not funding a project would cause to the municipality undertaking it;

(2) whether a project would be built without a GIA loan;

(3) the necessity of a project for such municipality to meet Federal or State environmental or health and safety guidelines and the likelihood of penalties falling on such municipality for not meeting such guidelines if a loan is not provided;

(4) the degree to which a project will provide for proper maintenance of existing infrastructure;

(5) the degree to which a project is receiving funds from other sources;

(6) the degree to which a project will lead to a general improvement of the public health and safety and the quality of the environment.

REPORTS

Sec. 105. (a) Not later than 30 days after the close of each fiscal year, the Governor of each State shall prepare and transmit to the Secretary of Transportation a report describing the activities of its SIRF during the preceding fiscal year.

(b) The Secretary of Transportation shall promptly make each such report available to the National Infrastructure Corporation.

AUDITS

Sec. 106. In the use of funds under this Act, each participating State, and any municipality receiving a loan from any of the SIRF accounts, shall use such accounting, audit, and fiscal procedures as are in accordance with generally accepted government accounting standards.

REALLOCATIONS; WITHHOLDING OF PAYMENTS

Sec. 107. (a) The amount of any funds not obligated by the State from any SIRF Program Account by the termination of the period specified by the appropriate Federal agency for the obligation of such funds when used as direct project grants shall immediately be reallocated by the Secretary of the Treasury on the basis of the same ratio as is applicable to annual grants to the State for the respective programs. None of the funds reallocated shall be reallocated to any State that has not obligated all sums allocated to it by the Secretary of the Treasury in the first of the two preceding fiscal years. States receiving such reallocated sums shall deposit them in the General Infrastructure Account of such State's SIRF.

(b) If the Secretary of Transportation determines that a State has not complied with its agreement with the Secretary or with any other requirement of this title, the Secretary shall notify such State of such noncompliance and the necessary corrective action.

(c) If a State does not take corrective action within 30 days after receiving notification of noncompliance, the Secretary of Transportation shall withhold additional payments to such State until satisfied that the State has taken the necessary corrective action.

(d) If the Secretary of Transportation is not satisfied that corrective actions have been taken by the State within 12 months of notification of noncompliance, the payments withheld from such State shall be made available for reallocation in accordance with the most recently applied formula for the allotment of such funds under this section.

TITLE II—NATIONAL INFRASTRUCTURE CORPORATION

PART A—GENERAL PROVISIONS

SHORT TITLE

Sec. 201. This title may be cited as the "National Infrastructure Corporation Act of 1988." 

DEFINITIONS

Sec. 202. For purposes of this title—

(1) The term "Board of Directors" means the Board of Directors of the Corporation, including the Chairman and the eight other Directors.

(2) The term "Chairman" means the Chairman of the Board of Directors of the Corporation.

(3) The term "concern" means any—

(A) person;

(B) State or political subdivision or governmental entity thereof, including any municipality of the State, or an Indian tribe or tribal organization;

(C) multi-State entity which possesses legal powers necessary to carry out activities under this title;

(D) the "American Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in section 3 of the Alaska Native Claims Settlement Act.

(E) the term "loan" means a loan or commitment to loan.

(F) the term "loan guarantee" means a guarantee of, or commitment to guarantee, indebtedness.

(G) the term "person" means any individual, company, cooperative, partnership, corporation, association, consortium, unincorporated organization, trust, estate, or any entity organized for a common business purpose.

PART B—ESTABLISHMENT OF THE CORPORATION

ESTABLISHMENT

Sec. 221. (a) There is hereby established the National Infrastructure Corporation.

(b) The principal office of the Corporation shall be located in the District of Columbia. The Corporation may establish offices elsewhere in the United States as determined by the Board of Directors of the Corporation. The Corporation is deemed to be a resident of the District of Columbia.

BOARD OF DIRECTORS

Sec. 222. (a)(1) The powers of the Corporation shall be vested in the Board of Directors, except those functions, powers, and duties vested in the Chairman by or pursuant to this title.

(2) The Board of Directors shall consist of a Chairman and eight Directors, selected as follows:

(A) The Chairman shall be appointed by the President, by and with the advice and consent of the Senate.

(B) Six Directors shall be appointed by the President as follows:

(i) Two Directors shall be governors of States or their designees,
shall take an oath faithfully to discharge
their duties.

(3) The Chairman shall devote full work­ing time to the affairs of the Corporation and shall hold office for a term of one year.

(4) No more than five of these Directors shall be affiliated with the same major po­litical party.

(b) The appointed Directors shall serve for seven-year terms. Of the Directors first appointed, the Chairman shall serve as Chairman for a seven-year term, one Direc­tor shall serve for a term of six years, one shall serve for a term of five years, one shall serve for a term of four years, one shall serve for a term of three years, one shall serve for a term of two years, and one shall serve for a term of one year.

(2) Upon expiration of the initial term of each initial Director, each Director appoint­ed thereafter shall serve for a term of seven years. The terms of the Directors shall be staggered so that at least one Director is elected each year.

(3) When the term of any Director expires, the person so elected may be re-elected for a term of seven years. The term of any Director so re-elected shall begin immediately upon the expiration of the term of the Director so re-elected.

(4) Upon expiration of the term of any Director so re-elected, the person so re-elected may be re-elected for a term of seven years. The terms of the Directors shall be staggered so that at least one Director is elected each year.

(5) A majority of the Board of Directors may accept the resignation of any Director at any time pursuant to the call of the Chair­man. In the event of such resignation, the vacancy for the remainder of the applicable term of such Director shall be filled by the Board of Directors for the remainder of such Director's term. The vacancy for the remainder of the term of any Director so elected may be filled by the Board of Directors for the remainder of such Director's term.

(6) A majority of the Board of Directors may remove any Director at any time by the vote of a majority of all members of the Board of Directors. The Board of Directors may remove any Director at any time by the vote of a majority of the Board of Directors.

(7) The Chairman, in consultation with the President, may establish the offices and appoint the officers of the Corporation, including a General Counsel and Treasurer, and define their duties.

(8) The Board of Directors shall—

(1) establish the offices and appoint the officers of the Corporation, including a General Counsel and Treasurer, and define their duties;

(2) fix the compensation of individual offi­cer positions and categories of other em­ployees of the Corporation taking into con­sideration the responsibilities and qualifications for each position and the responsibilities and qualifications for such position;

(3) provide a system of organization to fix responsibility and promote efficiency.

(4) The Board of Directors of the Corporation shall not be considered to be Federal employees for purposes of any law of the United States.

(5) The Board of Directors shall appoint any employee as may be necessary for the proper management and functioning of the Corporation.

(6) The Board of Directors shall—

(a) establish the offices and appoint the officers of the Corporation, including a General Counsel and Treasurer, and define their duties;

(b) fix the compensation of individual offi­cer positions and categories of other em­ployees of the Corporation taking into con­sideration the responsibilities and qualifications for each position and the responsibilities and qualifications for such position;

(c) provide a system of organization to fix responsibility and promote efficiency.

(7) Except as specifically provided in this title, Directors, employees of the Corporation shall not be considered to be Federal employees for purposes of any law of the United States.

(8) The Board of Directors shall appoint any employee as may be necessary for the proper management and functioning of the Corporation.

(c) The determination to close an any meet­ing of the Board of Directors for any of the purposes specified in subparagraphs (A) through (C) of paragraph (1) shall be made in a meeting of the Board of Directors open to public observation preceding reasona­ble notice. The Board of Directors shall pro­duce all minutes of any meeting which is closed to the public and such minutes shall be made promptly available to the public, except for those portions thereof which, in the judgment of the Board of Directors, may be withheld under the provisions of subparagraphs (A) through (C) of para­graph (1).

(1) The levels of compensation of the Board of Directors shall be fixed initially by the President and may be adjusted from time to time upon recommendation by the Board and with concurrence of the Presid­ent.

OFFICERS AND EMPLOYEES

Sec. 222. (a) The Chairman shall be the chief executive officer of the Corporation and shall have such powers and duties as are necessary for the proper management and functioning of the Corporation.

(b) The Board of Directors shall—

(1) establish the offices and appoint the officers of the Corporation, including a General Counsel and Treasurer, and define their duties;

(2) fix the compensation of individual offi­cer positions and categories of other em­ployees of the Corporation taking into con­sideration the responsibilities and qualifications for each position and the responsibilities and qualifications for such position;

(3) provide a system of organization to fix responsibility and promote efficiency.

(c) Except as specifically provided in this title, Directors, employees of the Corporation shall not be considered to be Federal employees for purposes of any law of the United States.

(d) The Board of Directors shall appoint any employee as may be necessary for the proper management and functioning of the Corporation.

(2) The financial disclosure pro­visions of the Ethics in Government Act of 1978 (92 Stat. 1780; Public Law 95–521) ap­plied to individuals occupying positions compensated under the Executive Schedule shall apply to the Directors and officers of the Corporation and to employees of the Corporation whose compensation is estab­lished by the Board of Directors pursuant to any other provisions of this title other than those expressly vested in the Board of Directors pursuant to sections 222 and 223. The Board of Directors may, by any written instrument, delegate such func­tions, powers, and duties as are assigned to the Board by or pursuant to the provisions of this title to such other full-time Di­rectors, officers, employees, or organiza­tions as the Board may determine.

CONFLICTS OF INTEREST AND FINANCIAL DISCLOSURE

Sec. 224. (a) The financial disclosure pro­visions of the Ethics in Government Act of 1978 (92 Stat. 1780; Public Law 95–521) ap­plied to individuals occupying pos­i­tions compensated under the Executive Schedule shall apply to the Directors and officers of the Corporation and to employees of the Corporation whose compensation is estab­lished by the Board of Directors pursuant to any other provisions of this title other than those expressly vested in the Board of Directors pursuant to sections 222 and 223. The Board of Directors may, by any written instrument, delegate such func­tions, powers, and duties as are assigned to the Board by or pursuant to the provisions of this title to such other full-time Di­rectors, officers, employees, or organiza­tions as the Board may determine.

(b)(1) Notwithstanding any other provi­sion of this title, the Board of Directors may, by any written instrument, delegate such func­tions, powers, and duties as are assigned to the Board by or pursuant to the provisions of this title other than those expressly vested in the Board of Directors pursuant to sections 222 and 223. The Board of Directors may, by any written instrument, delegate such func­tions, powers, and duties as are assigned to the Board by or pursuant to the provisions of this title to such other full-time Di­rectors, officers, employees, or organiza­tions as the Board may determine.

CONFLICTS OF INTEREST AND FINANCIAL DISCLOSURE

Sec. 222. (a) The Chairman shall be the chief executive officer of the Corporation and shall have such powers and duties as are necessary for the proper management and functioning of the Corporation.

(b) The Board of Directors shall—

(1) establish the offices and appoint the officers of the Corporation, including a General Counsel and Treasurer, and define their duties;

(2) fix the compensation of individual offi­cer positions and categories of other em­ployees of the Corporation taking into con­sideration the responsibilities and qualifications for each position and the responsibilities and qualifications for such position;
ant to an authority in law which expressly makes reference to this section.

(2) The Corporation or other provision of law, the provisions of chapter 9 of title 5, United States Code, shall not apply to authorize the transfer to the Corporation of any power, function, or authority.

GENERAL POWERS

Sec. 226. In carrying out the provisions of this title, the Corporation shall have the power, consistent with the provisions of this title:

(1)(A) to adopt, alter, and rescind bylaws, rules, and regulations;
(B) to adopt and alter a corporate seal, which shall be judicially noticed;
(2) to make agreements and contracts with persons and private or governmental entities, except that the Corporation shall not provide any financial assistance except as otherwise specifically authorized by this title;
(3) to lease, purchase, accept gifts or donations, improve, use, or otherwise deal in or with, and to sell, convey, mortgage, pledge, lease, exchange, or otherwise dispose of, any property of the Corporation, or of the Corporation's predecessors in interest, held, improved, use, or otherwise deal in or with, as the Board may determine necessary or desirable;
(4) to sue and to be sued in its corporate name and to complain and defend in any court of competent jurisdiction;
(5) to represent, or to contract for representation, in all judicial, legal, and other proceedings, except actions brought under the Federal Tort Claims Act, in which actions the Corporation will be represented by the Attorney General;
(6) to make provision for and designate such committees, and the functions thereof, as the Board may determine necessary or desirable;
(7) to indemnify such Directors, officers, employees, and agents of the Corporation, as the Board may determine necessary or desirable;
(8) with the approval of the agency concerned, to make use of services, facilities, and property of any board, commission, or agency or department of the executive branch in carrying out the provisions of this title, and in connection with the same, such payments to be credited to the applicable appropriation that incurred the expense;
(9) to procure insurance against any loss in connection with the Corporation's property and operations in such amounts and from such insurers as the Corporation determines proper;
(10) to receive capital contributions and to issue capital securities as provided in this title;
(11) to create, organize, and manage divisions and departments;
(12) to deposit moneys or funds of the Corporation in accounts insured by the Federal Deposit Insurance Corporation;
(13) subject to the provisions of this section, any moneys of the Corporation, including the proceeds of the sale of any securities issued and sold for the purpose of the use by the Corporation, shall be invested in obligations of the United States or obligations the principal of and interest on which are guaranteed by the United States, or in secured time deposits or other interest-bearing accounts secured by such obligations;
(14) to assign itself at any time of the obligations or equity securities of any applicant—
(A) by refinancing such obligations or equity securities;
(B) by offering such obligations or equity securities for public sale; or
(C) by any other method the Board may provide;
(15) to perform or authorize studies, or prepare or provide prepared by the Corporation and to convene meetings and conferences, and defray the costs and expenses of the foregoing; and
(16) to exercise all other lawful powers necessarily or reasonably related to—
(A) the establishment of the Corporation;
(B) carrying out the provisions of this title; or
(C) the exercise of the Corporation's powers, purposes, functions, duties, and authorities.

PUBLIC ACCESS TO INFORMATION

Sec. 227. (a) The Corporation shall make available to the public, upon request, any information regarding its organization, procedures, requirements, and activities, except that the Corporation is authorized to withhold information which is exempt from disclosure pursuant to subsection (b) of section 552 of title 5, United States Code, and section 222(e) as it pertains to minutes of meetings of the Board of Directors.
(b) The Corporation shall maintain such records, reports, files and all other papers, or in secured time deposits or other interest-bearing accounts secured by such obligations, by the Corporation, in accordance with the principles and procedures applicable to commercial corporate transactions for verifying transactions with the General Accounting Office, and they shall be afforded full facilities for verifying transactions with the balances of securities held by depositaries, fiscal agents, and custodians. A report on each such audit shall be made by the Comptroller General to the Congress. The Corporation shall reimburse the General Accounting Office for the full cost of any such audit as billed therefor by the Comptroller General.
(c) The Corporation shall maintain adequate books and records to support its financial transactions. The books shall be maintained in accordance with recommended accounting principles and procedures.

ANNUAL REPORTS

Sec. 229. The Corporation shall submit to the President and the Congress, within 2 months after the end of each fiscal year of the Corporation's current fiscal year, and at such other times as the Board may require, a complete and detailed report with respect to such fiscal year, setting forth—
(1) a summary of the Corporation's operations for such fiscal year;
(2) the Corporation's revenues and expenditures for such fiscal year, the Corporation's balance sheet as of the end of such fiscal year, each in accordance with the categories and classifications established by the Corporation;
(3) a schedule of the Corporation's obligations and capital securities outstanding at the end of such fiscal year, with a statement of the amounts incurred, redeemed, and redeemed or paid during such fiscal year;
(4) the status of projects receiving funding or assistance; and
(5) an updated national priority list, as required by section 235.

TAX STATUS OF THE CORPORATION

Sec. 230. Any real property owned in fee by the Corporation shall be subject to taxation by a State, territory or possession, the District of Columbia, the Commonwealth of Puerto Rico, local governmental unit, or other local authority to the same extent, according to its value, as other similarly situated and used real property, without discrimination in the value, classification, or assessment thereof.

PART C—AUTHORITIES

FINANCIAL ASSISTANCE FOR NATIONAL OR REGIONAL INFRASTRUCTURE PROJECTS

Sec. 231. (a) The Corporation shall establish a National Infrastructure Revolving Fund (hereafter in this title referred to as the "Fund") for the purpose of providing low-cost financing to major infrastructure projects. The Fund shall be capitalized in an amount equal to the amount of the capital stock of the Corporation.
(b) The Corporation, through the Fund, shall—
(1) to make loans on the condition that—
(A) such loans should be made at or below market interest rates, including interest-free loans;
(B) annual principal and interest payments will commence no later than 1 year after completion of the project;
(C) the recipient of a loan will establish a dedicated source of revenue for repayment of loans, and
(D) the Fund will be credited with all payments of principal and interest on all loans;
(2) to earn interest on fund accounts; and
(3) to deduct a fee for the reasonable costs of administering the Fund and conducting activities under this title, except that such amounts shall not exceed 2 percent of Fund receipts in that year.
(c) Financial assistance provided under this section to any major infrastructure project shall not exceed 25 percent of the total project costs necessary to carry out the project.
(d) Applicants for financial assistance must demonstrate that such projects meet the requirements set forth by the Board and meet the rate of return criteria required by the Board in this section.

TECHNICAL ASSISTANCE

Sec. 232. (a) The Corporation is authorized to provide technical assistance to qualified concerns. Such assistance shall be for—
(1) assisting municipalities in obtaining financing for infrastructure purposes;
(2) providing local infrastructure management with education and training programs; and
(3) providing national long-range infrastructure planning and needs studies, and
(4) assisting the participation by States and localities in the SIRF program as established in title I.
(b) In order to qualify, a concern shall submit an application to the Corporation,
together with such information as the Board of Directors may prescribe demonstrating that such assistance would carry out the purposes of the section (a) "TECHNICAL INNOVATION, RESEARCH, AND DEVELOPMENT.

SEC. 232. (a) The Corporation is authorized to develop a program to provide for the advancement of scientific and technological innovations, research, and development as it pertains to infrastructure.

(b) The Corporation is authorized to make arrangements with the National Academy of Sciences to design such a program.

(c) The Corporation is authorized to utilize to the extent possible the existing Federal and university research programs in order to accomplish this objective.

SEC. 234. (a) The Corporation shall pay into the SIRF of each participating State an amount, out of the National Infrastructure Revolving Fund, equal to 25 percent (for the first fiscal year after the effective date of this Act) and 10 percent (for each fiscal year thereafter) of the Federal share of grants deposited into the State's SIRF during the preceding fiscal year.

(b) Funds paid to a State by the Corporation under paragraph (a) may be referred to as "bonus payments.

SECTION 335. The Board of Directors shall—

(1) establish criteria for infrastructure projects eligible for financing with the National Infrastructure Revolving Fund.

(2) determine the arrangements for such projects that shall be eligible for receipt of money from such fund;

(3) after the establishment of criteria under paragraph (1), receive proposals for projects from eligible States, municipalities, intermunicipal agencies, interstate agencies and other eligible public entities;

(4) develop a national priority list for the prioritization of such project proposals as the Board of Directors determines meet the criteria established in paragraph (1), are eligible under paragraph (2), and are in accordance with the purposes of this title; and

(5) only fund projects on the national priority list.

PART D—CAPITALIZATION AND FINANCE

SEC. 241. (a) The Corporation shall have capital stock subscribed by the Secretary of the Treasury equal to the amount of funds derived from interest earned annually on the balances maintained in the fund described in section 242.

(b) The Secretary of the Treasury may subscribe to additional capital stock at any time so authorized by the Congress through the deposit of additional tax-exempt appropria­tions of additional funds by Congress.

(c) Five percent of annual capitalization shall be available for research and development, innovation, and technical assistance.

TRUST FUND INTEREST

SEC. 242. Paragraph (3) of section 9002(b) of the Internal Revenue Code of 1986 is amended to read as follows:

"(3) Amounts derived from interest earned annually on the balances maintained in the fund described in section 242.

"(4) The interest on any obligations held in a Trust Fund established by subsection A shall be credited to and form a part of the Trust Fund.

"(B) Certain interest used for national infrastructure corporation stock subscription. The interest on any obligations held in a Trust Fund established by subsection A or 9502a) or 9503a shall be available to carry out the capital stock subscription described in section 241a) of the National Infrastructure Revolving Fund.

TITLE III—EFFECTIVE DATE

SEC. 301. The provisions of this Act and the amendment made by section 242 of this Act shall take effect with the first fiscal year that begins after the date of enactment of this Act.

THE NATIONAL INFRASTRUCTURE DEVELOPMENT ACT OF 1988

The purpose of this bill is to promote greater investment in public works infrastructure. It would allow States to establish State Infrastructure Revolving Loan Funds to be capitalized by Federal grant payments. These funds would provide loans for projects on the State and local level. The National Infrastructure Corporation created in Title II would help finance larger scale infrastructure projects of regional and national scope, provide technical assistance to States and localities participating in the Revolving Fund program, and develop an infrastructure Research and development program.

This bill does not emphasize investment in one type infrastructure over any other, but allows for greater investment in all types of infrastructure. In the case of State Revolving Funds, States and localities would be given an increasingly large voice in setting funding priorities. At the national level, the Corporation would develop a National Priority List for large projects. A brief outline follows.

GENERAL PROVISIONS

The Congress finds that there is substantial underinvestment in public works infrastructure, that this is to the detriment of the nation, and sets a goal for this bill: to create new financing tools that will lead to greater capital formation for investment in public works infrastructure. This section sets out definitions for terms central to the debate and to the bill—"infrastructure" would be defined as:

"Highways, roads, streets, bridges and appurtenances, facilities, and extension projects for transportation facilities; flood control facilities; storm sewer and drainage facilities; canals and inland navigation facilities; water impoundment facilities; waste water collection and treatment facilities; water collection, treatment and distribution facilities, irrigation facilities; sewerage; solid waste disposal facilities; tunnels; public buildings; airports and aviation facilities; mass transportation facilities; high-speed surface transportation facilities and port and anchor facilities.

"To the extent a State or locality can identify a clear national priority, such as Interstate Highway Construction and 4-R grants, would not be eligible for deposit. Those eligible for deposit would be the secondary road program, urban road program, the highway trust fund bridge program (about 20 percent of all bridge grants) and 9 percent minimum grants from the Trust Fund. Highway Trust Fund, 50 percent of the Mass Transit formula grants program, and the Airport grants program from the Airport and Airway Trust Fund. The following table shows the approximations of annual contribution to all State revolving funds in millions of dollars:

PAYMENTS TO THE PROPOSED STATE INFRASTRUCTURE REVOLVING FUNDS IN THE FIRST YEAR OF THE PROGRAM

<table>
<thead>
<tr>
<th>State</th>
<th>Highway Construction</th>
<th>4-R</th>
<th>Bridge</th>
<th>Transit</th>
<th>Airport</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal</td>
<td>2,410</td>
<td>671</td>
<td>810</td>
<td>580</td>
<td>150</td>
</tr>
<tr>
<td>Match</td>
<td>680</td>
<td>150</td>
<td>150</td>
<td>1,000</td>
<td>1,200</td>
</tr>
</tbody>
</table>

$6.35 billion flowing into the State Revolving Funds.

As shown above, States choosing to place federal grants in a Revolving Fund would be paid an extra 25 percent in the first year. However, above their requirement would come from interest accrued on unexpended balance in the federal Trust Funds (see Title II for details.)

The original 25 percent bonus would be reduced to 10 percent in subsequent years. This over $1 billion in "new" money would serve as an incentive for States to participate in the program and begin using their grant money for loans.

The intent of this program is to allow States great flexibility in the use of all funding dedicated to infrastructure. Even if all States established such Revolving Funds, a preponderance of federal infrastructure payments would remain in the form of grants. States would be encouraged to reprogram their own infrastructure spending for projects that could not be built without grant funding, and use their Revolving Funds for work better suited to loan financing. At present, the majority of government investment in infrastructure is by States and localities; federal grants account for 25 percent of all bridge grants and 9 percent of all road grants.

The Department of Transportation would continue to administer these grants at the federal level, and would be required to certify that State Revolving Funds meet the requirements laid out in this Act.

2. Structure of the State Revolving Fund

Each Revolving Fund would contain a number of Program Accounts, with one corresponding to each federal grant program. Capital generated by these accounts would be loaned out for projects meeting the same eligibility requirements as the corresponding federal grant program (including State matching share requirements). However, all repayment of these "first-round" loans would go into the Fund's General Infrastructure Account, and would thereafter be eligible for any and all qualified infrastructure projects (see the definition of infrastructure in General Provisions). This structure will retain the earmarked quality of these grants when they arrive in a State Fund (bridge money only being available to loans to bridge projects, for example), but would give the States greater flexibility in determining their own priorities in later
CONGRESSIONAL RECORD—SENATE 2331

February 23, 1988

Mr. MELCHER, for himself and Mr. WIRTH: S. 2089. A bill to provide for certain requirements relating to the conversion of oil share claims located under the General Mining Law of 1872 to leases, and for other purposes to the Committee on Energy and Natural Resources.

OIL MINING CLAIMS CONVERSION ACT

Mr. MELCHER. Mr. President, today I am introducing legislation, with Senator Wirth, to settle nearly 70 years of controversy regarding oil shale mining claims located under the mining law of 1872 prior to passage of the Mineral Leasing Act of 1920.

The need for this legislation arises from more than 50 years of litigation over oil shale mining claims and the highly controversial settlement last year by the Department of the Interior of litigation involving some of the oil shale claims in Colorado. Under the settlement, the United States agreed to issue patents for $2.50 per acre—the U.S. taxpayer received a mere $205,000 for 270,000 acres of land.

The benefits of this settlement included Exxon Corp., TOSCO Corp., Union Oil Co. of California, Amerada-Hess Corp., and other oil and energy companies, as well as individuals.

I do not believe that all of the controversy over oil shale mining claims met the requirements of the mining law. It is a travesty that the U.S. Government turned these lands over for $2.50 per acre, and I want to prevent the same situation from occurring on the remaining 270,000 acres of which oil shale mining claims have been located. My bill would achieve this objective.

The Mineral Leasing Act of 1920 removed oil shale from location under the 1872 law and made it subject to a leasing system. However, the existing oil shale claims were grandfathered by the Mineral Leasing Act and remain subject to the requirements of the 1872 mining law. Under the mining law of 1872, claimants on the Federal lands can apply for and receive a patent granting full fee simple title to the lands for a filing fee of $2.50 per claim, providing certain requirements are met.

The requirements of the 1872 act include the discovery of a valuable mineral deposit, performance of 100 dollars' worth of annual assessment work and prior to receiving a patent, the expenditure of 500 dollars' worth of labor or improvements per claim.

There are questions to be asked: what proof has been presented that $100 per year of assessment work was done on each of the remaining thousands of oil share claims? And on what basis has it been demonstrated that there will be production of oil from the shale or that there is even any intent to produce oil commercially from those lands.

The legislation I am introducing addresses these problems in a manner that ensures that our public resources are not being given away indiscriminately at fire sale prices. The bill provides that no patents for oil shale claims shall be issued after February 5, 1987, unless a patent application had been filed and all requirements met by such date, consistent with the requirements of Freee v. United States, 639 F. 2d 754 (Cl. Ct. 1981), cert. denied, 454 U.S. 827 (1981). An oil shale claim holder would be required to elect to either hold the claim or convert the claim to a lease, subject to certain requirements.

It was never the intent of Congress that these claims be held for over 70 years without any oil being developed. It was never the intent of Congress that patents be issued without annual assessment work being performed on the mining claims.

I ask unanimous consent that the bill be printed in the Record.

There being no objection, the bill was ordered to be printed as follows:
S. 2089

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be known as the "Oil Shale Mining Claims Conversion Act".

Sec. 2. Notwithstanding any other provision of law, if a claim to any oil shale mining claim located prior to enactment of the Mineral Leasing Act of 1920 (30 U.S.C. 181, et seq.; 41 Stat. 437), no patent for such claim shall issue under the provisions of the Act as amended; except for those claims for which a patent application had been filed and all requirements for a patent had been fully complied with by the date of enactment.

Sec. 3. (a) The owner of any valid oil shale mining claim located pursuant to the General Mining Law of 1872, as amended (30 U.S.C. 22, et seq.; 17 Stat. 51) prior to enactment of the Mineral Leasing Act of 1920 shall make an election under subsection (b) or subsection (c) of this section. The election shall be made within 180 days after the enactment of this Act. Failure to make an election within such period shall be deemed conclusively to constitute an abandonment of the oil shale claim. Not later than thirty days after the enactment of this subsection, the Secretary shall notify the owner of each such claim of the election required under this subsection.

(b) The holder of a claim required to make an election under this section may elect to converge the claim to a lease. Such lease shall be issued within 60 days after any such election and administered in accordance with the provisions of the Mineral Leasing Act of 1920, as amended, applicable to leases for oil shale deposits, except as follows:

(1) The term of the lease shall be for 20 years and for so long thereafter as oil shale is produced annually in commercial quantities from the lease;
(2) The acreage limitations contained in section 21(a) (30 U.S.C. 241(a)) shall not apply;
(3) The first and second provisions of section 21(a) shall not apply;
(4) The limitation on the number of leases to be granted to any one person, association, or corporation contained in section 21(a) shall not apply;
(5) The royalty shall be not less than 12½ per centum in amount or value of produc­
tions from the lease.

(c) The holder of a claim required to make an election under this section may elect to maintain the claim by complying with the provisions of the General Mining Law of 1872, as amended, and with the provisions of this Act, including the following:

(1) Notwithstanding any other provision of law, with the date of enactment of this provision, on each claim $1,000 worth of labor shall be performed or improvements made during each and every year. The failure to fulfill this requirement each and every year shall be deemed conclusively to constitute an abandonment of the oil shale mining claim.

(2) Notwithstanding any other provision of law, in addition to the requirements set forth in Section 314 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744; 90 Stat. 2769), the owner of an unpatented oil shale mining claim shall file annually in the office of the Bureau of Land Management and approved by the Secretary of the Interior an affidavit of assessment work performed thereon. The failure to file the affidavit shall be deemed conclusively to constitute an abandonment of the oil shale mining claim.

(3) If at the expiration of 10 years from the date of enactment of this Act oil shale is not being produced in significant marketable amounts from each oil shale claim, or for the benefit of the holder of such claim, such failure to produce in significant marketable amounts shall be deemed conclusively to constitute an abandonment of the oil shale mining claim.

Sec. 4. In addition to other applicable requirements, any person who holds a lease pursuant to section 21(b) of the Mineral Leasing Act who maintains an oil shale mining claim pursuant to subsection 3(c) of this Act shall be required to reclaim the site subject to such lease or claim and to post a bond before disturbance of the site to guarantee such reclamation. Any person who holds a lease pursuant to section 21 of the Mineral Lands Leasing Act of 1920 after the date of enactment of this Act shall also be subject to such requirements. The Secretary of the Interior shall promulgate such regulations as may be necessary to implement this section.

Mr. WIRTH. Mr. President, I am pleased to join with Senator Melcher in introducing this legislation that will close the books on a controversy that has been simmering for 60 years. It is time to take down the free sale signs that are hanging over hundreds of thousands of acres of public lands in Colorado and other Western States. If this legislation is enacted into law, the for sale signs will come down.

This legislation addresses the problem of oil shale mining claims that were filed across parts of the West before the Congress passed the Mineral Leasing Act in 1920. Few, if any, of those claims have ever been developed. In many cases, assessors' work that the general mining laws requires to be done every year was just not done, for years at a time. And there are very real questions whether these claims will be economically viable in the foreseeable future, if ever.

Nevertheless, in 1986 the Department of the Interior established the precedent of selling 82,000 acres of public land in Colorado burdened with pre-1920 oil shale mining claims, at the bargain basement price of $1.50 an acre. Those lands were prime habitat for the largest mule deer herd in North America. Every autumn, hundreds of people from Colorado and across the country used these lands for hunting.

Since these lands were part of the public domain, they were open to families who wanted to camp, hike, or just spend time in the Nation's great outdoors. And ranchers had Federal permits to graze sheep and cattle on these lands. As every westerner knows, those Federal permits can mean the difference between life and death for ranchers.

Until 1986, these lands were open to every Coloradan, indeed every American. Today, they are no longer part of the national legacy of public lands.

The legislation that Senator Melcher is introducing today, and which I am proud to cosponsor, will prevent the issuance of oil shale patents for any more public lands. This legislation will ensure that these lands remain in public hands, where they rightfully belong.

At the same time, this legislation is fair to those who say they want to develop oil shale. This legislation will permit miners to maintain their claims under the laws of the 1872 General Mining Law, although they won't be able to get title to the surface of the land. But this legislation also says that the mining claimants have to develop the oil shale in 10 years, or lose the claims. That is a very fair deal, Mr. President.

The mining claimants would also have the right to convert their claims to 20-year leases. Again, Mr. President, that is a very fair offer. These claims have been around the land for more than 60 years, with little evidence that the claims will ever be developed. This bill would give the claimants another 20 years to prove their claims.

But most important, this bill will keep these lands in public ownership. Remember, we won't lose their grazing permits. The public won't lose their access for hunting or camping or hiking. And the public trust in these lands will have been preserved.

This is a fair bill. It is in keeping with this Nation's longstanding commitment to wise use of its natural resources. And I urge our colleagues to join us in supporting the bill.

By Mr. MELCHER:

S. 2090. A bill to amend the Internal Revenue Code of 1986 to modify the rules regarding the refunding of qualified small issue bonds; to the Committee on Finance.

REFUNDING OF QUALIFIED SMALL ISSUE BONDS

Mr. MELCHER. Mr. President, the legislation I am introducing today will give some relief to those people who invested in their communities with small issue bonds.

When these people invested in these bonds, they had no idea Congress would change the rules in midstream. Under the new tax law, however, these people are finding that their investment may be no longer tax-exempt if they try to refinance their bonds in order to stretch out the repayments. In ordinary business practice this is not uncommon and is often essential for a business to continue its operations.

This legislation simply would permit these people to refinance their bonds without considering the bonds reissued under the new tax law as long as the average maturity date of the issue is not later than 5 years after the average maturity date of the bonds to be refunded by such issue.

This bill will correct a bad provision in the Tax Code and a correction that is urgently needed.
Mr. President, I ask unanimous consent that the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2090

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MODIFICATION OF RULES REGARDING REFUNDING OF QUALIFIED SMALL ISSUE BONDS.

(a) MATURITY DATE OF REFUNDING BONDS.

(1) IN GENERAL. - Subclause (1) of section 144(a)(12)(A)(ii) of the Internal Revenue Code of 1986 (relating to termination dates for qualified small issue bonds) is amended to read as follows:

"(I) the average maturity date of the issue of which the refunding bond is a part is not later than 6 years after the average maturity date of the bonds to be refunded by such issue;",

(2) CONFORMING AMENDMENTS.

(A) Subclause (ii) of section 144a(12)(A) of such Code is amended by inserting "(or series of bonds)" before "issued to refund;"

(B) Subclause (ii) of section 144(a)(12) of such Code is amended by adding at the end thereof the following new sentence:

"For purposes of clause (i) average maturity shall be determined in accordance with section 147(k)(2)(A)."

(III) RATE REMOVER.-Clause (ii) of section 144a(12)(A) of such Code is amended by adding "and" at the end of subclause (II), by striking out subclause (III), and by redesignating subclause (IV) as subclause (III).

(c) EFFECTIVE DATE.-The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

By Mr. DURENBERGER (for himself, Mr. BAUCUS, Mr. STAFFORD, and Mr. CHAFEE):

S. 2091. A bill to protect the ground water resources of the United States; ordered held at the desk until the close of business on February 29, 1988.

GROUND WATER PROTECTION ACT

Mr. DURENBERGER. Mr. President, I am today introducing the Ground Water Protection Act, a bill to protect and restore the ground water resources of our Nation. I am joined on this legislation by Senators Baucus, Stafford, and Chafee.

Mr. President, the bill is our attempt to create a comprehensive strategy to protect and restore the precious and unique national resource which is our ground water. The bill is built on five basic principles.

First, that we place our highest priority on the prevention of contamination.

Second, that all of the ground water resource should be protected.

Third, that the drinking water supply for all Americans—including those living on private wells—should be of the highest quality.

Fourth, that the focus of a prevention program should be on the sources of contamination and the prevention technology and practices that can be applied nationwide.

And fifth, that State and local government must be our first line of protection, with Federal expertise and guidance allowing flexibility to address varying contamination problems around the Nation.

Mr. President, I will have more to say about each of those five principles in a moment but let me first say that ground water protection is about to become a much more active item on the Congressional agenda. This week the Committee on Environment and Public Works began a series of hearings on ground water protection legislation. Our first topic is the Federal Government's role in ground water research. I've had the great pleasure of joining with Senator Burton, the distinguished chairman of our committee, to introduce legislation, S. 1105, which creates new research authorities for the Environmental Protection Agency, the Geological Survey and the Department of Agriculture. Those hearings will go through the end of March.

And last week on Wednesday the Agriculture Committee began its work to rewrite the Nation's pesticide law. I have joined with Senator Leahy, the chairman of that committee, as an author of the Ground Water Safety Act, a bill which is intended to protect ground water supplies from pesticide contamination. We expect that bill to be added as an amendment to the pesticide reauthorization. Senate action on both these bills—ground water research and pesticide ground water research—can be completed this year.

To prepare for these events, I have done two things. Two weeks ago I held six hearings across the State of Minnesota to give my fellow citizens an opportunity to have a say in this debate. They were very lively sessions and as always I got more good advice than the Congress could ever digest. But I came across some new ideas and new concerns which I will share with you today.

The second thing I've done is to complete work on this comprehensive ground water protection bill. It is a comprehensive bill like the Clean Air Act and Clean Water Act are comprehensive protection programs for our air and surface water resources. It's not the kind of legislation that Congress can pass right away. We will have many opportunities to discuss its details and adjust its specific provisions before it leaves this body.

What I'd like to do today is to describe the five main themes or principles that guided the development of this comprehensive legislation.

The first principle is that a comprehensive ground water protection program must focus on prevention.

We have heard many times—we heard again at our hearing yesterday—that the statistics about our ground water resource are alarming. Ninety-seven percent of Americans in rural areas rely on ground water for their household water needs. Ground water is the source of 30 percent of the water in our rivers and streams and may be the whole source in critical low flow periods when surface streams are dry. Potential sources of ground water contamination—20 million septic tanks, 6 million storage tanks, 2 million miles of pipelines, 250,000 injection wells, 180,000 surface impoundments, 240 million acres of cropland sprayed with pesticides and fertilizers. It is a vast and complex resource.

But just let me add two more numbers to that picture. First, is the cost of the Superfund Program—$1 billion dollars per year to clean up million storage tanks, 2 million miles of pipelines, 250,000 injection wells, 180,000 surface impoundments, 240 million acres of cropland sprayed with pesticides and fertilizers. It is a vast and complex resource.

By way of comparison, and this is the second number, EPA provides grants of only $6 million per year to the States for ground water protection which is directed at cleaning up ground water pollution. Superfund sites are so numerous and expensive, that we had to go to a broad-based, Federal tax—a corporate surtax—to clean them up.

A focus on prevention is no more than an acknowledgement of the special nature of the ground water resource. There are characteristics of ground water which set it apart from surface water supplies.

First, it is not tested or treated before we drink it. Large urban communities like the Twin Cities of my home State which use surface waters for their drinking water thoroughly treat the water before it reaches the consumer. The water is disinfected with chlorine to kill biological contaminants and filtered to take out the solids and other pollutants.

Ground water on the other hand—and especially for small communities and those relying on private wells—often goes right to the tap without any treatment. We drink it as we find it.

Second, pollutants in ground water may be much more concentrated than in surface waters. Waters in rivers and

February 23, 1988

CONGRESSIONAL RECORD—SENATE 2333
When we quit polluting, they are re-

should guide our ground water legisla-

should become widely contaminated
domestic violations of the Safe Drinking Water Act. The pesticide bill I mentioned ear-

One problem with the Safe Drinking Water Act is that public health protection should be provided for the drinking water supply of all Americans. The Safe Drinking Water Act is a public health law. It establishes standards for maximum contaminant levels—which apply to water supplied by public drinking water systems. And it requires that public supplies be moni-

lakes move rapidly and pollutants in-

But ground water moves very slowly

and is little mixing. A spill from the surface or a leak from a landfill or underground tank will create a plume of contami-

The purpose of this Act is to protect and

The problems ranked as a high pri-

So, ground water is often delivered

The second principle is that the

The alternative view is called differ-

The third principle reflected in this

Some of us want to protect ground

not covered by the Safe Drinking Water Act. That is rural America that is currently being exposed to any groundwater pollution. The Safe Drinking Water Act establishes a higher standard than the fundamental protections of Federal law. And because of the high cost of testing and treating individual wells, many of these Americans cannot afford—or defer for other priorities in the family budget—the expensive sam-

Third, it is practically impossible to

There are some who do not believe

The problems considered included
to ground water contamination. Recently the Environmental Protection Agency released a report, called “Unprotected Business.” This report presented a comparative assessment of 31 major health and environmental problems facing our country. The comparisons were based on the collective judgment of the senior managers and staff profes-

Second, the goal: the resource

Let me read you some of the actual
to protect the quality and quantity of the ground water resources of the United States for the widest range of uses both for this generation and for poster-

The second principle is that the

ter residents, problems associated

The problems ranked as a high pri-

Well, you can see the bias in that

the Safe Drinking Water Act is a public health law. It establishes standards for maximum contaminant levels—which apply to water supplied by public drinking water systems. And it re-

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Most Americans, city and country, want these high-risk sources of ground water pollution corrected. That's why Congress has created the Superfund and the RCRA and LUST programs. The judgment of the American people on this question is different from the judgment of the EPA professionals. We need a ground water protection program that establishes a strong, health-based standard for urban drinking water systems and some other, less protective regime for small towns. In fact, our program must be targeted for small town and rural America because it is these Americans who rely most often on ground water and who can least often afford the testing and treatment that assures a safe supply.

The fourth principle is that our prevention strategy should focus on controlling sources of contamination by requiring better technology or practices that will directly reduce the threat of contamination. They are needed. They work against the whole panoply of chemicals including those not yet invented. Where the control technology is not currently available, Government and private research programs can make a contribution. Those who follow the underground storage tank industry know there has been a revolution in technology: tank design, leak detection and computerized monitoring systems, all new technologies. Liners and leachate collection systems for landfills. Spacing requirements for septic tanks.

These are source controls. They focus on the problems. They are easily defined. They work against the whole panoply of chemicals including those not yet invented. Where the control technology is not currently available, Government and private research programs can make a contribution. Those who follow the underground storage tank industry know there has been a revolution in technology: tank design, leak detection and computerized monitoring systems, all new technologies that have come into being in the few months that have passed since Congress established the LUST Program.

There is no doubt that classification has a role to play. It helps set priorities and the priority areas are a form of classification. Ground water quality standards may also be an element of the strategy for cleanup and enforcement. But prevention comes down to limiting or mitigating discharges from sources. And I believe control technologies and practices for the major sources of concern can be easily developed, widely employed, and extraordinarily effective.

The fifth and final principle that guided development of this legislation is that the first line of protection must be the agencies of State and local government and that Federal guidance or direction must leave room for considerable flexibility.

I am an advocate for a strong Federal role. The taxpayers of the Federal Government are now paying 90 cents of every dollar—that's the matching rate in Superfund, 90 cents on the dollar—in cleanup costs, it must be that prevention remains the primary theme in those State and local decisions.

There are, nevertheless, aspects of the ground-water resource which make a State and local emphasis necessary. The ground-water resource is not everywhere the same. Where the resource is found as an unconfined aquifer with the water table near the surface, wellhead protection areas are needed. Where the aquifer is deep and confined and the recharge area is miles from the wellfield, some other protection strategy might be more appropriate.

And the threats to the resource have a regional character. In Minnesota, for example, hazardous waste is not everywhere the same. Where the aquifer is deep and confined and the recharge area is miles from the wellfield, some other protection strategy might be more appropriate.

But the largest concern identified by those hearings was one I had not previously encountered—the threat of abandoned or poorly constructed wells. At the hearing here in the Twin Cities the mayor of Goodhue, MN, showed a videotape of a journey through his, now contaminated, municipal well. It demonstrated that a lack of casing allowed polluted water from near the surface to cascade into the well carrying it deep into the aquifer.

Then we went to Lakeland where 85 families have lost private wells to contamination. It appears that a variety of sources may be implicated in the damage. But the news was that the State of Minnesota has been prohibiting these homeowners from drilling new wells to replace the deeper aquifer for fear that the wells would simply serve as a conduit to spread the pollution down to uncontaminated zones. Again
Mr. President, I look forward to the coming weeks and months as this great institution turns its attention to the Nation's water problems. I am hopeful that by the time we are introducing today the bill we are proposing to you we will have made some contribution to the discussion.

Mr. President, I would ask that a fact sheet, a summary of those five principles and of its major provisions be printed in the RECORD along with my remarks this afternoon.

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

GROUND WATER PROTECTION ACT—FACT SHEET

The bill: Includes a non-degradation goal. The purpose of the Act is to "protect and enhance the physical, chemical and biological integrity of the Nation's ground water resources and to ensure that such resources are not degraded in any way."

Encourages States to develop programs to control discharges of contaminants. The control requirements would be designed and implemented by the States based on guidance provided by EPA. The Act would require States to include minimum technology requirements and management practices to prevent contamination.

Covers all parts of the Nation. EPA would publish guidance documents for the control of: Septic tanks and cesspools; surface impoundments; pesticide applications; landfills and wastepiles; surface geothermal storage tanks; some classes of injection wells; fertilizer applications; irrigation practices; wastewater collection and treatment; land treatment; storm water discharge; oil and gas exploration and production; mining; geothermal wells; abandoned wells; pipelines; bulk storage facilities; and feedlots. States would have up to 8 years to establish source controls for these categories and could defer work on those sources which are not of high concern in the State.

Requires discharge permits for sources not operating under an approved State program. The bill establishes a permit program like NPDES under the Clean Water Act. However, sources which are in compliance with approved State programs for their category may operate without a permit. No permit is required for small septic tanks, pesticide applications or fertilizer use.

Imposes more stringent Federal requirements on new sources starting operation after the requirements are promulgated. These requirements would be enforced by the States as part of their source control program.

Requires States to identify wellhead protection areas for public water systems. Wellhead protection areas encompass the land area immediately surrounding a water supply well. Contaminants percolating to ground water are likely to produce immediate injury. Inside the wellhead areas designated by the States, sources will be required to employ control technologies and practices reflecting a higher standard of protection—best available technologies. Source control options for each source category would be written by EPA, but would only be triggered in areas designated by the States.

Encourages the States to identify other "primary aquifer protection areas" for protection similar to that which would apply in wellhead areas. BAT requirements would apply to sources located in areas of vulnerable hydrogeology, high water yield and disposal, underground injection and nuclear waste disposal would be banned in primary aquifer protection areas. Authorizes grants to local ground water management districts to manage aquifers and wellhead protection areas. The Federal structure for these management districts is flexible including local governments, non-profits, regional planning agencies and soil and water conservation districts. The grants would be supported by $175 million in revenue generated by a $0.10 per ton tipping fee on solid waste disposal at sanitary landfills.

Establishes a $125 million per year program for water protection reserves. This program based on the conservation reserve program of the Food Security Act would allow farmers and ranchers to contract with the Secretary of Agriculture to use less intensively lands located within wellhead protection or primary ground water protection standards. The application of pesticides and nutrients which can leach to ground water.

Includes new authorities for corrective and prevention activities of contamination. This program is intended to address the sites which will never make the National Priorities List under the Superfund program. It is also intended to address the States under cooperative agreements with EPA.

Prohibits surface discharge of contamination at private wells. 20 million Americans draw their water from private wells and thousands of small communities rely on substantial groundwater supplies. These Americans are not adequately protected by the Safe Drinking Water Act and other national programs. The bill would require the States to support testing of private water supply wells and reconstruction or replacement of wells that show contamination. The funds would be generated by a 2 cent per thousand gallon assessment on water sales by large systems.

Authorizes development of Federal standards based on health-based standards to guide remediation efforts which would be based on the application of best available remediation technology. The standards would be researched and proposed by an independent Ground Water Protection Standards Board which would also help appeal or revise remedies selected for the correction action program.

Authorizes the Geological Survey to undertake a national assessment of ground water vulnerability. This report is a critical first step in identifying areas of vulnerability. This report would be a critical first step in identifying areas of vulnerability. This report would provide a yardstick for measuring the effectiveness of source control programs. A one billion dollar risk assessment is required for carcinogens. A default standard of 5 parts per billion applies to each contaminant until EPA takes formal action to set a standard. The bill also authorizes establishment of "correction" standards to guide remediation efforts which would be based on the application of best available remediation technology. The standards would be researched and proposed by an independent Ground Water Protection Standards Board which would also help appeal or revise remedies selected for the correction action program.

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thus reduce the volume of agriculture chemical applications.

Includes four new revenue measures. In addition, a solid waste disposal fee ($1.00 per ton) and water supply assessment (2 cents per thousand gallons), the bill includes a "water well protection" provision on the disposal of hazardous waste and an excise tax (2% of value) on pesticide and fertilizer products packaged and sold in small quantities for the lawn and garden market. The waste end tax is precisely the same as the tax which passed the House as a Superfund financing mechanism in 1985. The new revenue measures are expected to issue guidance on regulatory decision in the next few months.

Provides authorization: $250 million for State grants; $200 million for Federal programs; $100 million for research; $125 million for water well replacement; $50 million for corrective action, and $175 million in grants to local ground water management districts.

Reorganizes EPA's ground water protection efforts. The bill establishes an Office of Ground Water Protection to be headed by an assistant administrator and creates a governing council consisting of experts to be chaired jointly by EPA and USGS.

GROUND WATER PROTECTION ACT: MAJOR GOALS AND POLICY

The principal goal of the Ground Water Protection Act (GWPA) is to protect the physical, chemical and biological integrity of the Nation's ground water resources to ensure that they are not degraded in any way. This is a non-degradation goal. It is similar to the goal contained in the Clean Water Act which protects surface water from pollution. This goal applies to all waters, whatever their current use.

Additional goals contained in the legislation are to: minimize the use and disposal of toxic chemicals; adequately map the ground water resources of each State; assist State and local government programs to protect ground water; provide health protection for private drinking water wells; and conserve ground water supplies.

Consistent with the non-degradation goal, it is the policy of the bill to provide a minimum level of protection for all ground water resources. This policy would specifically prohibit any Federal classification of ground water that would lower the level of protection afforded by current law. The Environmental Protection Agency has been developing a ground water classification system and is expected to issue guidance on the use of that classification system in regulatory decisions in the next few months. That guidance would be explicitly overturned by this legislation.

In addition, the bill would encourage broad flexibility for States implementing ground water protection programs and would provide that States might set more stringent requirements than would result from adoption of the Ground Water Protection Act. Nothing in the act would disturb the appropriation policies or water appropriations decisions made by the States. All Federal agencies with jurisdiction over potential sources of ground water contamination would be required to abide by State and local government standards, regulations and requirements.

PREVENTION

The Ground Water Protection Act would use a series of strategies to protect ground water resources from potential contamination. These strategies combine various regulatory approaches including control technology, best management practices, and ground water pollution protection areas, and standards—at both the Federal and State level in the programs that are intended to protect ground water resources to tailor tools to the ground water contamination problems found in that State.

SOURCE CONTROLS

Part C of the Ground Water Protection Act establishes a program to lower the level of ground water contamination by requiring the use of technology and management practices at sources of contamination to prevent or treat discharges so that they will not be harmful to water supplies.

These requirements will apply to categories of sources including: septic tanks and cesspools; landfills and wastepiles; surface impoundments; injection wells; pesticide applications; wastewater collection and treatment systems; aboveground storage tanks; fertilizer applications; irrigation practices; oil and gas production; mining; abandoned wells; bulk storage facilities; and so on.

Requirements might include methods or techniques for location; design; installation; operations; operator training; maintenance; leak detection; monitoring and record keeping; corrective action; closure and financial responsibility. Requirements would vary with the type of source category.

Well-designed underground tanks are coated with non-corrosive materials; landfills are lined; injection wells are cased.

Existing sources in these categories would be subject to regulations developed by the States reflecting technologies and practices which are already available. EPA would write a guidance document for each category, but there would be no Federal regulatory requirement. States would address their own highest priority categories first and would have eight years to complete source control programs for all categories.

New sources would be subject to a second set of requirements written by EPA. These requirements would reflect "best practicable technology" (BPT). EPA's new source requirements would be enforced by the States along with their requirements for existing sources.

Sources located in highly sensitive areas—next to drinking water wells, for example—would be required to apply for a Federal permit. The primary standard would not function as a yardstick to judge whether a source is working. Every four years, the Board would have to promulgate by the Senate.

Ambient standards are, as a result, inappropriate for ground water protection. The primary standard does, however, function as a yardstick to judge whether a State's control program for a category of sources is working. Every four years, the States to conduct monitoring within the vi
cibility of a representative sample of sources in the category to determine whether the primary standard is being exceeded. To the extent that the implications of the primary standard are widespread, the State is to tighten the technology and practice requirements for wellheads protective of that category.

The GWPA would also authorize promulgation of numerical “correction” standards to supplement the programs and correction standards for a contaminant would reflect the cleanup level that could be achieved with the best treatment and remedial practices on the site, if the results would be recommended by the Board and promulgated by the Administrator. Where a discharge caused an exceedance of the correction standard, the owner or operator of the source would be required to conduct a cleanup effort until the standard was met. EPA could waive the standard in cases where complex hydrogeology or other factors technically prevent cleanup to the standard.

When a contaminant is found in ground water at three or more locations in the United States it must be listed as a contaminant by EPA. The Board then proposes a health and environmental effects research program for the contaminant. To the extent that there are identified gaps in the existing health and effects data, the effectiveness of the substance would be required to conduct research to fill the gaps. The Board would consider the data when complete and would then recommend primary and correction standards to EPA for promulgation.

The Board may also hear appeals in cases where persons adversely affected by a discharge believe that the remediation program developed by EPA or a State will not meet the correction standard. The Board may set aside the EPA chosen corrective action measure and require the agency to select a more stringent remedy.

SPECIAL PROTECTION AREAS

The Safe Drinking Water Act amendments of 1986 established two new ground water programs. States were authorized to identify “wellhead protection areas” or the land surface areas immediately around a public drinking water well where the pumping action of the well would pull contaminants from the surface into the drinking water supply. These wellhead areas vary in size from one or two to several hundred acres. There are 40,000 communities with drinking water wells or wellfields and the wellhead areas associated with these facilities may be as large as 10 percent of the land area of the United States.

A second program authorized demonstration grants for the protection of sole source aquifers—lager land areas where many small communities or individual households rely on an aquifer as the principal source of water supply. The Ground Water Protection Act builds on these two programs.

A four-year schedule for identifying wellhead areas and conducting an inventory of the sources of contamination within each area is established. In addition, States are invited to identify “primary aquifer protection areas” essentially any area with a geological configuration for which the State seeks special protection. The primary aquifer protection areas would be larger than wellhead areas, would include portions of private wells and would not be limited to areas which had no other ready source of water supply (as is the case with sole source aquifers).

The boundaries of these two types of special protection areas would be designated by the State. Once designated, Federal regulations via availability of funds and technology and best management practices would be applicable to sources located in the area. In addition, irrigation return flows and publicly-owned drainage wells, fertilizer applications, irrigation return flows and publicly-owned wastewater treatment works.

The bill establishes authority to require the conduct of an ongoing survey of ground water to determine its overall quality and to identify specific problems of concern. This program would be designed under the direction of the Administrator for the existing Federal-State cooperative program and the Regional Aquifer System Analysis which provide data on the quantity and quality of ground water in specific regions. These programs and the basic water resources research authority of the Geoligical Survey are already authorized by Congress, although annual appropriations have been made.

States would be required to complete comprehensive aquifer mapping for the ground water resources within its borders. This resource characterization, including the existing contamination identified, contaminants and ground water withdrawals, would form the foundation for State ground water protection strategies supported by the bill.

Each State which receives a Federal grant under this legislation will be required to implement a licensing program for water well-drilling activity within the State. The program would collect information on each new water well drilled and integrate that data into a national computer network on ground water quantity and supply. Each new well would be tested for quality before it could be put in service and wells drawing contaminated water would be closed and capped immediately.

The bill also addresses the problem of abandoned production and injection wells. EPA estimates there are over 2 million abandoned production and injection wells and many as 2 million abandoned wells across the country. These wells serve as conduits for the rapid movement of pollutants from their point of origin and they are a major problem in rural areas. Many abandoned wells have been used as dump sites for household wastes and farm yard wastes. Many are leaking and many are leaking where they could pollute ground water sources.

The bill requires that each property be surveyed before it is sold or otherwise transferred. This would include all production and injection wells on the property. Wells currently used for drinking water would be tested and the results would be supplied to the prospective buyer of the property. Abandoned wells would have to be plugged before the property could be sold.

EPA is authorized to conduct national surveys with respect to various source categories to determine the effect of such sources on ground water quality and the measures that may be effective in preventing contamination with respect to sources in the category. Currently EPA is conducting such a survey for pesticide contamination. Under GWPA, it would also survey impacts of hazardous, radioactive, and radiological substances. This survey would be accomplished by the design and conduct of a regional monitoring program that would include a comprehensive survey of the potential source of contamination, the types and uses of land with low inputs. Rules would be similar to those for the existing conservation reserve program which has been signed up 23 million acres of highly erodible land in conservation programs.

GROUND WATER MANAGEMENT DISTRICTS

The bill authorizes grants to establish local ground water management districts to conduct the programs for wellhead protection and primary aquifer protection areas.

These districts may be managed by local governments, special purpose districts of which the Districts may be given authority to conduct an ongoing survey of ground water quality at the earliest opportunity and assessing the extent of contamination caused by a facility which is known to have leaked or spilled contami-
standards inapplicable and results in ad hoc
must develop a plan including modifications
ard the owner or operator of the source
Current law too often finds existing legal
of operations at the source which will pre­
percentage reduction—which can be accom­
plished through application of the best
available treatment and remediation tech­
nology. It is important that these standards be
taken steps to contain the contamination at any specific site so
the public might have confidence that
contamination decisions are not hindered by a re­
luctance to use available treatment or force expensive cleanups on private parties.
Current law too often finds existing legal
standards for determining the need for results in ad hoc
decisions which invite controversy.
Corrective action under GWPA is phased
to reflect the level of contamination experi­
ced by the source. If contamination is expec­
ted it must be reported to EPA or the State.
When the contamination exceeds 50
percent of the primary, health-based stand­
ard the owner or operator of the source
must develop a plan including modifications of operations at the source which will pre­
vent the standard from being dependent on
the water for household needs will be pro­
vided with alternative supplies. At this point, the owner of the source will also be required to take steps to contain the con­
tamination so that it does not spread to un­
contaminated portions of the water supply.
When the contamination is more serious, remedial action is required. Remedial action
is a large program in the ground water
management districts. The tax would raise
$200 million per year.
The largest portion of expenditures under
this legislation will be grants to State and local governments to conduct ground water
protection programs. $250 million per year
is provided for grants to the local
ground water management districts. $125
million is distributed from the Water Well
Replacement Trust Fund and would be used
to support grants to local ground water
management districts. The tax would raise
approximately $75 million per year.
Mr. HEFLIN (for himself, Mr. SHIBLEY, and Mr. HELMS):
S. 2093. A bill to urge negotiations with the C.N.R. in France for
the recovery and return to the United
States of the C.S.S. "Alabama; referred
to the Committee on Foreign Relations.

February 23, 1988
CONGRESSIONAL RECORD—SENATE

The EPA program would be coordinated
through a media-specific ground water re­
search committee which would integrate
the EPA and other Federal, State, and local
offices for water, drinking water, solid waste and emergency response.
The committee would prepare an annual re­
port on how to use the financial resources
for cleanup decisions to provide a program for water well re­
placement for households and small commu­

nations that threaten ground water and re­
quire corrective action.

CORRECTION

The GWPA establishes new corrective action procedures with respect to ground water contamination. These authorities provide for greater involvement of States in cleanup; tie corrective action to existing legal standards; mandate cleanup procedures; and provide a program for water well re­
placement for households and small commu­

The new cleanup standards are to be pro­
posed by an independent Ground Water Protection Standards Board. The standards will serve as objective criteria to answer the
question, "how clean is clean?" The standards will reflect the level of cleanup—either
as a numerical concentration or as a per­
centage reduction—which can be accom­
plished through application of the best
available treatment and remediation tech­
nology. It is important that these standards be
taken steps to contain the contamination at any specific site so
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Current law too often finds existing legal
standards for determining the need for results in ad hoc
decisions which invite controversy.
Corrective action under GWPA is phased
to reflect the level of contamination experi­
ced by the source. If contamination is expec­
ted it must be reported to EPA or the State.
When the contamination exceeds 50
percent of the primary, health-based stand­
ard the owner or operator of the source
must develop a plan including modifications of operations at the source which will pre­
vent the standard from being dependent on
the water for household needs will be pro­
vided with alternative supplies. At this point, the owner of the source will also be required to take steps to contain the con­
tamination so that it does not spread to un­
contaminated portions of the water supply.
When the contamination is more serious, remedial action is required. Remedial action
is a large program in the ground water
management districts. The tax would raise
$200 million per year.
The largest portion of expenditures under
this legislation will be grants to State and local governments to conduct ground water
protection programs. $250 million per year
is provided for grants to the local
ground water management districts. $125
million is distributed from the Water Well
Replacement Trust Fund and would be used
to support grants to local ground water
management districts. The tax would raise
approximately $75 million per year.
Mr. HEFLIN (for himself, Mr. SHIBLEY, and Mr. HELMS):
S. 2093. A bill to urge negotiations with the C.N.R. in France for
the recovery and return to the United
States of the C.S.S. "Alabama; referred
to the Committee on Foreign Relations.

February 23, 1988
CONGRESSIONAL RECORD—SENATE

The EPA program would be coordinated
through a media-specific ground water re­
search committee which would integrate
the EPA and other Federal, State, and local
offices for water, drinking water, solid waste and emergency response.
The committee would prepare an annual re­
port on how to use the financial resources
for cleanup decisions to provide a program for water well re­
placement for households and small commu­

The new cleanup standards are to be pro­
posed by an independent Ground Water Protection Standards Board. The standards will serve as objective criteria to answer the
question, "how clean is clean?" The standards will reflect the level of cleanup—either
as a numerical concentration or as a per­
centage reduction—which can be accom­
plished through application of the best
available treatment and remediation tech­
nology. It is important that these standards be
taken steps to contain the contamination at any specific site so
the public might have confidence that
contamination decisions are not hindered by a re­
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ate States Steamer, the C.S.S. Alabama, under the direct orders of Jefferson Davis, President of the Confederacy. During the next 2 years, the C.S.S. Alabama burned, bonded, and destroyed a list of the enemy's ships which he describes in his journal where he wrote:

"My crew seems to be in the right spirit, a quiet spirit of determination pervading both officers and men. The combat will no doubt be contested and obstinate, but the two ships are so equally matched that I do not feel at liberty to decline it."

On Sunday, June 19, 1864, a report of the battle with the C.S.S. Alabama 10 miles out to sea, the C.S.S. Kearsarge turned around and headed for the Alabama. The Alabama discharged the first shot, which went too high. The C.S.S. Alabama then fired two more shots which were also too high. The C.S.S. Kearsarge's first shot struck the Alabama near her forward port and was followed by a broadside from the Alabama.

The ships were then forced into a circular track traveling at full steam, moving in opposite directions and each fighting her starboard side. They made seven complete circles before the end of the action, gradually lessening the distance between them. The conflict continued with the Alabama firing at least two shots for every one fired by the Kearsarge. However, the Alabama generally fired too high.

With the action continuous on both sides, an 11-inch shell careened through the Alabama's gun port and wiped out "Like a sponge from a blackboard one-half of the gun's crew." A second shot hit her side and when a third shell struck the breast of the gun carriage and spun around on deck without exploding, a compass man quickly picked it up and threw it overboard.

After about 20 minutes of fighting, a shell from the Alabama struck the hull of the Kearsarge. The crew on board the Alabama cheered wildly, believing that this shot had crippled the Kearsarge, before they realized that no damage had been done. Semmes was stunned by disbelief. Not knowing that the Kearsarge was protected by chains slung over her sides and then covered by wooden planks, he and his men continued to hope for the one shot which would disable the Kearsarge. That shot never came.

From the horse block, the highest point on the deck of the ship, Semmes observed the damage done to his ship by the enemy's fire. He was astonished by the accuracy of the enemy's guns and offered a reward to any gun crew that could silence the guns which were damaging his ship and causing huge, gaping holes. A coal bunker collapsed and with only two boilers working then working, the Alabama steamed ahead at greatly reduced speed. The Alabama now leaned heavily to starboard, filled with holes, smoke and seawater—but, in spirit and tradition of men and women of the South, Semmes kept on fighting.

The story of this battle is long and told well by Dr. Norman C. Delany, author of the book, "John McIntosh Kellett, the Raider Alabama." Semmes believed that by shifting the weight of his battery from starboard to port he might raise the shot holes above the water line. The ship was now five miles from the coast and with luck might make the three-mile limit. He gave the order: "Mr. Kellett, as soon as our head points to the French coast—shift your guns to port and make all sail for the coast."

Then Kellett appeared at the skylight above the engine room and shouted to the men in the engine room: "Get on and save the ship!" The men, Brooks and Matt O'Brien, covered with sweat and coal dust, answered that the Alabama carried all the steam it could manage and no more. Considering the damage, O'Brien declared: "Let her have the steam; we had better blow her to hell than to let the Yankees whip us!" But it would have taken more than a few extra pounds of steam pressure to save the Alabama. Winslow had anticipated Semmes' intentions and steamed across his adversary's bow.

Exhausted officers and sailors continued fighting from the post side, but with water rushing into the gangway at every roll, they felt that "the day was lost." O'Brien came on deck to report that the rapidly rising water was almost flush with the furnace fires. * * * Semmes listened in allence, then turned back. "Return to our stations; the men felt certain that they would go down with the ship.

Semmes ordered Kellett to determine how a ship could surrender, and "Go below. Kellett observed holes in the hull "large enough to admit a wheelbarrow." Kellett returned to the deck and reported that the
ship could not last for more than ten minutes. Semmes gave the order: "Then, air, cease firing, shorten sail, and haul down the colors; it will never do in this nineteenth century for us to go down, and the decks covered with our 'own' empty bottles." Assailed by the United States ships, he surrendered, cried out: "Give it to them again, boys; they are playing us a trick!" Each of his gun captains obeyed instantly, firing five volleys into the Alabama. • • •

Semmes returned to the Confederacy to Mobile where he practiced law until

the private yacht, the Deerhound, all firing ceased. firing five volleys into the Alabama. Each of his gun captains obeyed instantly, Winslow, unconvinced that his enemy had ceased firing, shortened sail, and hauled down the United States ensign. "Dispatch the Alabama," he ordered. “Give it to them again, boys; they are playing us a trick!" Each of his gun captains obeyed instantly, firing five volleys into the Alabama. • • •

Many survivors were picked up by the Kearsarge and taken prisoner; however, Semmes, along with some other crew members, was rescued by the private yacht, the Deerhound. As the Alabama sank stern first, the Deerhound was observed to be "stealing away." Guns were turned toward her; but the Deerhound steamed toward England and thus Semmes escaped. In 1865, Semmes, with Captain Winslow under the direct orders of Jefferson Davis, President of the Confederacy, served as another member of the Committee in Foreign Relations of the Senate, the United States, seeking to salvage the ship and her artifacts in order that they might be displayed in the State of Alabama for the historic enrichment of all Americans. Some problems have arisen with this plan in that the French and the British are seeking to salvage the ship and display it in their own countries. They argue that this ship, which the United States paid for in both Confederate money and lives, is foreign property and that the policy is not held by the U.S. Department of State which sent a message to France in September 1987, stating that:

The United States considers that the C.S.S. Alabama and her associated artifacts constitute property, title to which is vested in the United States.

This bill allows Congress to reaffirm the State Department's position, that title to the C.S.S. Alabama and her artifacts is vested in and has never been abandoned by the United States. I enlist the support of my colleagues to see that this ship which occupies such an important place in U.S. naval and maritime history is returned to her mother country where she belongs. I ask unanimous consent that the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2093

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be referred to as the "Preservation of the C.S.S. Alabama Act of 1988".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the C.S.S. Alabama is an American war vessel that was commissioned August 34, 1862, by the Secretary of the Navy, Raphael Semmes under the direct orders of Jefferson Davis, President of the Confederacy.

(2) On June 19, 1864, after an hour and ten minutes of intense combat with the U.S.S. Kearsarge off the coast of France, the C.S.S. Alabama sank in waters which were then high seas but which are now territorial seas of France;

(3) title to the C.S.S. Alabama and her artifacts is vested in and has never been abandoned by the United States;

(4) the C.S.S. Alabama is an important part of American history and culture; and

(5) as expressed in a letter from the State Department to the Government of France, "the United States considers that the C.S.S. Alabama and her associated artifacts constitute property, title to which is vested in the United States Government. As the United States Government never abandoned title thereto, it is firmly of the opinion that the Secretary of State, in consultation with the National Institute of Archaeology and the Save the Alabama Committee, Incorporated, should enter into negotiations with the Government of France to effect the recovery and return to the United States of the C.S.S. Alabama and her associated artifacts, including those items which are scattered on the ocean floor in her vicinity."

SEC. 3. DEFINITIONS.

For the purpose of this Act, the term "C.S.S. Alabama" means the shipwrecked vessel C.S.S. Alabama and her cargo and associated artifacts, including those items which are scattered on the ocean floor in her vicinity.

SEC. 4. POLICY.

It is the sense of the Congress that—

(1) the C.S.S. Alabama and her artifacts should, insofar as possible, be preserved for the benefit of the citizens of the United States;

(2) the C.S.S. Alabama and her artifacts should be displayed in the State of her name; and

(3) the Secretary of State, in consultation with the National Institute of Archaeology and the Save the Alabama Committee, Incorporated, should enter into negotiations with the Government of France to ensure the recovery and return to the United States of the C.S.S. Alabama.

Sixty days after the date of enactment of this Act, and every 30 days thereafter, the Secretary of State shall prepare and transmit to the Speaker of the House of Representatives, the Committee on Foreign Relations of the Senate, and each of the two Senators representing Alabama a written report discussing the status of the negotiations described in section 4(3).

Mr. SHELBY. Mr. President, today I am pleased to join two of my distinguished colleagues, the senior Senators from Alabama and North Carolina, Mr. HEFLIN and Mr. HELMS, in introducing legislation that urges the Secretary of State to enter into negotiations with the Government of France to ensure the recovery and return to the United States of the C.S.S. Alabama. Once dispossessed of remnants of history, those same artifacts are often lost forever. I believe it is incumbent upon each one of us to attempt to preserve as much of our heritage as possible. The tale of the wreckage of the C.S.S. Alabama serves as another example of American history under siege.

The naval battles that occurred during the War Between the States provided many of the more interesting battle spectacles in history and, in fact, that period represented one of the more intriguing intervals in our naval defense development. Battles such as that between the Monitor and the Merrimac managed to capsule the conflict itself. The final battle of the C.S.S. Alabama was one of those great naval battles. After roaming the seas at will intimidating and destroying Union ships encountered for almost 2 years, the C.S.S. Alabama more than met its match in the U.S.S. Kearsarge on June 11, 1864, off the shores of France. The Kearsarge sank the Alabama leaving it to a watery grave for over 120 years.

Alabama being discovered in 1985 in French territorial waters, a controversy has developed over who is the owner of the remains of the warship. While conflicting claims exist, I am of the opinion that the Secretary of State should pursue in the most diplomatic manner possible the salvage and return of the C.S.S. Alabama to the United States. Our legislation attempts to accomplish just that. I look forward to working with Senators HEFLIN and HELMS toward the expeditious passage of this bill.

By Mr. KERRY:

S. 2094. A bill to amend title XVI of the Social Security Act to provide that the existing requirement for deeming a parent's income and resources to his or her children under age 18 shall not apply in the case certain severely disabled children, and for other purposes; referred to the Committee on Finance.
The Kaileigh Mulligan SSI Reform Act

Mr. KERRY. Mr. President, no one would argue that children are one of our most precious resources and that as a nation we should be encouraged and strengthened family unity. I rise today to introduce legislation to overturn one aspect of the Supplemental Security Income (SSI) Program which has, on far too many occasions, led to unnecessarily separate severely disabled children from parents who are willing and able to care for their child at home.

Under current law, in certain cases disabled children are entitled to SSI benefits and therefore also eligible for Medicaid. However, if the child's parent's income is above $13,560, this income is deemed to the child, who, then loses his or her SSI benefits and unless granted a waiver by the State also loses Medicaid eligibility. On the other hand should the child stay in an institutional setting, they will receive both SSI and Medicaid benefits.

This legislation would require that the income deeming rules be waived for severely disabled children entitled to SSI and Medicaid benefits regardless of their parent's income. The children I am referring to are the individuals who are so disabled that they are eligible for institutional care, but who could receive the same level of care at home.

Far too often, despite the ability and desire of parents to care for their disabled child at home, they are unable to pay the prohibitive medical costs, even when home care can save the State and Federal Government a considerable sum of money. But this is not what is at stake here. What is at stake is the quality of life of the individual and family. The best way this can be demonstrated is through example.

Kaileigh Mulligan is a 2-year-old from my home State of Massachusetts. She has Down's syndrome and requires frequent hospitalization and constant care. The easy alternative for her parents would be to keep Kaileigh in the hospital and let others care for her. But, although Kaileigh requires a lot of attention, her parents would rather raise and care for her at home in a loving and secure environment.

Yet the way current law reads, keeping Kaileigh at home means that the income of her parents is deemed to be Kaileigh's and therefore she loses her eligibility for Medicaid and for SSI. What is important to note is that Kaileigh would have been fully entitled to these benefits if she were to be permanently hospitalized.

In Kaileigh's case the State of Massachusetts has granted a waiver from the income deeming rules so that she could remain at home and still be eligible for Medicaid. However, Federal law still prohibited Kaileigh from receiving SSI benefits, which for her would amount to $1,200 a year. These funds would primarily be used for buying supplies such as feeding tubes, which Kaileigh needs to function from day to day.

Modifying SSI eligibility is not only a morally and socially sound approach, but it is also extremely cost-efficient. The Massachusetts Office of Human Services recently estimated that it costs the State $48,000 to $405,000 to care for a child like Kaileigh in a hospital. This cost would be drastically reduced with home care. But more importantly the direct social benefits to the children and their families are undeniable.

It is time to act and remove the perverse incentive that exists for children to remain in institutions rather than at home with families. The decision to care for a 2-year-old child at home is one and should not be based on whether it will jeopardize benefits. It should be based on the willingness and ability of the family to provide quality care and whether or not it is in the best interest of the family to do so.

I urge my colleagues to join me in supporting this important legislation which gives us an opportunity to reconcile Government policies with the needs of the family and ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2094

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SECTION 1. PARENTS' INCOME AND RESOURCES NOT TO BE DEEMED TO CERTAIN SEVERELY DISABLED CHILDREN.

(a) IN GENERAL.—Section 1614(f)(2) of the Social Security Act is amended—

(1) by striking "(i) Subject to paragraph (B), for purposes of determining"; and

(2) by adding at the end the following new subparagraph:

"(B) Subparagraph (A) shall not apply in any case where (as determined by the Secretary)"—

(1) the individual involved is disabled (as defined in subsection (a)(3)) and requires a level of care provided in a hospital, skilled nursing facility, or intermediate care facility (within the meaning of those terms as used in title XIX);

(2) it is appropriate to provide such care for the individual outside such an institution; and

(3) the estimated amount which would be expended for providing such care for the individual with such care outside an institution, when added to the amount of any benefits that would be payable with respect to such individual under this title by reason of the application of this subparagraph, is not greater than the estimated amount which would otherwise be expended in providing the individual with such care within the appropriate institution.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to benefits for months after the month in which this Act is enacted.

SEC. 2. AMENDMENTS TO TAX ON GREENMAIL.

(a) GENERAL RULE.—

(1) of section 5881 of the Internal Revenue Code of 1986 (relating to greenmail) is amended by striking "gain realized by such person on such receipt" and inserting "gain on the sale or exchange of any person of such person by reason of such receipt";

(2) Subsection (b) of section 5881 of such Code is amended—

(A) by striking "transferred by a corporation" and inserting "transferred by a corporation or any person acting in concert with such corporation";

(B) by striking "its stock" and inserting "stock of such corporation";

(3) Subsection (d) of section 5881 of such Code is amended—

(A) by striking "the gain" and inserting "the gain or other income"; and

(B) by striking "Gain Recognized" and inserting "Amount Recognized";

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the amendments made by section 10228 of the Revenue Act of 1987.

By Mr. METZENBAUM (for himself, Mr. PELL, Mr. WECKER, and Mr. HARKIN):

S. 2095. A bill to strengthen the protections available to private employees against reprisal actions for disclosing information, to protect the public health and safety, and for other purposes; to the Committee on Labor and Human Resources.

Uniform Health and Safety Whistleblowers Protection Act

Mr. METZENBAUM. Mr. President, today I rise to introduce the Uniform Health and Safety Whistleblowers Protection Act. This measure has bipartisan support with Senators PELL, WECKER, and HARKIN as original co-sponsors.

Private sector employees should feel free to report illegal or improper activities that endanger the public health or safety without fear of personal reprisal. It is a fundamental principle of good Government to encourage citizens to report illegal activities to the proper authorities. Especially when public health or safety is at stake, individuals who are willing to report unlawful, hazardous practices to avert a disaster should be honored as heroes. Instead, in too many cases, their reward is to be fired, harassed, demoted, or blacklisted by their employers.

That's what happened to Daniel Arthur from my State of Ohio who was forced to quit his job as a safety inspector at a uranium refinery. Arthur warned his employer that a project to process uranium was contaminated with plutonium and then was forced to reinstate him.
Not all cases are cut and dry. Betty Simon, a chicken inspector from Missouri, cooperated with Federal authorities in an investigation into meat contamination and feeding irregularities. Her efforts helped redress the public health hazard but she became the victim of harassment and intimidation by her employer.

Jim Campbell, a researcher for a pharmaceutical manufacturer in Indiana, blew the whistle on the drug oralflex. The FDA had to remove the drug from the market because of its potentially deadly, but undisclosed, side effects. Campbell's efforts saved lives; his reward was to lose his job.

John Pavolini, an air transport pilot reported to the FAA that his employer was using an unsafe airplane. On the day he filed his report, two things happened—the FAA grounded the plane after an inspection uncovered numerous safety violations and the airline fired Pavolini. A Federal appellate court recognized the dilemma: "Pavolini was in a difficult situation, facing a loss of his job on the one hand and a potential loss of lives on the other; he should be commended for placing public safety over private concerns."

Commodifying private sector whistleblowers is a nice gesture. But we must do more because whistleblowers may be our only defense against corporate laws threatening the public health or safety. These courageous workers do not need empty praise. They deserve effective Federal laws—Federal laws with real teeth—to protect them from personal reprisal.

More than a dozen Federal laws provide some protection to private sector whistleblowers. The Administrative Conference of the United States, an independent agency charged with recommending improvements in Federal administrative proceedings, conducted an extensive review, complete with a public hearing, of the existing Federal whistleblower laws. As a result of this thorough examination, the conference issued a formal recommendation calling for omnibus legislation to bring order to the current patchwork statutory scheme.

I will summarize the conference recommendations, but I would ask that the entire report by the conference, including the analysis prepared by consultant Eugene Fidell, entitled "Federal Protection of Private Sector Health and Safety Whistleblowers," be printed in the Record following my statement; and following the bill.

The Administrative Conference concluded that the current Federal statutes lack uniformity and that the unexplained differences in the statutes threaten "to undermine the credibility of this area of the law." To correct this situation, the conference adopted the following eight specific provisions to be included in omnibus legislation:

- A uniform definition of protected conduct;
- A uniform statute of limitations of at least 180 days;
- A uniform provision for remedies;
- Assignment of preliminary investigatory responsibility with the Secretary of Labor;
- Authorization for the Secretary of Labor to use alternative means of dispute resolution;
- Opportunity for an on-the-record hearing before a Department of Labor administrative law judge, with discretionary review before the Secretary of Labor, judicial review in the court of appeals and enforcement in the district court;
- A grant of subpoena power to the Secretary of Labor for whistleblower proceedings, with judicial enforcement; and
- Rulemaking authority to the Secretary of Labor regarding whistleblower procedures.

The bill I am introducing today incorporates each of the Administrative Conference's specific recommendations. It protects all employees who disclose unlawful activities that will endanger the public health or safety; who participate in formal Federal proceedings relating to unlawful or hazardous activities; or who refuse to participate in activities that present imminent and substantial danger to the public health or safety.

The bill centralizes the administrative process within the Department of Labor and includes preliminary investigation, opportunity for an administrative hearing, discretionary review by the Secretary of Labor, judicial review in the court of appeals and enforcement in the district court.

Specific enforcement of a whistleblower's complaint furthers the interests of the employee, the employer and the public. The bill includes specific, realistic time limits at each stage of the procedure to insure expeditious consideration of the complaint. If the Department of Labor does not resolve the complaint within the prescribed time period, then the whistleblower may bring a civil action to obtain protection.

To bring order to the current confusing pattern of laws, this Act would supersede existing Federal whistleblower laws to the extent those laws provide inconsistent rights to private sector health or safety whistleblowers. In addition, the administrative and enforcement provisions of this Act would become the exclusive mechanisms for other Federal whistleblower laws.

This bill corrects another major problem raised by the Administrative Conference study. There are gaps in whistleblower protection because there is no Federal protection for employees in such major industries as aviation and aeronautics, vehicle construction and operation, and manufacturing and production of food, drugs, medical devices or consumer products generally. If we are serious about protecting public health and safety, we must close the loopholes and protect workers in these vital industries.

Protecting whistleblowers is good Government and smart business. That's why this bill has broad-based support from such diverse groups as the Administrative Conference and the Government accountability project, a public interest group dedicated to representing the rights of whistleblowers.

The free flow of information about health and safety hazards should not be chilled. Under our current system, irresponsible employers can cover-up illegal, dangerous activities by intimidating workers into silence through threats of personal reprisal. This bill will eliminate such intimidation and will allow us to protect the public from corporate outlaws.

As chairman of the Labor Subcommittee, I will hold hearings on the Uniform Health and Safety Whistleblower Protection Act soon. I urge all my colleagues to support this legislation.

I ask that a copy of the bill be printed in the Record immediately following my statement.

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

SEC. 1. SHORT TITLE.

This Act may be cited as the "Uniform Health and Safety Whistleblower Protection Act of 1987."

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) private sector employees who report unlawful or hazardous activities perform an important public service by helping ensure the health and safety of workers and the general public;

(2) private sector employees should be able to report unlawful or hazardous activities without fear of personal reprisal; and

(3) private sector employees who make such reports are not consistently and adequately protected against personal reprisal by the current Federal laws designed to protect private sector whistleblowers.

(b) PURPOSE.—The purpose of this Act is to strengthen and improve protection for private sector employees who report an employer's unlawful or hazardous activities, to prevent retaliatory action against such employees, and to improve the health and safety of workers in the general public by—

(1) creating uniform substantive protections and administrative procedures for whistleblower complaints;

(2) centralizing administration and enforcement of whistleblower protection within the Department of Labor;
(3) extending whistleblower protection regarding health and safety matters for private sector employees;

(4) ensuring that reports of unlawful or hazardous activities are referred to the appropriate Federal agencies for investigation.

SEC. 1. EMPLOYER PROTECTION.

(a) IN GENERAL.—No person shall discharge or in any other manner discriminate against any employee because the employee—

(1) discloses, or demonstrates an intent to disclose, an activity, policy, or practice of an employer that the employee reasonably believes is a violation of Federal law that executes a Federal law, or is an activity, policy, or practice of an employer or who is an applicant for employment or who is an agent of the employer and an employer of persons.

(b) WAIVER.—Except as provided in section 5(f), agreements by employees, express or implied, written or oral, purporting to waive or modify the protection of this Act shall be void as contrary to public policy.

(c) EXEMPTION.—This Act shall not apply with respect to any claim or cause of action based on negotiations or without direction from the employee’s employer, deliberately causes a violation of Federal law.

(d) REMEDIES.—(1) A COMPLAINT.—(P) Any employee who believes the employee has been discharged or otherwise discriminated against by any person in violation of section 4 may, within 180 days after such alleged violation occurs, after the discharge or other discriminating action, file a complaint with the Assistant Secretary alleging such violation. The complaint may be filed without regard to exhaustion of any other remedies.

(2) COPY.—On receipt of such a complaint, the Assistant Secretary shall cause a copy of the complaint to be served on the person named in the complaint and on any Federal agency that may have jurisdiction over the activity, policy, or practice alleged in the complaint.

(b) INVESTIGATION.—

(1) IN GENERAL.—Within 45 days of the receipt of a complaint filed under subsection (a), the Assistant Secretary shall conduct an investigation to determine whether there is reasonable cause to believe the complaint has merit and shall issue an order setting forth the findings. If there is reasonable cause to believe a violation of this Act has occurred, the Assistant Secretary shall act in accordance with an order providing the relief prescribed by subsection (g).

(2) DECISION.—Within 60 days after the conclusion of the hearing, or within 225 days after receipt of the hearing request by the Assistant Secretary, whichever is earlier, the administrative law judge shall issue a decision containing findings of fact, conclusions of law, and the remedy ordered, if any. The decision shall be served on the Secretary and on all parties to the hearing and shall include a statement to the parties of their right to appeal pursuant to subsection (f).

(c) HEARING.—(1) IN GENERAL.—Any hearing requested pursuant to subsection (c) shall be completed before an administrative law judge within 180 days of receipt of the request for a hearing by the Assistant Secretary.

(2) NOTICE.—The parties shall have a reasonable opportunity for prehearing discovery and shall be given written notice of the time and place of the hearing at least 15 days prior to the hearing.

(d) ADMINISTRATIVE PROCEDURE.—The hearing shall be subject to the requirements of section 554 of title 5, United States Code.

(e) WAIVER.—(1) NO REVIEW.—Any decision issued pursuant to subsection (e) shall be the final disposition of the request for review pursuant to subsection (i) unless a party petitions the Secretary for review of an order of review within 15 days after the issuance of the decision.

(2) REVIEW.—Within 60 days after receipt of the petition for review or issuance of an order of review within 180 days after receipt of the complaint, whichever is earlier, the Secretary shall issue a final order, based on the record and the decision of the administrative law judge, which shall be served on all parties. If the Secretary does not issue a final order within the period prescribed by this subsection, the decision of the administrative law judge shall become the final order of the Secretary.

(e) DAMAGES.—(1) IN GENERAL.—If in response to a complaint filed under subsection (a), the Secretary, Assistant Secretary, or administrative law judge determines that a violation of this Act occurred, the Secretary, Assistant Secretary, or administrative law judge shall order—

(A) the person who committed the violation to take affirmative action to abate the violation;

(B) the person to reinstate the complainant to the complainant’s former position, if
reinstatement is sought, together with compensation, including back pay and lost benefits, and appropriate reforms of the complainant's employment; (C) compensatory damages; (D) exemplary damages, where appropriate; (E) such other equitable relief as is necessary to correct any violation of this Act or to protect the complainant.

 subsection.

violation.

shall notify the complainant of the opportunity to file a civil action pursuant to this Act or to protect the complainant for and in connection with the proceeding against any person committing such violation.

(h) PRIVATE RIGHT OF ACTION.—

(1) IN GENERAL.—If no final order is issued within the period prescribed by subsection (f), the complainant may file a civil action within 90 days for damages and equitable relief, including attorneys' fees, as determined by the Secretary, Assistant Secretary, or administrative law judge, at the request of the complainant, to be had reasonably incurred by the complainant for and in connection with the proceeding against any person committing such violation.

(2) COSTS.—Whenever a final order is issued sustaining the complainant's charge under this Act, the Secretary, Assistant Secretary, or administrative law judge, at the request of the complainant, shall assess all costs and expenses of the proceeding. The review shall be conducted in accordance with chapter 7 of title 28 and the Federal Rules of Civil Procedure. The filing of a petition for review is not necessary to have the opportunity to file a civil action pursuant to this subsection.

(3) COSTS.—Whenever a final order is issued sustaining the complainant's charge under this Act, the district court, at the request of the complainant, shall assess all costs and expenses (including attorneys' fees) as determined by the Secretary, Assistant Secretary, or administrative law judge to have been reasonably incurred by the complainant for and in connection with the civil action against any person committing such violation.

(1) JUDICIAL REVIEW.—Any person adversely affected or aggrieved by an order issued pursuant to this Act may obtain review of the order in the United States court of appeals for the circuit in which the violation allegedly occurred. The petition for review must be filed within 60 days after the issuance of the order. The review shall be conducted in accordance with chapter 7 of title 28, United States Code. The filing of a petition for review under this subsection shall not stay the order determining by the court, operate as a stay of the order.

(J) SETTLEMENT OR ALTERNATIVE DISPUTE RESOLUTION.—On receipt of a complaint pursuant to subsection (a), the Assistant Secretary shall attempt to reach a settlement between the complainant and the employer named in the complaint. The Secretary and Assistant Secretary are encouraged to use alternative means of dispute resolution to resolve the complaint, except that the decision in writing that the Secretary or Assistant Secretary may employ such means. The Secretary, Assistant Secretary, or administrative law judge shall not enter into a settlement terminating a proceeding on a complaint without the participation and written consent of the complainant and employee. A proceeding pursuant to this subsection shall be a final order of the Secretary and shall include findings that the settlement is in the best interests of the complainant and of the public.

(k) TIME COMPUTATIONS.—Except as otherwise provided in this Act, for purposes of a proceeding on a complaint, all time computations shall be made in accordance with the Federal Rules of Civil Procedure.

(1) POSTING.—Each employer shall post and keep posted in conspicuous places on its premises a notice to be prepared or approved by the Secretary, federal laws may provide rights and remedies to employees as well as others who make similar disclosures, including complaints to their supervisors, fellow employees, and other persons. The provisions of state and federal laws have emerged with sufficient experience to allow a study.
as whistleblowers. Under current statutes, for example, nuclear power plant workers, miners, truckers, and farm laborers are specifically recognized as acting as whistleblowers. Other workers may be covered under the more general protections granted by the Occupational Safety and Health Act (OSHA), the Federal Mine Safety and Health Act (FMISHA), the Migrant Seasonal Agricultural Worker Protection Act (MSAWPA), etc.

The protection provided the so-called whistleblower statutes under study serves the important public interest of helping to maintain the health and safety of workers in the various regulated industries or activities, as well as that of the general public. The statutes are intended to create an environment in which an individual can bring a hazardous or unlawful situation to the attention of the public or the government without fear of personal reprisal. Such disclosures can be a valuable source of information especially where the public lacks the knowledge or access to information necessary to be fully informed on these important issues.

In its examination of the current federal statutes designed to protect whistleblowers in the private sector, the Conference found that, as currently written, the various whistleblower statutes lack uniformity in a number of areas including the following:

1. Investigative responsibility is assigned to numerous agencies, including the Department of Labor (OSHA), the Department of Transportation, the Department of Agriculture (USDA), and the Department of Labor (DOL), with little coordination among them.

2. Judicial review is similarly divided. For example, while several statutes provide for adjudication by a DOL administrative law judge, others provide for decisions by the Department of Transportation, the Department of Agriculture (USDA), and the Department of Labor (DOL), with little coordination among them.

3. Statutes of limitations for filing a complaint range from 30 days to 180 days.

4. Definitions of protected conduct differ according to statute. For example, protected disclosure may include any disclosure or may limit disclosure to “the public,” to the media, to the representative agency, to a union or employer. Protected conduct may or may not include retribution.

5. In certain cases where the designated agency declines to proceed with the complaint (under either the OSHA or the asbestos Hazard Emergency Response Act), the complaining employee is left without any further administrative or judicial review.

As a result of these statutory incongruities, available procedures and protections may differ depending solely upon the industry to which an aggrieved employee belongs. For example, an employee seeking protection under the Clean Air Act (CAA) has 30 days in which to file a complaint, while an employee filing under provisions of the Migrant Seasonal and Agricultural Worker Protection Act (MSAWPA) has 180 days. Also, whereas OSHA and MSAWPA violations are investigated by the Wage and Hour Division of the Department of Labor, adjudication of CAA complaints is before a DOL adjudicatory agency, while MSAWPA complaints are adjudicated in the district courts. The Conference has concluded that the wide variety of statutes under which whistleblowers may seek protection, and the variety of procedures applicable to the separate programs, makes it necessary for a program agency to retain or receive investigative or adjudicative responsibility for whistleblower complaints. Congress should provide for uniformity in the substantive protections and procedures applicable to the separate programs.

The Conference believes that centralization is preferable and that adjudicatory responsibilities should where feasible be assigned to the DOL.

The Conference study also discussed areas of regulation where gaps in whistleblower protection exist. These include the aviation and aeronautics industries, vessel construction and operation, and manufacturing and production of food, drugs, medical devices or consumer products generally. Where Congress has proceeded to delineate an industry so as to ensure the safety of its workplace, products, services or the environment, Congress should consider whether it is appropriate that enforcement of the regulatory scheme be strengthened by providing whistleblower protection for the industry's employees within their defined jurisdictions.

The study also indicated that access to written decisional precedents in these cases needs to be improved. The Department of Labor's Office of Administrative Law Judges, for example, does not yet publish its decisions (although it has recently announced plans to do so), and a unified index for these decisions and those of other agency adjudicative bodies does not exist. Publication and indexing of existing case law should help narrow the issues for future adjudications, contribute to a sense of fairness in the adjudicatory process, and improve case management. In addition, the study found that, with certain exceptions, there is little interaction between the program agency and the investigating-adjudicating agency, thereby diminishing the involvement of the lead program agency. The Conference believes that centralization is appropriate that enforcement and adjudication of whistleblower complaints should be assigned to the Secretary of Labor.

Finally, the Conference notes that there is a growing amount of litigation in state courts concerning whistleblower issues. But does not take a position on whether federal statutes do or should preemp state law in this field. The Conference recommends that Congress address the following:

- The Conference believes that centralization is preferable and that adjudicatory responsibilities should where feasible be assigned to the DOL.
- It recommends that Congress should provide for uniformity in the substantive protections and procedures applicable to the separate programs.
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Recommendation

1. In the interest of uniform treatment of private sector health and safety whistleblowers, Congress should enact omnibus whistleblower legislation for the handling and resolution of whistleblowers' complaints. In enacting this legislation, Congress should review the categories of workers to which it is appropriate to extend whistleblower protection. As a general matter, the Conference believes that the program should be centralized in the Department of Labor in furtherance of efficiency and harmony of results.
FEDERAL PROTECTION OF PRIVATE SECTOR HEALTH AND SAFETY WHISTLEBLOWERS
A report to the Administrative Conference of the United States by Eugene R. Fidell

February 25, 1988
CONGRESSIONAL RECORD—SENATE 2347

The background against which the federal legislation addressed in this study arose may be briefly sketched. 17 At common law (American, incidentally, rather than English), the rule evolved that an employee who did not have a contract that provided otherwise could be dismissed at the will of the employer. This doctrine is said to have its origins in a treatment of all parties, including the employee, more than a century ago, and promptly took root in the cases, which seem to have adopted this notion quite uncritically. Eventually, some exceptions to the rule, and doctrines have arisen in a number of jurisdictions holding that there was a transfer of the duties of the employee to the “employment-at-will” rule. In summary, such exceptions hold that an employer will not be permitted to discharge an employee employed under contract with a publicized public policy. The law on this point is essentially state law, and the extent to which the doctrine applies to any particular

TAXONOMY AND TERMINOLOGY

Although the above discussion of ensuring that the laws are observed have become the responsibility of government rather than private citizens, the Supreme Court has held that private citizens have no role to play. 8 By way of preface, it may be appropriate to try to orient the whistleblower protection provisions within the range of tools available to government for the achievement of public objectives. Some of these tools are negative, and some are positive. Some are direct (i.e., used by the government itself to effectuate an end (relating rather on private individuals). For example, imprisonment, fines, penalties and forfeitures are familiar sanctions government uses to achieve its public objectives. The law may create an indirect negative incentive to encourage private citizens to assist in suppressing crime, as in the case of the Tariff Act provision making it a misdemeanor to refuse to assist a Customs officer. 11 The whistleblowing anti-retaliation provisions of federal law are best thought of as the removal of a disincentive for private assistance in achieving public ends, since the purpose of such provisions is to hold harmless those employees whose information must reach the government in order to achieve public goals. 12 In addition to this taxonomic note, mention should be made regarding the term “Public Protection,” which is so vague as to be essentially meaningless. 13 The terms “discrimination” and “affirmative action” are used in describing protected whistleblowing and the fashioning of remedies, respectively. These obviously have special meanings in our society, and their use in this context can be a hinderance to understanding because it inappropriately implies a legal or doctrinal kinship with the race relations area, thereby bringing into play a very different set of concerns and values from those that underlie public policy in the whistleblowing area.
set of facts is likely to vary dramatically from one jurisdiction to the next.

THE FEDERAL LEGISLATIVE RESPONSE

In addition to judicial recognition of a "public policy exception" to the at-will doctrine, Congress and state legislatures have enacted specific provisions ensuring protection against retaliation for employees who disclose wrongdoing. Federal legislation includes a variety of statutes, some of which deal with public health and safety programs. This report contains a broad spectrum of industrial activity in the public sector, and it is believed that few of the whistleblowing cases that entered the field recently wrote, "The next-largest group of cases involves the Surface Transportation Assistance Act, under which OSHA received 387 complaints during FY84. The number of complaints declined to 248 in FY85. "I (the first half of 1984, only eight cases were found to have merit. By the end of the year, twenty-five or six merit findings had been issued, and in 1985 fifty-eight merit findings were issued.

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employees was introduced in the 99th Congres
s and will be reintroduced in some form in
the 100th.

Of course, not all health and safety pro-
gress has been beyond the scope of juris-
diction, the disclosure need only be made in
good faith. 10

Retaliation against concerted activity in
response to safety concerns has been held to
be an unfair labor practice by the NLRB,
but the Board has recently emphasized that
it was irrelevant whether it was made in
which to rectify all the injustices of the work-

safety whistleblowing statutes basically pro-
firing him or her would trigger some other

she should be as free of wasted time and

unsafe employee be retained even though

putative setting, there will always be some

cult to understand why a uniform set of

In neither category has Congress acted uni-

eral on the issue. 48 This factor is dif-

are provisions that apply to any disclosure

atastrophic refusals to work are protected

or employer (FMSHA, OSHA, SMFRA).
The circuits are split on whether the ERA

protects "internal" complaints to an em-

employees supports safety concerns under the ERA and envi-

mental statutes has been held to be an

other categories of violations of NRC regu-

ration in the first place should also war-

nent protection for whistleblowers simply as

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safety and health requirements.
industry, and lack of resources may lead to "disinterested" enforcement of safety regulations.64 Congress recognized the possibility that a program may be better suited to a contract, 65 or that such a contract would result in a waste of resources (or otherwise), and moved right into the question of where the functions, duties, and responsibilities of the NRC and the former Energy Research and Development Administration might be placed.

Congress, therefore, for having adjudication handled by the program agency based on the theory that substantive expertise in the underlying technical field is required is unquestioned. Congress perhaps assumed that an agency that had the resources to deal with whistleblower cases and had the necessary investigative powers as well as the authority to act in the investigatory phase, might be the case if the complainant were merely reasonable in the circumstances. To involve technical areas such as the NRC and the former Atomic Energy Commission, which can claim no special interest would be served, even that question imposes on the courts, which can claim no special interest in potentially reducing the need for formal governmental processes.

The case for having adjudication handled by the program agency on the ground that substantive expertise in the underlying technical field is required is unquestioned. Congress perhaps assumed that an agency that had the resources to deal with whistleblower cases and had the necessary investigative powers as well as the authority to act in the investigatory phase, might be the case if the complainant were merely reasonable in the circumstances. To involve technical areas such as the NRC and the former Atomic Energy Commission, which can claim no special interest would be served, even that question imposes on the courts, which can claim no special interest in potentially reducing the need for formal governmental processes.
barding of agency resources (including the need to limit what might otherwise be redundancies in the hearing) sug-
gest that the ALJ should step aside when dropping out of the proceeding, but taking a more passive role, in deference to the trial strategy of the party’s chosen counsel. That role may be undertaken in an individual capacity to represent himself or herself, in which case a more active posture would be appropriate, in order to avoid a fatal “standing” objection to the proceeding. The ALJ should still be at liberty to draw adverse inferences or impose sanctions in the event of failure to make discovery because the need for such discovery is great for such subpoenas. Enforcement may be too time-con-
suming and costly for the party seeking enforcement. 96 Adverse inferences or sanctions in such proceedings are supposed to be summary in nature. 97 A party’s failure to press for judi-
cial enforcement of an agency subpoena should not be treated as having waived the right to object (in keeping with the principle that adverse inferences or appropriate agency sanctions.

Misconduct by counsel. - Another of the charges levied by the complainant bars is a serious matter that can thwart the achievement of congressional objectives and thereby endanger public health and safety. The arrangements currently in place cer-
tainly give agency decisionmakers ample au-thority to penalize such misconduct, and that authority should be invoked when good cause is shown. 100 In the unlikely event that ALJs prove to be indifferent on this score, it is expected that the Secretary of Labor will take a firm stand on review. In addition, the usual forums for the consideration of ethi-
cual violations remain available. If the mis-
conduct conducted in bad faith and cannot be described as part of a fair day, however, the decision should be set aside on judicial review.

6. Remedies. - The basic remedies available under the employee protection statutes are the familiar ones of backpay, reinstatement and attorney fees. In some instances, ad-
nominal damages are authorized under a number of statutes, and a variety of kinds of actual damages are authorized under the statute. 113 These include medical expenses, front pay, and job search ex-

ences. In one ERA case, an employee was awarded $10,000 for mental pain and suffering in injury to reputation. 106 Another received $70,000 “to cover past and future medical expenses ... and as recompense for ... humiliation and mental suffering.” 107 Exemplary or punitive damages are specifi-
cally authorized under only two of the envi-
ronmental employee protection provisions (42 U.S.C. Sec 19001-1902; 42 U.S.C. Sec 7619;
the NRC, and the Department of Labor has held such dam-
ages to be unavailable. 108 Why those statutory provisions should be distinguished from the others is not clear. Further, the damage is prima facie from having been inspired by a common model. It is not conceivable reason for this discrepancy; a single rule should apply.

Agencies are also authorized to order abatement of the employer’s conduct as well as “affirmative action,” although it is unknown if any requirement is made for the agency to have the authority to order such ex-


A more fundamental concern has to do with the fact that under OSHA and the As-
bestos Hazard Emergency Response Act, if the investigatory agency declines to bring a civil action for the employee, the employee may pursue the matter in court, if the employer’s conduct is a willful violation, and also cannot bring his own action against the employer. Agency decisions not to prosecute are understood to be non-re-
nonaptive and therefore cannot be subjected to judicial review. There is no ap-

parent reason for closing the courthouse doo-
s to such individuals while keeping them open under so many of the other statutes. The answer drives whistleblowing cases into the state courts under state doctrines, even though the federal interest may be paramount. 119

Interaction with Program Agencies. - As Senator Grassley stressed at the Confer-
ence’s October 1, 1986 public hearing, it is important not only that the whistleblower be protected from retaliation, but also that the substantive safety and health concern be addressed. 111 This requires close coordi-
nation between the agencies responsible for the underlying regulatory program and those responsible for administration of the anti-retaliation provisions.

In both OSHA and investigative agencies have taken some steps to foster co-
ordination to achieve better compliance with the anti-retaliation provisions. Thus, the Wage and Hour Division and the NRC have a Memorandum of Under-
standing (“MOU”) setting forth the arrangements between these agencies in nuclear whistleblower cases. 114 That arrangement is viewed as ineffective by attorneys representing employees. 115 Similarly, OSHA and the NLRB have an MOU for the coordination of litigation under section 11(c) of OSHA and section 8(a)(1) of the NLRA and OSHA and the NLRB have entered into an agreement for the overlap in their jurisdictions. 117 Other agencies have not pursued the same ap-

troaches. The Department of Transportation has only an informal work-

arrangements with the Department of Labor in such cases, rising under the Surface Transportation Hazard Emergency Response Act, 118 and EPA (which has substantive re-

sponsibility for several environmental laws and programs) has entered into an understanding with DOL. It also re-
mains possible for a single act of retaliation to trigger more than one statutory scheme. Where this is the case, the agencies should
either be permitted to conduct a joint hearing or one should serve as "lead agency" for the program. Either way, the investigatory processes would be, in the long run, time consuming and expensive. If the reporting services of different investigative agencies and the statutes under which they operate are to be considered, the potential for wasteful duplication would be avoided.

Given the fact that whistleblower protection is, after all, intended to protect public health and safety, formal arrangements among the agencies responsible for the various whistleblower statutes might be inadvisable. (1) Investigators receive necessary assistance from program agencies, particularly in collecting and preserving evidence; (2) program agencies receive prompt detailed reports of the results of all whistleblowing adjudicatory proceedings, and (3) that complaining employees be advised of the action taken by program agencies to remedy the safety problem about which the whistle was blown.

9. Access to Law and Interagency Doctrinal Growth.—Two final and, to a degree, related concerns involve the public availability of decisional law and the impediments to interaction between the separate bodies of law being developed by the adjudicatory agencies responsible for the various whistleblower statutes. While the decisions of the MSIRC, NLRB, and Interior Board of Land Appeals are reported, those of the DOL OALJ and the Federal Judicial Law Journal are not. OALJ decisions have been available only in Washington. If that office is responsible for publishing the opinions of all the overall whistleblower caseload. The result is a problem of a more difficult time ascertaining the law (thus making research from focused to general, otherwise the case, as well as making it more difficult for employers and employees even to know their basic rights). In addition, there is the inherent goal of cross-fertilization between the OALJ and other whistleblower adjudicatory agencies is thwarted. This innovation makes little sense (building on the statutory patchwork) tends to retard the development of a coherent body of law in this area.

Fortunately, the Department of Labor has announced that it will publish all OALJ and Secretarial decisions in whistleblower cases beginning January 1, 1987. This is a desirable step for which the Department should be commended, since employees and employers will be better to determine in advance to what is likely to be the case, which otherwise would be useful if pre-1987 decisions were published as well. It is assumed, of course, that appropriate indices will also be provided.

Whether publication of the OALJ decisions is sufficient remains an open question. A step which is more promising is expansion from one anti-retaliation program to another is needlessly cumbersome because of the variety of reporting services. Publication of the OALJ cases will only partially alleviate that problem. If digesting and indexing continue to be separate for each agency with responsibility for whistleblowing cases, the present system will not have been improving as much as it could be. This is not to suggest that the bar currently concerns itself in whistle blowing area, but the present arrangements necessarily leave the door to doctrinal variation open. The Department of Labor has decided to bring all private sector health and safety whistleblowing jurisdiction under one "roof" with a single set of statutory provisions administered by a single agency, this concern will go away; if Congress does not, serious attention should be given to integrating the reporting arrangements.

RELATION TO PRIOR CONFERENCE RECOMMENDATIONS

The subject of this report touches on several prior administrative conference recommendations:

(a) Compilation of Statistics on Administrative Procedure of Federal Departments and Agencies (Recommendation No. 69-6).—While the agencies that were contacted provided limited and fragmented statistical data, in a number of instances it was difficult to obtain important detailed caseload data. The Conference may wish to separate evaluation and review of data-gathering and organization from this perspective.

(b) Discovery in Agency Adjudication (Recommendation No. 190-4).—To keep with paragraph 9 of this recommendation, Congress should ensure that agency subpoe­ nas may be issued and judicially enforced in order to try to force the investigative or adjudicatory process into a rigid timetable. However, Congress might want to consider making it clear that if a deadline for agency action passes without such action, the employee or employer should be able to obtain an APA hearing without having to wait further. Similarly, if final action is withheld beyond the date prescribed, judicial assistance should be forthcoming more readily than has heretofore been permitted by the courts.

(f) Agency Structure for Review of Decisions of Presiding Officers under the Administrative Procedure Act (Recommendation No. 83-3).—Reference is made below to the need to articulate the procedures for secretarial review of decisions of the DOL Office of Administrative Law Judges.

(p) Preemption of State Regulation by Federal Agencies (Recommendation No. 84-5).—It is improbable that a federal agency would have occasion to directly address the question of preemption in a whistleblowing case, unless, for example, a state remedy had been invoked and one side or the other sought to rely on the result for collateral es­ toppel or res judicata purposes. This seems unlikely because federal statutes of limitation are applicable to whistleblowing cases where state law would proceed more promptly than the state case. Nonetheless, if such an issue were to arise, the views of the agencies involved in the federal case should be obtained in the adjudicatory process through invited amicus presentations. Pre­ liminary question is further addressed below in the Conclusions and Recommendations.

(b) Coordination of Public and Private Enforcement of Environmental Laws (Recommendation No. 86-3).—The Conference’s recent recommenda­ tion concerning ADR arguably bears on the private sector whistleblowing cases. While some private dispute-settlement or avoidance techniques have been tried with a view to encouraging the instant disclosure of concerns and defusing potential retaliation claims (particularly within the nuclear in­ dustry), it is believed that it would be premature to require any such procedure as a precondition to federal administrative adjudication. The Conference might, however, want to suggest that the concerned agencies consider the statute of limitations tolled while permissible internal employer remedies are being exhausted.

CONCLUSIONS AND RECOMMENDATIONS

Clearly there are important questions for Congress, as a result of any careful examination of the current arrangements for the protection of private sector health and safety whistleblowers. Some of these are the following:

(i) the bar currently concerns itself in whistle blowing with respect to violations of Federal safety and health requirements;
(ii) assignment of investigative responsibility to the Secretary of Labor for all private sector health and safety whistleblowing retaliation cases;
(iii) a provision for on-the-record Department of Labor APA hearings in all private sector health and safety whistleblowing cases, with discretionary review by the Sec­ retary of Labor, judicial review in the courts of appeals, and enforcement in the district courts;
(iv) a single definition of protected conduct;
(v) a single statute of limitations of not less than 180 days;
(vi) a single provision for remedies (including debarment and suspension of government contractors);
(vii) a grant of subpoena power to the Sec­ retary of Labor for whistleblowing investi­ gations and hearings, with provision for judicial enforcement; and
(viii) a grant of rulemaking authority to the Secretary of Labor with respect to investigatory and adjudicatory procedures, notice posting requirements and mandatory coordination with the appropriate Agency. Use of Alternative Means of Dispute Resolution (Recommendation No. 86-3).—The Conference’s recent recommen­ dation concerning ADR arguably bears on the private sector whistleblowing cases.
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(ii) transfer all private sector health and safety whistleblowing investigative responsibility to the Occupational Safety and Health Review Commission for the duration of such hearings.

11(e) of the Occupational Safety and Health Act and section 405 of the Surface Transportation Assistance Act) that agency currently responsible for such investigations, adjudication, and follow-up in whistleblowing cases; and

(ii) develop, in consultation with the agencies responsible for the substantive regulatory program, detailed written procedures that are as nearly uniform as the Secretary of Labor may decide in whistleblowing cases, including those rendered prior to January 1, 1987. In addition to these changes, the Conference and the Executive Branch may wish to address a number of related issues, such as the question of preemption. As was persuasively explained at the public hearing held by the Conference on October 1, 1986, there is a considerable amount of whistleblowing litigation in the state and federal courts. Restating the problem, and in the language of one commentator, but on state law doctrines as the public policy exception to the employment-at-will doctrine. 125 State law doctrines are inextricably linked to the federal system, should not lightly be de­frayed with serious consequences to the federal forum. Given the current doctrinal ferment, this is an area which in the words of Justice Brandeis in New State Ice Co. v. Liebmann constitutes "a field in which the potential for political considerations is freighted with serious consequences to the federal system, should not lightly be de­frayed with serious consequences to the federal forum. Given the current doctrinal ferment, this is an area which in the words of Justice Brandeis in New State Ice Co. v. Liebmann constitutes "a field in which the potential for political considerations is freighted with serious consequences to the federal forum. Given the current doctrinal ferment, this is an area which in the words of Justice Brandeis in New State Ice Co. v. Liebmann constitutes "a field in which the potential for political considerations is freighted with serious consequences to the federal forum. Given the current doctrinal ferment, this is an area which in the words of Justice Brandeis in New State Ice Co. v. 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31 In one case, quoted in
Kohn, supra, at 28, the Labor Department found that disclosures to news
media were also protected under the WPCA .

32 See John F . Sherman III, Assistant
C .F.R. § 18.12

person may institute civil action if EEOC
dismisses complaint or fails to sue within
180 days of filing of charges).

34 Testimony of Stephen M . Kohn, Tr . 84 . But see
Kohn, supra, at 446 .

35 At the Hearings before the Senate Committee on
Health, Education, Labor, and Pensions, hearings to
examine the reauthorization of the Federal Food,
Drug, and Cosmetic Act .

36 For a summary of federal law common
law awards .

37 Id .

38 For a summary of federal law common
law awards .

39 For a summary of federal law common
law awards .

40 See Kohn, supra, at 446 .

41 See generally Wargo, "Tracking Employee

42 Durham v. Butler Service Group, No . 86-EALA-9

43 Durham v. Butler Service Group, No. 86-EALA-9

44 Durham v. Butler Service Group, No . 86-EALA-9

45 Durham v. Butler Service Group, No . 86-EALA-9

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71 Durham v. Butler Service Group, No . 86-EALA-9

72 Durham v. Butler Service Group, No . 86-EALA-9

73 Durham v. Butler Service Group, No . 86-EALA-9
Stephen is not typical under Civ. P. Reg. 42095 <1986>.

Of the statutes, exemplary damages may be suggesting that prolonged delay in secretarial U.S.C.

... of Labor, 61 F.P.D. 266, 258 (6th Cir. 1980).


... the Secretary, as was formerly done in connection with disciplinary proceedings. See Fidel, "Improving Competence in the Merchant Marine: Suspension and Revocation Proceedings" 45 Mo. L. Rev. 1, 23 at n.151 (1980).


Wage & Hour Div., Field Operation Handbook § 52.495 (1980).


8 S. Kohn, supra, at 3 & n.18, and Letter from Julie Fosdiker, Testa-Meraner for a Democratic Union, to Jeffrey S. Lubbers, Dec. 1, 1986, at 2 (suggesting that prolonged delay in secretarial decision is not typical under SDWA).

127 Stat. 260 (10th Cir. 1980) .

... under the ERA, it had been found by TVA to have discriminated against one of his supervisors. Although the supervisor had invoked the protection of the ERA, he did so after the statute of limitations had expired. TVA nonetheless took disciplinary action based on the supervisor's allegations, and it was that action that the MSPB proceeding set aside.


13 See generally 5 U.S.C. §§ 555(b), 706(1) (1982) (agency's refusal to act is reviewable) and McLean v. United States, 575 F.2d (D.C. Cir. 1978) (agency's refusal to act is reviewable)


... testifying at a 51(c) hearing must be to have a panel to hear argument on behalf of the Secretary, as was formerly done in connection with disciplinary proceedings. See Fidel, "Improving Competence in the Merchant Marine: Suspension and Revocation Proceedings" 45 Mo. L. Rev. 1, 23 at n.151 (1980).

... of Labor, 61 F.P.D. 266, 258 (6th Cir. 1980).


... of its trade going to the United States.

... and Canada are more than neighbors. We are friends and allies. President Reagan characterized the relationship as "kin who together have built the most productive relationship..." and Canada..." (emphasis added). See supra, note 23.

Mr. DOMENICI. Mr. President, in my view the President should be commended for pursuing the idea. I believe firmly that as the United States and the world wrestle with how to best compete in a global market, this bilateral agreement is likely to prove an invaluable blueprint.

This agreement is even more important because it will be the first bilateral agreement since John Nisnul told us that a major "megatrend" of the future would be competition in a global economy.

The hallmark of this agreement is critical to our future because it will be the model for agreements with other major trading partners. Its strengths and weaknesses will be magnified because they will almost certainly be repeated elsewhere. They will be repeated...
ed simply because we are at a critical juncture of moving into a global economy. This agreement will be agreement-ly discussed in the new trade round. It will be the "mark-up document" or "terms of reference" for beginning free trade agreement negotiations with Mexico, China, or other key trading partners.

For that reason we can't afford to make mistakes, or to overlook the shortcomings of the agreement. We must hone this agreement, the implementing language, and policies we pursue as a result of the agreement as closely as we can, because this agreement will be the precedent.

Secretary Baker testified before the House last week, that the United States was able to get 9 out of 10 negotiating objectives. That's pretty good. But it isn't good enough when you think about this agreement as the prototype for our transition into a global economy.

We now have the text of the agreement. We know what it says. I have been told by administration officials that the agreement is drafted and meets weak provisions. I met with the Canadian Ambassador and he said that it isn't politically possible for his Government to "give" on any additional areas. The result of the agreement must stand or fall as written.

The Congress will be asked to vote on this agreement, without amendments. Is this a good agreement? Yes or no?

My law professor used to say that in a good agreement, all of the "whereases" lead logically to the "therefores." By this standard, the Free Trade Agreement is not a good agreement. Chapter nine is the energy chapter of the agreement. In a most glaring manner, the "whereases" fail to produce the "therefores."

While the energy chapter is only 1 of 20 chapters in the agreement, United States-Canada trade in energy is the largest in the world. Its value exceeds U.S. bilateral trade with nearly all of our other trading partners.

The major purposes that are stated for this agreement include the following:

- Promoting productivity, full employment, and steady improvement of living standards for citizens employed in the oil and natural gas industries in their respective countries;
- Ensuring a predictable commercial environment for business planning and investment; and
- Strengthening the competitiveness of United States and Canadian firms in global markets.

The agreement's further objective is to create the proverbial "level playing field." Under the agreement, all tariff barriers would come down, and the United States and Canada would become a single market operating under the same rules.

That sounds fabulous. But the one negotiating objective the United States failed to obtain from the Canadians was any significant concessions on subsidies. In the oil and gas exploration area, these subsidized incentives are very significant. For example:

Canadian "royalty holidays," when royalty payments are suspended or eliminated, are provided for production from any wells spudded between October 1986 and November 1989. These holidays are available for exploration wells and the holidays can last for up to 5 years. By contrast, the United States has Federal and State royalty rates that range from 12% to 25 percent.

One U.S. producer has calculated that the total U.S. royalty burden stands between 22 and 25 percent, counting Federal, State, county and even school board levies. In contrast, he estimates the burden on small to medium sized independents in Alberta, Canada, is a flat rate of more than four-fifths of Canadian oil and gas production—stands between zero and 5 percent.

Is this a level playing field?

I ask extensively that an October 28, 1987, article that appeared in the Natural Gas Intelligence Newsletter appear in the Record following my remarks. It goes into more detail on this particular point.

Alberta Royalty Tax Credit Program for small producers was enriched by $67 million in 1987 and Saskatchewan introduced a price sensitive royalty rate structure resulting in reduced royalties when prices are low, and a flat royalty of 1 percent for wells producing less than 5 barrels per day. The United States has nothing comparable.

Is this a level playing field?

Canada allows up-front tax deductions on all geologic and geophysical costs. The United States requires them to be capitalized over the life of the well. Is this a level playing field?

Under the agreement, restrictions on United States investment in Canadian oil and gas exploration companies will remain in place. The United States has no comparable restrictions.

Is this a level playing field?

And there is lots more. Canada repealed its landed profits tax. The United States has yet to do so. That means that for every $1 the price of oil goes above $18 a barrel in the United States, 70 percent of the price increase goes to the U.S. Treasury. With exploration at near a record low, it would be better if that money were being spent on oil and gas exploration.

And the Canadian Exploration and Development Incentive Program provides direct cash assistance to the petroleum industry. For every $2 of exploration and development dollars a Canadian firm puts up, the Canadian Government puts up $1 up to $10 million per firm. We have nothing comparable.

Are these indicators of fairness, a level playing field?

The agreement allows the United States and Canada to keep in place its existing incentives and to enact additional incentives for oil and gas exploration, development, and related activities in order to maintain the reserve base for these energy resources. If you agree with me, but this clear lack of parity is a major weakness of the agreement, I urge that you join me in sponsoring this bill, the "U.S.-Canada Free Trade Agreement Oil and Gas Incentive Equalization Act of 1988."

I would have preferred that the negotiators go back and eliminated the subsidies and other incentives so that the oil and gas companies on either side of the border could compete on a level playing field.

But that is not possible. The only alternative that I can propose is to pass legislation before or at the same time as the Free Trade Agreement, legislation that provides catch-up incentives for the U.S. oil and gas industries.

My bill specifically seeks to conform the intent of the agreement with the realities of the oil and natural gas marketplace in North America. It seeks to provide parity to the tax burdens and the exploration and development incentives that are provided by the U.S. Government and similar burdens and benefits conferred upon Canadian companies by the Canadian and provincial governments.

This equalization is absolutely essential if the intent of the U.S.-Canada Free Trade Agreement is to be carried out successfully.

I wish to reiterate: This is second best policy. But it is vital policy if we are ever going to get the Canadians to eliminate their subsidies. If they have substantial subsidies and we have few, we have nothing to bargain with.

The skeptics might say that the U.S. industries could bring a countervailing duty case. Yet the agreement replaces article III judges with a politically appointed panel for binding, final determination of such cases. I am not sure an industry that has been suffering for the past 4 years can afford that kind of a political risk.

As a nation, we can't leave the question of whether we will have an oil and gas industry to five political appointees.

We can't afford to wait. To give my colleagues some additional perspective, I ask unanimous consent that an article III judges with a politically appointed panel for binding, final determination of such cases. I am not sure an industry that has been suffering for the past 4 years can afford that kind of a political risk.

As a nation, we can't leave the question of whether we will have an oil and gas industry to five political appointees.

We can't afford to wait. To give my colleagues some additional perspective, I ask unanimous consent that a bill be printed at the point in the Record.
February 23, 1988

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

OIL AND GAS: NATIONAL FACTS

OIL AND GAS INDUSTRY

As of February 1987, the U.S. rig count was 906. In 1987, since its peak in 1981 at almost 4,000 rigs, the rig count had dropped by 80 percent.

Well completions are estimated at 37,620 in 1986, the lowest level recorded since 1973. As compared to the peak in 1982, well completions are off by almost 60 percent.

Footage drilled amounted to 168 million feet in 1986, a one-third drop from the 1985 total, and a 50 percent decline from the 1981 total.

Employment has declined by 350,000 jobs since 1981, a 38 percent drop, with more than 50% of this decline occurring in 1986. One fourth of the nation's petroleum geologists is out of a job.

Capital expenditures for exploration and production dropped by 50 percent in 1986, from $33.3 billion in 1985 to $18.4 billion in 1986.

OIL PRICES

The spot price for West Texas Intermediate was $17.65 a barrel on February 8, 1988. While this is a slight improvement from the 1981 peak of $31.77 a barrel on February 8, 1988, as compared to the peak level of $31.77 per barrel in 1981, domestic oil prices are still 44 percent down 44 percent.

As of February 1987, the U.S. crude oil reserve additions dropped 50 percent in 1986, a one-third drop from the 1985 total, and a 50 percent decline from the 1981 total.

The U.S. crude oil reserve additions dropped by 46 percent from the previous year. Only 49 percent of U.S. annual oil production was replaced with new reserves in 1986.

1986 crude oil reserve additions dropped by 46 percent from the previous year. Only 49 percent of U.S. annual oil production was replaced with new reserves in 1986.

1986 natural gas reserve additions dropped by 20 percent from the previous year. Only 50 percent of U.S. natural gas production was replaced with new reserves in 1986.

The Congressional Research Service (CRS) has estimated that U.S. crude oil reserves could decline 18.4% by 1995 if current drilling rates continue.

19,000 stripper wells were abandoned in 1986. Stripper wells account for 15 percent of U.S. production.

Mr. DOMENICI. Mr. President, I also ask that a copy of a summary of the bill, as well as a copy of the bill itself, be printed at this point in the Record. I would also ask unanimous consent that a copy of a February 14, 1988, Albuquerque Journal article written by Sherry Robinson, assistant business editor appear in the Record.

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

S. 2906

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 101. SHORT TITLE.

This Act may be cited as the "Canadian Free Trade Agreement Incentive Equalization Act."

SEC. 102. FINDING AND PURPOSES.

(a) FINDINGS.—The Congress finds that:

(1) the United States and Canada should strengthen the unique and enduring friendship between the two nations;

(2) the United States and Canada should promote productivity, full employment, and steady improvement of living standards for their citizens employed in the oil and natural gas industries in their respective countries;

(3) the United States and Canada should create an expanded and secure market for oil and natural gas, goods and services produced in their territories;

(4) the United States and Canada should adopt clear and mutually advantageous rules governing their roles in all areas including oil and natural gas;

(5) the United States and Canada should ensure a predictable commercial environment for business planning and investment in the oil and natural gas industries;

(6) the United States and Canada should strengthen the competitiveness of United States and Canadian oil and natural gas firms in global markets;

(7) the United States and Canada reduce government-created trade distortions while preserving the two countries' flexibility to safeguard the public welfare;

(8) the United States and Canada should build on their mutual rights and obligations under the General Agreement on Tariffs and Trade and other multilateral and bilateral instruments of cooperation;

(9) the United States and Canada should contribute to the harmonious development and expansion of world trade and to provide a catalyst to broader international cooperation; and

(10) that since the purposes and objectives of this Act are identical to those stated in the U.S. Canada Free Trade Agreement, except that they relate specifically to the oil and natural gas industry, it is the intent of Congress that this Act be considered, and passed prior to, or at the same time the Congress considers the Canada Free Trade Agreement.

SEC. 103. PURPOSE.

It is the purpose of this Act to conform the intent of the U.S. Canadian Free Trade Agreement with the realities of the oil and natural gas market place in North America; and to provide parity between tax burdens and exploration and development incentives provided by the U.S. Government and similar burdens and benefits conferred upon Canadian companies by the Canadian and provincial governments. This equalization is necessary if the intent of the U.S.-Canada Free Trade Agreement is to be successfully carried out.

SEC. 104. TABLE OF CONTENTS.

Sec. 105. Repeal Windfall Profits Tax to conform with U.S. Internal Revenue Code with the Canadian Income Tax Act which repealed the Canadian Windfall Profits Tax.

(a) Chapter 45 of the Internal Revenue Code of 1886 (referred to in this title as the "Code") is repealed.

Sec. 106. Improved tax treatment of Geological, Geophysical and Surface Casing costs to provide parity between the U.S. Internal Revenue Code and the Canadian Income Tax Act.

Sec. 107. Elimination of the Net Income Limitation Rule to provide parity between the U.S. Internal Revenue Code and the Canadian Income Tax Code.

Sec. 108. Refoming percentage depletion to provide incentives in order to partially offset the Resource Allowances provided by the Canadian Government.

Sec. 109. repeal of Transfer Rule to provide a "catch up" incentive since the U.S. industry is required to pay substantially higher royalties than Canadian companies do, especially for exploration wells.

Sec. 110. Repeal of Recapture provisions dealing with disposition of oil, gas, or geothermal property interests in order to provide "catch up" incentives for U.S. industry, and pay substantially higher royalties than Canadian companies, especially for exploration wells.

Sec. 111. Marginal Production Credit in order to offset exploration and development development credits provided by the Canadian and provincial governments.

Sec. 112. Crude Oil Production Credit for Maintaining Economically Marginal Wells in order to offset cash payments made by the Canadian provincial government for exploration and development.

Sec. 113. Crude Oil and Natural Gas Exploration and Development Credit to offset exploration credits provided by the Canadian and provincial governments.

Sec. 114. Removal of Intangible drilling costs from the Alternative Minimum Tax to provide parity between the U.S. Code and Canadian Tax Code.

Sec. 115. Establishes a procedure under which the Congress and the Administration reach agreement as to implement a plan designed to decrease imports whenever foreign oil dependence exceeds fifteen percent.

Sec. 116. Repealing the taxable income tax for percentage depletion in order to partially offset the resources allowances provided by the Canadian Government.

Sec. 105.—REPEAL WINDFALL PROFITS TAX TO CONFIRM THE U.S. INTERNAL REVENUE CODE WITH THE CANADIAN INCOME TAX ACT WHICH REPEALED THE CANADIAN WINDFALL PROFITS TAX.

(a) Chapter 45 of the Internal Revenue Code of 1886 (referred to in this title as the "Code") is repealed.

(b) (1) Sections 6050C, 6076, 6228, 6430, and 7241 of the Code are repealed.

(2) Subsections (a) of section 164 of the Code is amended by striking paragraph (4), and redesignating the subsequent paragraphs as paragraphs (4) and (5), respectively.
The following provisions of the Code and the Internal Revenue Code of 1986 are amended by striking "44, or 45" each place it appears and inserting "or 44":

(i) section 6211(a),
(ii) section 6211(b)(2),
(iii) section 6212(a),
(iv) section 6213(a),
(v) section 6213(g),
(vi) section 6214(c),
(vii) section 6214(d),
(viii) section 6161(b)(1),
(ix) section 6344(a)(1), and
(x) section 7422(e).

(C) Subsection (a) of section 6211 of the Code is amended by striking "44, and 45" and inserting "44", "or 45", and "and 45".

(D) Subsection (b) of section 6211 of the Code is amended by striking paragraphs (5) and (6).

(E) Paragraph (1) of section 6212(b) of the Code is amended—

(i) by striking "chapter 44, or chapter 45" and inserting "or chapter 44, and"

(ii) by striking "chapter 44, chapter 45, and this chapter" and inserting "chapter 44, and this chapter"

(F) Paragraph (1) of section 6212(c) of the Code is amended—

(i) by striking "of chapter 42 tax" and inserting "of chapter 42, tax"

(ii) by striking ", or of chapter 45 tax for the same taxable period"

(G) Subsection (e) of section 6302 of the Code is amended by striking "(I) For" and inserting "For", and by striking paragraph (2)

(H) Section 6501 of the Code is amended by striking subsection (m).

(I) Section 6511 of the Code is amended by striking subsection (h) and redesignating subsection (i) as subsection (h).

(J) Subsection (a) of section 6512 of the Code is amended—

(i) by striking "of tax imposed by chapter 41" and inserting "or of tax imposed by chapter 41"

(ii) by striking ", or of tax imposed by chapter 45 for the same taxable period".

(K) Paragraph (1) of section 6512(b) of the Code is amended—

(i) by striking "of tax imposed by chapter 41" and inserting "or of tax imposed by chapter 41"

(ii) by striking ", or of tax imposed by chapter 45 for the same taxable period"

(L) Section 6611 of the Code is amended by striking subsection (h) and redesignating subsections (i) and (j) as subsections (h) and (i), respectively.

(M) Subsection (d) of section 6724 of the Code is amended—

(i) by striking clause (i) in paragraph (1) and redesignating clauses (ii) through (x) as clauses (i) through (ix), respectively, and

(ii) by striking subparagraphs (A) and (K) of paragraph (2) and redesignating subparagraphs (B), (C), (D), (E), (F), (G), (H), (I), (J), (K), (L), (M), (N), (O), (P), (Q), (R), (S), and (T) as subparagraphs (A), (B), (C), (D), (E), (F), (G), (H), (I), (J), (K), (L), (M), (N), (O), (P), (Q), and (R), respectively.

(N) Subsection (a) of section 6862 of the Code is amended by striking "44, and 45" and inserting "44, and 45"

(O) Section 6912 of the Code is amended—

(i) by striking ", or chapter 33, or section 4986" in subsections (a) and (b) and inserting "or chapter 33, and"

(ii) by striking "or chapter 33, or section 4986" in subsections (b) and (c) and inserting "or chapter 33, and"

33A. The table of contents of subtitle (D) of title XIII of the Code is amended by striking the item relating to chapter 45.
SEC. 116. REPEAL OF RECAPTURE PROVISIONS DEALING WITH DISPOSITION OF OIL, GAS, OR GEOOTHERMAL INTERESTS TO PROVIDE "CATCH-UP" INCENTIVE FOR U.S. INDUSTRY THAT PAYS SUBSTANTIAL MINERAL ROYALTIES THAN CANADIAN COMPANIES.

(a) IN GENERAL.—

(1) PROVISIONS IN EFFECT BEFORE TAX REFORM ACT OF 1986.—Section 1254 of such Code, as in effect before the amendments made by the Tax Reform Act of 1986, is hereby repealed.

(2) PROVISIONS IN EFFECT AFTER TAX REFORM ACT OF 1986.—Section 1254 of such Code, as in effect after the amendments made by the Tax Reform Act of 1986, is amended—

(A) by striking out "263,616," in subsection (a)(1)(A) and inserting in lieu thereof "616," and

(B) by adding at the end of subsection (a)(3) the following: The term 'section 1254 property' does not include any oil, gas, or geothermal well.

(b) CONFORMING AMENDMENT.—Section 856(d) and 291(b)(3) of such Code are each amended by striking out "263(c), 618(a)," and inserting in lieu thereof "616(a)."

(c) Effective Date.—The amendments made by this section shall apply to disposals after the date of the enactment of the implementing legislation for the U.S. Canada Free Trade Agreement.

SEC. 117.—MARGINAL PRODUCTION CREDIT IN ORDER TO OFFSET EXPLORATION AND DEVELOPMENT CREDITS PROVIDED UNDER THE CANADIAN AND PROVINCIAL GOVERNMENTS.

(a) Subpart B of part IV of subchapter A of chapter 1 of the Code is amended by adding at the end thereof the following new section:

SEC. 118.—CRUDE OIL PRODUCTION CREDIT FOR MAINTAINING ECONOMICALLY MARGINAL WELLS IN ORDER TO OFFSET CASH EXPLOSION AND DEVELOPMENT CREDITS PROVIDED UNDER THE CANADIAN PROVINCIAL GOVERNMENTS.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as credit against the tax imposed by this chapter for the taxable year to the producer of eligible crude oil an amount equal to 10 percent of the qualified cost of each barrel of such oil (or fractional part thereof) produced during the taxable year.

"(1) QUALIFIED COST.—For purposes of this section, the term 'qualified cost' means, with respect to each barrel of eligible crude oil the sum of—

"(i) The barrel's pro rata share of—

"(A) The lease operating expenses (other than business overhead expenses) paid or incurred by the producer of such barrel during the taxable year in which such barrel was produced,

"(B) The amount allowed to such producer for the depreciation under sections 167 and 168 with respect to the property used in the production of such barrel,

"(C) The amount allowed to such producer for such taxable year for depletion under section 611 (but not in excess of the adjusted basis of the property), and

"(D) The lease overhead expenses paid or incurred during such taxable year by such producer, plus

"(2) The amount of severance tax paid or incurred by such producer with respect to such barrel.

"(b) DEFINITIONS.—For purposes of this section—

"(1) ELIGIBLE CRUDE OIL.—The term 'eligible crude oil' means domestic crude oil which is—

"(A) From a stripper well property within the meaning of the June 1979 energy regulations,

"(B) Heavy oil, or

"(C) Oil recovered through a tertiary recovery method.

"(2) OTHER DEFINITIONS.—The term 'crude oil' has the meaning given to such term by the June 1979 energy regulations.

"(3) PERIODS OF TIME.—The term 'period' means the period of time that such oil was produced from such property during—

"(A) Periods of time described in section 753(a).

"(4) ENERGY REGULATIONS.—The term 'energy regulations' means the regulations prescribed under section 753(a) of the Energy Policy and Conservation Act of 1975.

"(b) CARRYBACK AND CARRYFORWARD OF UNUSED CREDIT.—

"(1) IN GENERAL.—If the amount of the credit allowed under subsection (a) for any taxable year exceeds the limitation under paragraph (1) for such taxable year hereinafter in this section referred to as the 'unused credit', such excess shall be—

"(A) an oil production credit carryforward to each of the 3 taxable years following the unused credit year, and

"(B) an oil production credit carryback to the taxable year ending prior to January 1, 1987, this section shall be deemed to have been in effect for such taxable year for purposes of allowing such carryback as a credit under this section. The entire amount of the unused credit shall be allowed in the early 1980's for certain years to which such credit may be carried, and then to each of the 7 taxable years to which such credit may be carried, beginning with the limitation contained in subparagraph (B), such unused credit may not be added for a prior taxable year to which such unused credit may be carried.

"(C) LIMITATIONS.—The amount of the unused credit which may be taken into account under subparagraph (A) for any succeeding taxable year shall not exceed the amount by which the limitation provided by paragraph (1) for such taxable year exceeds the unused credit.

"(D) TERMINATION OF CREDIT.—No credit shall be allowed under this section for any qualified cost paid or incurred in any taxable year.
able year beginning after the date which is three years after the effective date of the National Energy Security Act of 1987.”

(3) The table of sections for subpart B of part IV of subchapter A of chapter 1 of the Code is amended by adding at the end thereof the following new item:

“Sec. 30. Crude oil and natural gas exploration and development credit determined under section 43(a),”

(b) Subpart D of part IV of subchapter A of chapter 1 of the Code is amended by adding at the end thereof the following new section:

“Crude oil and natural gas exploration and development credit determined under section 43(a),”

(c) Paragraph (4) of section 43 of the Code is amended—

(1) by redesignating paragraph (4) as paragraph (5), and

(2) by inserting after paragraph (3) the following new paragraph (4):

“(4) Exploration credit may offset minimum tax.—To the extent the credit under subsection (a) is attributable to the application of section 43 of the Code, the limitation of paragraph (1) shall be greater of—

(A) the limitation as determined under paragraph (3), and

(B) the taxpayer’s tentative minimum tax for the taxable year.”

(3) The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Code is amended by adding at the end thereof the following new item:

“Sec. 43. Crude oil and natural gas exploration and development credit.”

(e) The amendments made by this section shall apply to expenditures paid or incurred in taxable years after the date of enactment of the implementing legislation for the U.S. Canada Free Trade Agreement.

SEC. 113.—IMPORT DEPENDENCE SAFETY NET IN ORDER TO REQUIRE CONGRESS AND THE ADMINISTRATION TO WORK TOGETHER TO ADDRESS IMPORTS WHENEVER DEPENDENCE EXCEEDS FIFTY PERCENT.

(a) Sections 57(a)(2) and 57(b) of the Code are hereby repealed.

(b) The amendments made by this section shall apply to costs paid or incurred after the date of enactment of this Act, in taxable years ending after such date.

SEC. 114.—REPEAL OF U.S.-CANADA DRILLING COSTS FROM THE ALTERNATIVE MINIMUM TAX TO PROVIDE PARITY BETWEEN THE U.S. AND CANADIAN INCOME TAXES.

(a) REDUCTION IN THE EXPANSION OF THE U.S.-CANADA DRILLING COSTS FROM THE ALTERNATIVE MINIMUM TAX TO PROVIDE PARITY BETWEEN THE U.S. AND CANADIAN INCOME TAXES.

DUTIES OF THE PRESIDENT.

(a) Establishment of Ceiling.—The President shall establish a National Oil, Import Ceiling (referred to in this Act as the "ceiling level") which shall represent a ceiling level beyond which foreign crude and oil product imports will exceed the ceiling level for the taxable year as a share of United States crude oil consumption shall not rise.

(b) Level of Ceiling.—The ceiling level established under subsection (a) shall not exceed 50 percent of United States crude oil and oil product consumption for any annual period.

(c) Report.—(1) The President shall prepare and submit an annual report to Congress containing a national oil security projection (in this Act referred to as the "projection") for the subsequent three years. The projection shall contain appropriate adjustments for expected price and production changes. (2) The projection prepared pursuant to paragraph (1) shall be presented to Congress with the Budget. The President shall certify whether foreign crude and oil product imports will exceed the ceiling level for any year during the next three years.

CONGRESSIONAL REVIEW.

The Congress shall have 10 continuous session days after submission of each projection to review the projection and make a determination whether the ceiling level will be violated within three years. Unless disproved or modified by joint resolution, the Presidential certification shall be binding 10 session days after submission to Congress.

ENERGY PRODUCTION AND OIL SECURITY ACTIONS

(a) Energy Production and Oil Security Policy.—(1) Upon certification that the ceiling level will be violated, the President is required within 90 days to submit legisla-
substantially higher royalties than Canadian companies.

Provides a marginal production credit in order to offset exploration credits provided by the Canadian and provincial governments.

Provides a crude oil production credit for maintaining economically marginal wells, a credit that was approved by the Canadian provincial government for exploration and development.

Provides for all natural gas exploration and development credit to offset exploration and development credits provided by the Canadian and provincial governments.

Eliminates intangible drilling costs as a preference item under the Alternative Minimum Tax in order to provide parity between U.S. and Canadian tax codes.

Establishes a procedure under which the Congress and the Administration work to implement a plan designed to decrease imports whenever foreign oil dependence exceeds 50 percent.

Provides a tax liability test for percentage depletion in order to partially offset the resource allowances provided by the Canadian Government.

From the Albuquerque Journal, Feb. 14, 1988

AGREEMENT CAN SPARK BIG PAYOFFS—CANADA SWAPS RESOURCES FOR U.S. MARKET ACCESS

(Note.—The Albuquerque Journal was one of the 15 U.S. newspapers to be represented on a four-day, four-city tour of Canada to learn about the U.S.-Canada Free Trade Agreement.)

BY SHERRY ROBINSON

OTTAWA.—The world’s biggest trading partners hope to weather a storm of competition, protectionism under the same umbrella—the historic U.S.-Canada Free Trade Agreement signed last month by leaders of both countries.

Essentially the agreement swaps Canada’s wealth of resources for our lucrative markets. The payoff for Canada is immediate. The United States has agreed to buy 30 percent of Canada’s exports.

Canada would get a new market the size of California and see tariffs on beef, wine, fruit and vegetables eliminated. Americans see opportunities for high tech companies, furniture, paper, machinery, fruit, vegetables, wine and clothing.

Also telling is what they left out. Canadians insisted that their periodicals, film industries, book publishers and television be exempt. The United States refused to touch its sugar policy. The American lumber industry, by saying Canadians are a ‘rival industry’ but Canadians wouldn’t include them, nor would they allow U.S. plywood to enter their country.

The United States put wine and distilled spirits on the table but not beer. Neither would meddle with their dairy industries.

Disputes over Canadian energy subsidies and U.S. wood subsidies were not settled. Both countries have chosen to protect their media, film makers and book publishers.

“If there’s been a blind spot in the negotiations, it’s been here,” said Tom d’Aquino, president of the Business Council on National Issues, a group like the U.S. Business Roundtable. “You must consider, your culture is always being exported, and relatively little Canadian culture is exported. Without protection, our cultural industries would not be viable.”

SORTING OUT SUBSIDIES

“The biggest failure of the agreement,” said Alan Nymark, Canada’s assistant chief negotiator, “was in not achieving a regime of rules and regulations defining subsidies.

In recent U.S.-Canada trade skirmishes—potash, pork, corn, softwood lumber—subsidies have been a thorn in the side of unfair pricing. Negotiators tried to get their arms around this tar baby but ran out of time, according to Trade Minister Carney. They chose to leave subsidies and other unresolved disputes to a binational panel, appointed as part of the trade agreement.

This panel was high on the Canadian wish list.

For years, Canadians had chafed at the appearance in U.S. agencies hearing disputes. Typically, U.S. producers complained about Canadian subsidies depressing price, and the Commerce Department sought a countervail threat, a dumping tariff, which eliminated their pricing advantage. Canadians began to view the countervail threat as a trade barrier.

Dispute settlement “was really the sticking point for our side up to the last moment,” Nymark said.

Under the agreement, a binational panel of five experts would settle dumping or countervail disputes. Its decision would be binding and without judicial review.

Under this system, New Mexico potash producers could not have filed dumping complaints with the Commerce Department and the International Trade Commission. Uranium producers would not have had the same recourse.

Neither liked the idea of the panel or the loss of judicial review.

However, the panel would apply the law of the importing country in disputes over products covered by the agreement, Carney said, and both countries have “almost identical” anti-dumping laws. The panel would have a 5-year life, during which time both countries are to pass new laws.

“The free-trade agreement is not a license to poach,” Carney said.

This panel has its work cut out. For Canada, the subsidy debate reaches into some deeply held ideas about government’s role in the economy.

The U.S. considers us radical, Connie pinks,” Carney said, but even Canadian conservatives support the nation’s ambitious social programs and its silent partner status with business. Other officials made clear that jobs are a high priority in Canada, whatever the cost.

Consider the collapse of oil prices. Canada has a $25 billion oil industry but is not as diversified as the United States. This disaster could run the course and now blames a bum market for thousands of layoffs and bankruptcies, scores of bank failures and billions of dollars in business and tax losses.

Canada and its provinces chose to help the industry “rather than have that kind of domestic‘poaching,’” said Ron Calder, deputy premier of energy-rich Alberta. The help include royalty holidays, elimination of a tax on royalties, and a $400 million drilling incentive program. As a result their oil industry is weakened but not bloody like its Texas counterparts.

Canada’s point is no subsidies to U.S. grain subsidies and argue that economic development incentives and industrial development bonds could be considered subsidies.

This tough debate is far from finished, but Quebec Premier Robert Bourassa allows, “we could find some common rules.”

CANDIAN DEBATE

“I really believe in this,” says University of Toronto economist John Crispe. “I think it’s desperately important for Canada.”

Crispe fumes that David Peterson, premier of the richest and most populated province of Ontario, has denounced the agreement, while Quebec Premier Robert Bourassa embraces it.
"Quebec has more vulnerable industries than Ontario," he says. "Bourassa is betting on the new winners and not the old losers." But Peterson, "isn't a big enough man to admit he's wrong.

Peterson snaps that Crispo is "a windbag and a pop economist. There are some thorny issues in this debate. Crispo isn't one of them.

While the free-trade agreement dawns slowly on Canadians, businesses here that couldn't compete if events are set into motion, have run that analogy for at least five years to dismantle their advantage. Energy is a year-round field we have. Energy is agitated for at least five years to dismantle it. For instance, one company's high card. When the Free-trade agreement party calls for a level playing field we know that level playing field will be by U.S. rules," says Basil Hargrove, assistant to the president of the Canadian Auto Workers.

Canadian unions, looking at the lot of their U.S. counterparts, don't relish closer ties. In Canada, 35 percent of workers are unionized, compared with 17 percent in the United States.

Union leaders and other opponents are particularly worried about losing social programs they say are superior—and more expensive—than those in the United States. If a trade agreement takes effect, this country will get minimum wage and labor laws, a 10 percent sales tax, and a drug benefit. "If there's no trade, then we have to worry about the free-trade agreement," said Merrill Lynch's Lauzier, "but not because social programs will be lost. We will see some leveling. We're talking about the sort of deal private business struck with unions in the United States have been quite different from what Canadians have been doing.

Critics also point out that 75 percent of trade is already duty free.

"Why is the remaining 25 percent such a big deal? That's where the gravy is," said Trade Minister Pat Carney. She said petrochemicals, for example, face a 15 to 18 percent tariff barrier.

Another argument is that many U.S. companies, including the auto industry, built plants in Canada to leap tariff barriers. Without the tariffs, they might close plants. Proponents argue that companies, finding it cheaper to operate in Canada, would stay here and expand.

Premier Peterson would like to see the agreement renegotiated, but with or without it, he says, the U.S. and Canada "will continue to be the two best friends in the world."

(From Natural Gas Intelligence Newsletter, February 1, 1988)

CANADIANS FEAR REPRISALS UNDER TRADE TREATY

Canadian producers are fearful the U.S.-Canadian free trade agreement may prove to be a millstone around them like sitting ducks, with an unwanted higher profile among U.S. rivals who have not given up any rights under the treaty to allege unfair competition and attack it.

Officially, the Canadian Petroleum Association, the Independent Petroleum Association of Canada and the Small Brokedown Explores Association of Canada applauded the pact an answer to old dreams of open market. In practice, the groups conceded that this was just the beginning as it had already taken by Ottawa's National Energy Board, which replaced tough regulations of exports and prices with a mild system of monitoring.

There is widespread anxiety that if the trade agreement leads to anything new, it will be an end to one of Canada's industry's alleged advantages as a result of elaborate federal and provincial energy programs. Documents leaked during the trade negotiations hinted that the U.S. Department of Commerce sees the Canadian industry as riddled with subsidies. Such an interpretation is possible, even in well-guarded, admit­ting documents for all the Canadian industry groups.

Canadian authorities and companies prefer to call their system one of development incentives and not to fall prey to tariffs and prices. Semantics aside, however, there is no doubt that help for the Canadian industry is sought by both the U.S. and by Canadian producers, including the major financial institutions which accelerated Alberta drilling after a long absence to concentrate on the North Sea.

Pierce estimates that the combined tax and royalty load on U.S. companies is still between 22 percent and 25 percent, counting federal, state, county and even school board levies, plus royalty revenue shares owed to unyielding private landowners. In stark contrast, he estimates the burden on small to medium size independents in Alberta, source of more than four fifths of Canadian oil and gas production alike, as between zero and a token 5 percent.

The Conservative government in Ottawa has dubbed the energy industry the "engine of growth" for a national economy heavily reliant on resource extraction, and financial policies attempt to give this sector some fuel. Federal production taxes, once as high as 16 percent, have been abolished. On top of resource exploration and production incentives, the government has a federal grant program pays one/third of the cost of drilling wells up to a ceiling of $0.3 million per company in one year.

Canada, the provincial governments own most of the resources, rather than private landowners. Provincial royalties, like the federal financial system, are studded with lures to attract energy firms and keep them interested. In Alberta a tax credit scheme rebates all royalties a company pays on its first $12 million worth of gas and oil production each year. Although added "holidays" from owing any royalties on new discoveries for up to five years go only to oil companies, the federal government found a handy way to keep money on hand for gas drilling too, if customers come along.

The specific companies on the financial status of Canadian and U.S. producers are found to be a subject of intense debates. Rangel is far from the only one voting with its feet in favor of the North. The federal and provincial incentives area available to companies regardless of their nationality. Slow but steady growth of foreign investments attracted by development-hungry Canada is spreading beyond high profile takeovers such as Amoco Corporation's bid for Commonwealth. The Wheel Gas PLC's move on Bow Valley Industries Ltd., U.S. independents are hunting Canadian properties and companies, anonymously. The federal and provincial financial system has a tool in the "Capital Investment Program" to assist Canadian businesses that need help for the North. It is broad in its approach and its criteria, helping a variety of oil and gas producers get a leg up.
Mr. President, since the recognition of Geography Awareness Week last year some progress has been made in dealing with this illiteracy. But it is only a beginning. We must continue to revitalize and expand the role of geography in the public consciousness. Much more needs to be done.

To help raise public awareness of the need for geography education, I sponsored a State-wide geography competition in New Jersey. Over 600 eighth graders from all over the State competed. Robin Cadwallender, a 13-year-old eighth grader from Hopatcong, NJ, was crowned grand champion of geography when she won the final round of the geography bee. She won the bee by naming the highest mountain in the Western Hemisphere, Mount Aconcagua in Argentina, and correctly naming Key Largo as the largest of the Florida Keys.

I also taught geography to a class of high school students at River Dell Regional High School in Oradell, NJ. Currently schools throughout my State are involved in the final round of another geography bee to select their best classroom geography project for 1987-88. I am pleased that so many students and teachers in my State have become more involved in this issue than they were a year ago. However, our work is not done.

Our country is a unique Nation: a population with a diverse ethnic and racial heritage; a broad landscape; bountiful resources. All of this contributes to our status as a world power.

Knowledge of geography offers a necessary perspective as we work to understand our heritage, our relationship with the Earth, and our independence with other peoples of the world.

Traditional geography has virtually disappeared from American schools, although it is still being taught as a basic subject in other countries, including Great Britain, Canada, Japan, and the Soviet Union.

Continued ignorance of geography, other cultures, and foreign languages places the United States at a disadvantage in matters of business, politics, and the environment.

The United States is a nation with worldwide involvements and global influence which demand that our citizens have an understanding of the lands, languages, and cultures of the world.

Our national attention must be focused on the integral role that knowledge of world geography plays in preparing citizens of the United States for the future of an increasingly interdependent and interconnected world.

It is for this reason that I am introducing today this resolution to continue, on the Senate floor, the need for a knowledge of world geography. It is my hope that this will be just one step in a revitalization of the study of geography. All of our citizens should have access to this information which will help them appreciate the great beauty and diversity of this nation and its place in the world. I ask that the attached resolution by placed in the Congressional Record.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period November 13, 1988, and ending November 19, 1988, be designated as "Geography Awareness Week"; and that this resolution be印发 in the Record, as follows:

S.J. Res. 263

Whereas geography is the study of people, their environments, and their resources; whereas the United States is a truly unique nation with diverse landscapes, bountiful resources, a distinctive multicultural population, and a rich cultural heritage, all of which contribute to the status of the United States as a world power;

Whereas, historically, geography has aided Americans in understanding the wholeness of their vast nation and the great abundance of its natural resources;

Whereas geography today offers perspectives and information informing us of ourselves, our relationship to the Earth, and our interdependence with other peoples of the world;

Whereas statistics illustrate that a significant number of American students could not find the United States on a world map, could not identify Alaska and Texas as the Nation's largest States, and could not name the New England States;

Whereas geography has been offered to more than one in ten United States elementary and secondary school students as part of the curriculum;

Whereas departments of geography are being eliminated from American institutions of higher learning, thus endangering the discipline of geography in the United States;

Whereas traditional geography has virtually disappeared from the curricula of American schools while still being taught as a basic subject in other countries, including the United Kingdom, Canada, Japan, and the Soviet Union;

Whereas an ignorance of geography, foreign languages, and understanding ourselves, our relationship to the Earth, and our interdependence with other peoples of the world;

Whereas the United States is a nation of worldwide involvements and global influence, the responsibilities of which demand an understanding of the lands, language and cultures of the world; and

Whereas national attention must be focused on the integral role that knowledge of geography plays in preparing citizens of the United States for the future of an increasingly interdependent and interconnected world.

Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period November 13, 1988, and ending November 19, 1988, be designated as "Geography Awareness Week"; and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such a week with appropriate ceremonies and activities.

Mr. President, I rise today to join my good friend from Vermont, Mr. STAFFORD, in introducing Senate Joint Resolution 263 to designate the period commencing No.
number 13, 1988, and ending November 19, 1988, as “Geography Awareness Week.” This year, the designation was made permanent by legislation. I am pleased to bring to the attention of our Nation the importance of geographic literacy.

In a time when our world is shrinking physically and technologically, and transportation, our children are woefully lacking in their knowledge of other cultures, land forms, and global issues. Over the past 10 years the study of geography as a discipline has all but disappeared from American classrooms. In hearings held last fall, we learned that widespread geographic illiteracy is the product of deemphasizing geography in American schools. Our Nation cannot afford to have citizens who are unaware of such basic knowledge. For example, a survey of foreign peoples and the effect of foreign cultures, land forms, and global issues on the United States Government or from tempting to influence the United States Government or from representing or advising a foreign entity for a prescribed period after such officer or employee leaves Government service, and for other purposes.

S. 1353
At the request of Mr. Kasten, the name of the Senator from South Dakota [Mr. Pressler] was added as a cosponsor of S. 1358, a bill to amend the Internal Revenue Code of 1986 to exempt certain livestock breeding expenses from the rules requiring capitalization of preproductive expenses and to provide for setting aside the first Thursday in May as the date on which the National Day of Prayer is celebrated.

S. 1679
At the request of Mr. Hatch, the name of the Senator from Kansas [Mr. Kassebaum] was added as a cosponsor of S. 1739, a bill to provide for setting aside the first Thursday in May as the date on which the National Day of Prayer is celebrated.

S. 1910
At the request of Mr. Chafee, the name of the Senator from Hawaii [Mr. Bono] was added as a cosponsor of S. 1918, a bill to provide financial assistance to local educational agencies to demonstrate the advantages of implementing plans to reduce class size.

S. 1929
At the request of Mr. Bumpers, the name of the Senator from Wisconsin [Mr. Kasten] was added as a cosponsor of S. 1929, a bill to amend the Small Business Investment Act to establish a corporation for small business investment, and for other purposes.

S. 2024
At the request of Mr. Baucus, the name of the Senator from West Virginia [Mr. Byrd] was added as a cosponsor of S. 2024, a bill to amend the Asbestos Hazard Emergency Response Act of 1986, Public Law 99-519, to extend certain deadlines.

S. 2033
At the request of Mr. Thurmond, the name of the Senator from Missouri [Mr. Armstrong] was added as a cosponsor of S. 2033, a bill to amend section 207 of title 18, United States Code, to prohibit Members of Congress and officers and employees of any branch of the United States Government from attempting to influence the United States Government or from representing or advising a foreign entity for a prescribed period after such officer or employee leaves Government service, and for other purposes.

S. 237
At the request of Mr. Thurmond, the name of the Senator from Illinois [Mr. Simon] was added as a cosponsor of S. 237, a bill to amend section 207 of title 18, United States Code, to prohibit Members of Congress and officers and employees of any branch of the United States Government from attempting to influence the United States Government or from representing or advising a foreign entity for a prescribed period after such officer or employee leaves Government service, and for other purposes.

S. 187
At the request of Mr. Mitchell, the name of the Senator from Pennsylvania [Mr. Santorum] was added as a cosponsor of S. 187, a bill to provide for setting aside the first Thursday in May as the date on which the National Day of Prayer is celebrated.

S. 39
At the request of Mr. D’Amato, his name was added as a cosponsor of S. 39, a bill to amend the Internal Revenue Code of 1986 to make the exclusion from gross income of amounts paid for employee educational assistance permanent.

S. 1378
At the request of Mr. Thurmond, the name of the Senator from Colorado [Mr. Armstrong] was added as a cosponsor of S. 1378, a bill to provide for setting aside the first Thursday in May as the date on which the National Day of Prayer is celebrated.

S. 1679
At the request of Mr. Hatch, the name of the Senator from Kansas [Mr. Kassebaum] was added as a cosponsor of S. 1739, a bill to provide for setting aside the first Thursday in May as the date on which the National Day of Prayer is celebrated.

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At the request of Mr. Baucus, the name of the Senator from West Virginia [Mr. Byrd] was added as a cosponsor of S. 2024, a bill to amend the Asbestos Hazard Emergency Response Act of 1986, Public Law 99-519, to extend certain deadlines.

S. 2033
At the request of Mr. Thurmond, the name of the Senator from Missouri [Mr. Kasten] was added as a cosponsor of S. 2033, a bill to provide for setting aside the first Thursday in May as the date on which the National Day of Prayer is celebrated.

S. 237
At the request of Mr. Thurmond, the name of the Senator from Illinois [Mr. Simon] was added as a cosponsor of S. 237, a bill to amend section 207 of title 18, United States Code, to prohibit Members of Congress and officers and employees of any branch of the United States Government from attempting to influence the United States Government or from representing or advising a foreign entity for a prescribed period after such officer or employee leaves Government service, and for other purposes.

S. 187
At the request of Mr. Mitchell, the name of the Senator from Pennsylvania [Mr. Santorum] was added as a cosponsor of S. 187, a bill to provide for setting aside the first Thursday in May as the date on which the National Day of Prayer is celebrated.

S. 39
At the request of Mr. D’Amato, his name was added as a cosponsor of S. 39, a bill to amend the Internal Revenue Code of 1986 to make the exclusion from gross income of amounts paid for employee educational assistance permanent.

S. 1378
At the request of Mr. Thurmond, the name of the Senator from Colorado [Mr. Armstrong] was added as a cosponsor of S. 1378, a bill to provide for setting aside the first Thursday in May as the date on which the National Day of Prayer is celebrated.

S. 1679
At the request of Mr. Hatch, the name of the Senator from Kansas [Mr. Kassebaum] was added as a cosponsor of S. 1739, a bill to provide for setting aside the first Thursday in May as the date on which the National Day of Prayer is celebrated.

S. 1910
At the request of Mr. Chafee, the name of the Senator from Hawaii [Mr. Bono] was added as a cosponsor of S. 1918, a bill to provide financial assistance to local educational agencies to demonstrate the advantages of implementing plans to reduce class size.

S. 1929
At the request of Mr. Bumpers, the name of the Senator from Wisconsin [Mr. Kasten] was added as a cosponsor of S. 1929, a bill to amend the Small Business Investment Act to establish a corporation for small business investment, and for other purposes.

S. 2024
At the request of Mr. Baucus, the name of the Senator from West Virginia [Mr. Byrd] was added as a cosponsor of S. 2024, a bill to amend the Asbestos Hazard Emergency Response Act of 1986, Public Law 99-519, to extend certain deadlines.

S. 2033
At the request of Mr. Thurmond, the name of the Senator from Missouri [Mr. Kasten] was added as a cosponsor of S. 2033, a bill to provide for setting aside the first Thursday in May as the date on which the National Day of Prayer is celebrated.

S. 237
At the request of Mr. Thurmond, the name of the Senator from Illinois [Mr. Simon] was added as a cosponsor of S. 237, a bill to amend section 207 of title 18, United States Code, to prohibit Members of Congress and officers and employees of any branch of the United States Government from attempting to influence the United States Government or from representing or advising a foreign entity for a prescribed period after such officer or employee leaves Government service, and for other purposes.

S. 187
At the request of Mr. Mitchell, the name of the Senator from Pennsylvania [Mr. Santorum] was added as a cosponsor of S. 187, a bill to provide for setting aside the first Thursday in May as the date on which the National Day of Prayer is celebrated.

S. 39
At the request of Mr. D’Amato, his name was added as a cosponsor of S. 39, a bill to amend the Internal Revenue Code of 1986 to make the exclusion from gross income of amounts paid for employee educational assistance permanent.
Mr. DANTONFO was added as a cosponsor of S. 2033, a bill to amend title 18, United States Code, with respect to child protection and obscenity enforcement, and for other purposes.

At the request of Mr. HEINZ, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 2082, a bill to amend title 49, United States Code, to reduce Federal highway funds to States that do not enforce the 65 mile per hour speed limit.

At the request of Mr. DURENBERGER, the names of the Senator from New Jersey [Mr. BRADLEY], the Senator from Montana [Mr. MELCHER], the Senator from Iowa [Mr. HARKIN], and the Senator from Washington [Mr. ADAMS] were added as cosponsors of S. 2042, a bill to authorize the Vietnam Women's Memorial Project, Inc., to construct a statue at the Vietnam Veterans Memorial in honor and recognition of the women of the United States who served in the Vietnam conflict.

At the request of Mr. DASCHLE, the names of the Senator from Montana [Mr. Baucus], the Senator from Michigan [Mr. RIDDLE], the Senator from Kentucky [Mr. FORD], and the Senator from Iowa [Mr. HARKIN] were added as cosponsors of S. 2075, a bill to amend the Internal Revenue Code of 1986 to permit tax free purchases of certain fuels, including purchases by farmers.

At the request of Mr. TRIBBLE, the names of the Senator from Virginia [Mr. NICKELS], the Senator from Mississipi [Mr. STEWART], the Senator from Oklahoma [Mr. DOLE], were added as cosponsors of Senate Joint Resolution 230, a joint resolution to designate the third week of June of 1988 as "National Dairy Goat Awareness Week."

At the request of Mr. THURMOND, the names of the Senator from Virginia [Mr. TRIBBLE], the Senator from Indiana [Mr. LUGAR], the Senator from Alabama [Mr. SHELBY], the Senator from Texas [Mr. GRAMM], the Senator from Minnesota [Mr. SIMON], the Senator from Illinois [Mr. SIMON], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Oklahoma [Mr. NICKELS], the Senator from Mississippi [Mr. STEWART], the Senator from Arizona [Mr. MCCAIN], the Senator from Connecticut [Mr. WEICKER], the Senator from North Carolina [Mr. HELMS], the Senator from Illinois [Mr. DOLE], the Senator from Kansas [Mrs. KASSABEUM], the Senator from Oklahoma [Mr. BOREN], the Senator from Colorado [Mr. WIRTH], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Mississippi [Mr. COCHERAN], and the Senator from Maine [Mr. MITCHELL], were added as cosponsors of Senate Joint Resolution 234, a joint resolution designating the week of April 17, 1988, as "Crime Victims Week."

At the request of Mr. TRIBBLE, the names of the Senator from Tennessee [Mr. GORE], the Senator from New York [Mr. D'AMATO], the Senator from Maine [Mr. MITCHELL], were added as cosponsors of Senate Joint Resolution 251, a joint resolution designating two weeks of June of 1988 as "Worldwide Bluegrass Music Month."

At the request of Mr. HEILS, the names of the Senator from Rhode Island [Mr. PELL], the Senator from Ohio [Mr. GLYNN] and the Senator from Hawaii [Mr. MASUNAGA] were added as cosponsors of Senate Joint Resolution 251, a joint resolution designating March 4, 1988, as "Department of Commerce Day."

At the request of Mr. BURBICK, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of Senate Joint Resolution 254, a joint resolution to designate the period commencing on May 15, 1988, and ending on a second Tuesday in June each year as "National Health Awareness Week."

At the request of Mr. THURMOND, the names of the Senator from Alaska [Mr. SPECTER], and the Senator from Arkansas [Mr. BUMPER] were added as cosponsors of Senate Joint Resolution 258, a joint resolution expressing the sense of the Congress that the people of the United States should purchase products made in the United States, and services provided in the United States, whenever possible, instead of products made or services performed outside the United States.

At the request of Mr. ADAMS, the names of the Senator from New Mexico [Mr. BINGMAN], the Senator from Colorado [Mr. ARMSTRONG], the Senator from Arizona [Mr. MCCAIN], the Senator from Wyoming [Mr. SIMPSON], the Senator from Arkansas [Mr. D'AMATO], the Senator from Florida [Mr. GORE], the Senator from Illinois [Mr. SIMON], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Virginia [Mr. TRIBBLE], the Senator from Maryland [Mr. SARBANT], the Senator from Texas [Mr. D'AMATO], the Senator from Rhode Island [Mr. PELL], and the Senator from Pennsylvania [Mr. SPECTER] were added as cosponsors of Senate Concurrent Resolution 97, a concurrent resolution to commend the President, the Secretary of State, and the Administrator of the Agency for International Development on relief efforts that have been undertaken by the United States Government for the people in Ethiopia and other affected nations of sub-Saharan Africa, and encourage the officials of the United States to expand all efforts deemed appropriate to preclude the onset of famine in these nations, and for other purposes.

At the request of Mr. LUGAR, the names of the Senator from Illinois [Mr. SIMON], and the Senator from Alaska [Mr. MURKOWSKY] were added as cosponsors of Senate Resolution 377, a resolution to express the sense of the Senate regarding negotiations on a new long-term agreement on agricultural trade with the Soviet Union.

At the request of Mr. MOYNIHAN, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 39, a bill to amend the Internal Revenue Code of 1986 to make the exclusion from gross income of amounts
paid for employee educational assistance permanent.

At the request of Mr. Bradley, the name of the Senator from Alabama (Mr. Shelby), the Senator from Maine (Mr. Cohen), the Senator from South Carolina (Mr. Thurmond), and the Senator from Utah (Mr. Garamendi) were added as cosponsors of S. 1381, a bill to improve cash management by executive agencies, and for other purposes.

S. 1381

At the request of Mr. Sasser, the names of the Senator from Pennsylvania (Mr. Heinz), and the Senator from New Jersey (Mr. Bradley) were added as cosponsors of S. 1381, a bill to improve cash management by executive agencies, and for other purposes.

S. 1412

At the request of Mr. Hollings, the name of the Senator from Tennessee (Mr. Goss) was added as a cosponsor of S. 1412, a bill to amend the Coastal Zone Management Act of 1972 regarding activities significantly affecting the coastal zone.

S. 1429

At the request of Mr. Lautenberg, the names of the Senator from Arkansas (Mr. Bumpers), the Senator from Illinois (Mr. Simon), the Senator from Maine (Mr. Cohen), the Senator from North Carolina (Mr. Sanford), the Senator from Ohio (Mr. Metzenbaum), the Senator from Colorado (Mr. Wexler), the Senator from Hawaii (Mr. Inouye), the Senator from Nevada (Mr. Reid), and the Senator from New Jersey (Mr. Bradley) were added as cosponsors of S. 1429, a bill to improve the Environmental Protection Agency data collection and dissemination regarding reduction of toxic chemical emission across all media, to assist States in providing information and technical assistance about waste reduction, and for other purposes.

S. 1457

At the request of Mr. Ford the name of the Senator from Rhode Island (Mr. Chafee) was added as a cosponsor of S. 1457, a bill to establish, with respect to any grant or research protocol of the National Institutes of Health, a restriction that any person obtaining or using for any research purpose any animal acquired from any animal shelter shall not be eligible to receive any such grant or research protocol.

S. 1474

At the request of Mr. Bradley, the name of the Senator from Rhode Island (Mr. Pell) was added as a cosponsor of S. 1474, a bill to require that any U.S. Government support for military or paramilitary operations in Angola be openly acknowledged and publicly debated.

S. 1522

At the request of Mr. Ribble, the name of the Senator from Colorado (Mr. Armstrong) was added as a cosponsor of S. 1522, a bill to amend the Internal Revenue Code of 1986 to extend through 1992 the period during which qualified mortgage bonds and mortgage certificates may be issued.

S. 1678

At the request of Mr. DeConcini, his name was added as a cosponsor of S. 1678, a bill to establish a block grant program for long-term care services, and for other purposes.

S. 1851

At the request of Mr. Simpson, his name was added as a cosponsor of S. 1851, a bill to implement the International Convention on the Prevention and Punishment of Genocide.

S. 1937

At the request of Mr. Simon, the name of the Senator from Connecticut (Mr. Dudoit) was added as a cosponsor of S. 1937, a bill to amend title 26, United States Code, to make certain improvements with respect to the Federal court interpreter program, and for other purposes.

S. 1931

At the request of Mr. Simon, the name of the Senator from Utah (Mr. Hatch) was added as a cosponsor of S. 1931, a bill to amend part B of title IV of the Higher Education Act of 1985, relating to the guaranteed student loan programs, to reduce the high default rate under that program, and to improve debt collection under that program, and for other purposes.

S. 2024

At the request of Mr. Baucus, the name of the Senator from Wyoming (Mr. Wallow) was added as a cosponsor of S. 2024, a bill to amend the Asbestos Hazard Emergency Response Act of 1986, Public Law 99-519, to extend certain deadlines for the Veterans' Administration to complete certain actions.

S. 2042

At the request of Mr. Durenberger, the names of the Senator from Nebraska (Mr. Knaak) the Senator from Tennessee (Mr. Bledsoe), and the Senator from South Carolina (Mr. Thurmond) were added as cosponsors of S. 2042, a bill to authorize the Vietnam Women's Memorial Project, Inc., to construct a statue at the Vietnam Veterans Memorial in honor and recognition of the women of the United States who served in the Vietnam conflict.

S. 2066

At the request of Mr. DeConcini, the names of the Senator from Utah (Mr. Hatch), and the Senator from New Mexico (Mr. Bingaman) were added as cosponsors of S. 2066, a bill to provide financial assistance under the Education for the Handicapped Act to assist severely handicapped infants, children, and youth to improve their educational opportunities through the use of assistive device resource centers, and for other purposes.

S. 2081

At the request of Mr. Dixon, the names of the Senator from New York (Mr. D'Amato), the Senator from Kentucky (Mr. Ford), and the Senator from Indiana (Mr. Quayle) were added as cosponsors of Senate Joint Resolution 212, a joint resolution to designate the period commencing May 8, 1988, and ending on May 14, 1988, as "National Tuberous Sclerosis Awareness Week."

S. 2086

At the request of Mr. DeConcini, the name of the Senator from Virginia (Mr. Trumbo) was added as a cosponsor of Senate Joint Resolution 226, a joint resolution to designate the week of May 8, 1988, through May 14, 1988, as "National Soccer Week."

S. 2090

At the request of Mr. Biden, the names of the Senator from Massachusetts (Mr. Kerry), the Senator from Wyoming (Mr. Wallow), the Senator from Kentucky (Mr. McConnell), the Senator from Alaska (Mr. Stevens), the Senator from Rhode Island (Mr. Chafee), the Senator from Iowa (Mr. Grassley), the Senator from Indiana (Mr. Quayle), and the Senator from North Carolina (Mr. Helms) were added as cosponsors of Senate Joint Resolution 240, a joint resolution to designate the week of May 16, 1988, and ending on May 22, 1988, as "National Safe Kids Week."

ADDITIONAL COSPONSORS—FEBRUARY 25, 1988

S. 533

At the request of Mr. Thurmond, the names of the Senator from New Jersey (Mr. Bradley), and the Senator from New Mexico (Mr. Domenici) were added as cosponsors of S. 533, a bill to establish the Veterans' Administration as an executive department.

S. 588

At the request of Mr. Kerry, the names of the Senator from Washington (Mr. Adams), and the Senator from New Mexico (Mr. Bingaman) were added as cosponsors of S. 1586, a bill to provide financial assistance under the Education for the Handicapped Act to assist severely handicapped infants, children, and youth to improve their educational opportunities through the use of assistive device resource centers, and for other purposes.

S. 1586

At the request of Mr. DeConcini, the names of the Senator from Utah (Mr. Hatch), and the Senator from New Mexico (Mr. Bingaman) were added as cosponsors of S. 1851, a bill to implement the International Convention on the Prevention and Punishment of Genocide.
subject to a joint resolution to authorize and re­
quest the President to issue a procla­
mation designating March 13, 1988, as "Afghanistan Day," a day to com­
memorate the struggle of the people of Afghanistan against the occu­
pation of their country by Soviet forces.

SENATE JOINT RESOLUTION 261

At the request of Mr. Pessle, the names of the Senator from Iowa [Mr. Grassley], and the Senator from Illinois [Mr. Dixon] were added as cospon­sors of Senate Joint Resolution 261, a joint resolution designating the month of November 1988 as "National Alzheimer's Disease Month."

SENATE JOINT RESOLUTION 262

At the request of Mr. Hatch, the name of the Senator from Colorado [Mr. Wurth] was added as a cosponsor of Senate Joint Resolution 262, a joint reso­lution to designate the month of March 1988, as "Women's History Month."

SENATE JOINT RESOLUTION 277

At the request of Mr. Lugar, the name of the Senator from Kansas [Mrs. Kassebaum] was added as a cosponsor of Senate Resolution 277, a resolution to express the sense of the Senate regarding negotiations on a new long-term agreement on agricul­tural trade with the Soviet Union.

SENATE CONCURRENT RESOLUTION 100—RELATING TO A STANDARD DEFINITION OF GOODS WHICH MAY BE EX­PORTED AS HUMANITARIAN DONATIONS

Mr. LEAHY submitted the following concurrent resolution; which was re­ferred to the Committee on Banking, Housing, and Urban Affairs.

RES. 100

Whereas the authority granted to the President by the International Emergency Economic Powers Act to take certain actions pursuant to the act's provi­sions, including its authority to impose economic sanctions, does not include the authority to reg­ulate or prohibit, directly or indirectly, do­nations by United States persons of articles, such as food, clothing, medicine, inten­ted to be used to relieve human suffering, except where the President determines that such donations would seriously impair his ability to deal with the national emergency, are in response to coercion against the pro­posed recipient or donor, or would endanger United States Armed Forces which are en­gaged in hostilities;

Whereas the Trading With the Enemy Act authorizes United States persons to donate goods (including, food, clothing, and medicine) intended to be used solely to relieve human suffering, to any country with which the United States is at war, after the cessation of hostilities;

Whereas the Export Administration Act of 1979 specifically denies the President the authority to issue regulations that would restric­tion or restrict the importation of food, clothing, and medicine intended to be used to relieve human suffering; and

Whereas the legislative history of the International Emergency Economic Powers Act expresses the intent that the act's sanctions be aimed at broadening the scope of economic sanctions, and that any article other than military or stra­ tegic items can be donated in order to re­lieve human suffering; that the definition of "humanitarian" is to be illustrative and in no way to be an inclusive list; Now, therefore, be it.

Resolved by the Senate (the House of Rep­resentatives concurring), That it is the sense of the Congress that in exercising au­thorities under the International Emer­gency Economic Powers Act, the Trading With the Enemy Act, and the Export Administration Act of 1979, the executive branch should use a standard definition of humani­tarian donations that is consistent with the intent of the Congress that humanitarian goods be given the broadest construction possible; and that the definition of "food, clothing, and medicine" is meant to be illustrative and in no way to be an inclusive list: Now, therefore, be it.

Mr. LEAHY. Mr. President, during the past 6 years of the Contras war in Nicaragua our two countries have maintained diplomatic relations. Many Americans have availed themselves of the opportunity to go to Nicaragua. They have gone there to see for themselves the effects of the Contra policy, and to show their concern for the Nicar­aguan people who have been caught in the middle of that war.

I have often argued that the way to bring democracy to a backward coun­try like Nicaragua is to show its people what democracy has to offer, rather than carry on a bloody war to overthrow their government by force. We should be sending doctors, agrono­mists, veterinarians and Peace Corps volunteers instead of guns, bullets, and boots for the Contras.

Unfortunately, this administration believes otherwise. In 1985 President Reagan declared a national emergency with respect to Nicaragua and ordered the Treasury Department to issue reg­ulations under the International Emergency Economic Powers Act. Mr. President, this 1985 act has kept the United States from buying humanitarian goods, and the food, clothing, and medicine intended to be used to relieve human suffering.

The President used the authority of the International Emergency Econ­omies Act to impose the trade embarg­o on Nicaragua. That act provides for humanitarian help even during an embargo. Its legislative history clearly establishes that the act's exemption for humanitarian goods and items was intended to be broadly construed. However, advised by the State Depart­ment, the Treasury Department has denied licenses to charitable organiza­tions such as Oxfam and Catholic Relief Services to donate human­iitarian items--hooes, sickles, axes—which do not fit within the narrow
categories of food, clothing or medicine. The regulations cite as examples of humanitarian items, Treasury did so not because of the items themselves, but because the recipients were deemed to be affiliated with the Nicaraguan Government.

The heart of this policy is that the administration has given millions and dollars of military equipment to the Contras under the label of "humanitarian aid." Yet, the Administration denied Catholic Relief Services a license to donate a couple of thousand dollars worth of construction tools to Nicaraguans because of some "affiliation" with the Government. Those tools—hammers, saws, and shovels—collect from theNicaraguans, are stored in a Miami warehouse.

Mr. President, in Nicaragua just about everything is in some way "affiliated" with the Government. You cannot get anything done in that country unless you are on your board of directors, approving your license, authorizing your activities, controlling your funds, and on and on. It's bureaucracy run wild.

There are two other statutes that control exports and contain exceptions for private donations of humanitarian items. Those exceptions either explicitly allow donations of a broad variety of items, or are being construed more broadly by the Treasury Department.

The Trading With the Enemy Act authorizes Americans to donate items intended to be used solely to relieve human suffering, to any country with which we are at war, after the cessation of hostilities. Under this act, Oxfam is sending a variety of humanitarian items, in addition to food, clothing and medicine, to Vietnam and Cambodia—two declared enemies of the United States with which we do not have diplomatic relations. As in Nicaragua, just about everything in those countries is in some way "affiliated" with the Government.

The Export Administration Act denies the President the authority to impose controls on items intended to meet basic human needs—including food, medicine, shelter materials, seeds, hand tools and educational supplies.

These conflicting statutes governing humanitarian donations by private citizens have been used by the administration to further its foreign policy. Although the Congress intended that the categories of humanitarian items in the International Economic Powers Act should be illustrative rather than inclusive, Oxfam's request to send simple hand tools to an agricultural school in Nicaragua was denied. That same week, funded by Sweden and with instructors from several countries including the United States who teach Nicaraguan farmers how to repair and operate farm machinery.

However, the Treasury says that the school is affiliated with the Sandinista government—and on that basis denied the license.

Mr. President, Americans pride themselves on the generous way they have responded to people in need overseas. From the days of Point Four relief to the famine in Ethiopia, a country ruled by one of the most repressive Marxist governments in the world, Americans have put aside politics to ease the pain of hunger and poverty.

Whether one is for or against the Contra policy, the administration's politicization of humanitarian aid has implications that go far beyond this case. It conflicts with our tradition of generosity and with the very notion of humanitarianism, which is the promotion of human welfare, not political goals. And, it sets a precedent for the future, when another administration may use the same political litmus test to ban donations of humanitarian items to poor people in South Africa or some other country whose government we disagree with.

On December 14, 1987, in order to remedy the discrepancies in existing law and in how those laws are being administered, Congressman BonKER introduced a resolution expressing the sense of the Congress that the executive branch should use a standard definition of those items which may be exported as humanitarian donations.

If the regulations permit humanitarian items to go to Vietnam and Cambodia to relieve basic human needs, why shouldn't those same regulations allow donations of the same sorts of humanitarian items to the people of Nicaragua—without having to meet some ideological litmus test? Today, I am introducing identical legislation in the Senate. While I recognize that the future of United States-Nicaraguan relations rests largely on the outcome of the Central American peace talks, this legislation goes far beyond our policy toward that country. It impacts on the humanitarian instincts of Americans generally—instincts that we should do all we can to encourage.

SENATE RESOLUTION 383—TO EXPRESS THE SENSE OF THE SENATE REGARDING FUTURE FUNDING OF AMTRAK

Mr. LAUTENBERG (for himself, Mr. PELL, Mr. MOYNIHAN, Mr. WECKER, Mr. BIDEN, Mr. SPECTER, Mr. BYRD, Ms. MUKULTSI, Mr. BRADLEY, Mr. DURBIN, Mr. HARKIN) submitted the following resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. Res. 383

Whereas Amtrak the National Railroad Passenger Corporation, was established by the United States Congress in 1971 to assume operation of rail passenger services in this country,

Whereas Amtrak now operates 230 trains daily over a 24,000 mile route system, and also owns and controls the high speed Northeast Corridor rail line between Washington, District of Columbia, and Boston, Massachusetts;

Whereas Amtrak has and will continue to reduce its dependence on Federal funding which declined by 67 percent in fiscal year 1981 to $506.8 million in fiscal year 1988, a reduction of over 50 percent in Federal funding between 1981 and 1988;

Whereas Amtrak covers an increasing percentage of its total costs from its own revenues, and the revenue-to-cost ratio has improved from 48 percent in fiscal year 1981 to 65 percent in fiscal year 1987 and a projected 67 percent in 1988;

Whereas Amtrak revenues in fiscal year 1987 were $973.5 million, an increase of 13 percent over 1986, which resulted from increases in transportation, real estate, mail and express, and corporate development revenues over fiscal year 1986;

Whereas Amtrak provided transportation for more than 20.4 million people in fiscal year 1987, and 10.2 million of these travelers rode trains in Amtrak's Northeast Corridor between Washington, D.C., and Boston, Massachusetts;

Whereas Amtrak generated 5,221 billion passenger miles in fiscal year 1987 and the ratio of passenger miles per train mile ran 175 percent of the number of passengers riding the average train one mile) increased from 172.2 in fiscal year 1986 to 177 in fiscal year 1987, reflecting the increased density of passengers;

Whereas Amtrak is an ongoing business and any drastic reduction in public support, or the elimination of Federal funds, would threaten the survival of rail passenger service across the country;

Whereas the Federal, and State governments have invested heavily to modernize Amtrak facilities, purchase new rolling stock, and upgrade the high speed Northeast Corridor, which ran in 1983 and 1984 and increased the value of Amtrak's net assets to over $5 billion, all of which would have to be sold at scrap value if rail passenger service were eliminated;

Whereas some 22,800 Amtrak employees in 44 States would become unemployed if the corporation received no public funds and was forced into bankruptcy;

Whereas termination of rail passenger service would trigger $2.1 billion in Amtrak liens and potential claims to pay labor problems to affected employees, and if Amtrak is rendered insolvent, labor would turn to the United States Government for payment of these claims;

Resolved, That paragraph 4 of rule VI of the Standing Rules of the Senate is amended by striking "and, when necessary, to compel".

S. Res. 382

Resolved, That paragraph 4 of rule VI of the Standing Rules of the Senate is amended by striking "and, when necessary, to compel".
Whereas an Amtrak shut down of the Northeast Corridor would drastically increase the cost, and disrupt the provision of daily service between New York and Jersey Trans­ sit, the Southeastern Pennsylvania Transportation Administration, the Maryland Department of Transportation, and the Massa­ chusetts Bay Transit Authority, for the averaging approximately 175,000 people per day who use these carriers over Amtrak owned and operated rail lines in Washington, D.C., Maryland, New Jersey, New York, and Massachusetts;

Whereas the shutdown of the Northeast Corridor would disrupt freight service provided by Conrail and other carriers on the corridor, which serve numerous businesses including General Motors, Ford, Chrysler, Dupont, General Foods, and General Elec­ tric;

Whereas Amtrak carries more than twice as many passengers between and among the Northeast Corridor stations of New York, Newark, Philadelphia Wilmington, Balti­ more, and Washington, than all airlines combined, and over one third of all air and rail passengers daily between Washington, D.C., and New York alone;

Whereas a shutdown of intercity rail serv­ ice and publicly funding their passenger network, including the financial support of nations have taken pride in establishing rail service, or fare increases that would make rail commutation unavailable for those who need it most.

Amtrak service is an indispensable asset. Our roads and highways simply could not absorb the passenger load if Amtrak were eliminated, as proposed by the administration. For example, it would require an additional 54 flights each day between Washington and New York to handle those now using Amtrak. It’s clear that capacity just doesn’t exist.

Amtrak is a vital link in our national transportation network. To deny funds to Amtrak is to deny the impor­ tance of such a network. That’s the policy this administration has em­ barked on. It’s a policy that just doesn’t make sense.

Let’s look at the facts. Amtrak serves almost 21 million people over 24,000 miles of track in 44 States. Some 5.2 billion passenger miles were generated in fiscal year 1987. In addition, approximately 175,000 commuters in a number of States depend on Amtrak’s rails each and every day.

Half of Amtrak’s passengers travel in the Northeast Corridor. The importance of Amtrak in my region can hardly be overestimated. In 1987, Amtrak carried more passengers among the points between Washington and New York than all the airlines combined. Carrying 3,800 passengers each day, Amtrak has become the single largest provider of point-to-point service between Washington and New York.

In my State, thousands of commuters rely on Amtrak service and facili­ ties each day. Without Amtrak, New Jersey would face major disruption of service, or fare increases that would make rail commutation unavailable for those who need it most.

Amtrak service is an indispensable asset. Our roads and highways simply could not absorb the passenger load if Amtrak were eliminated, as proposed by the administration. For example, it would require an additional 54 flights each day between Washington and New York to handle those now using Amtrak. It’s clear that capacity just doesn’t exist.

Amtrak is a tremendous success story: The efficiency of this operation has increased in the face of major budgetary constraints. Between fiscal years 1981 and 1982, Federal support for Amtrak fell from $896.3 to $580.8 million, a 50-
AMENDMENTS SUBMITTED

THE HIGH RISK OCCUPATIONAL DISEASE NOTIFICATION AND PREVENTION ACT

HATCH AMENDMENTS NOS. 1411-1461

(Ordered to lie on the table.) Mr. HATCH submitted 51 amendments intended to be proposed by him to the bill (S. 79) to notify workers who are at risk of occupational disease in order to establish a system for identifying and preventing illness and death of such workers, and for other purposes; as follows:

Amendment No. 1411
On page 30, line 16, strike out "FINDINGS AND". Beginning on page 30, strike out line 17 and all that follows through page 33, line 9. On page 33, line 10, strike out "(b) Purpose.—".

Amendment No. 1412
On page 55, line 20, after "disease", insert the following: "Or that the employees have been adequately notified under the hazard communication standard".

Amendment No. 1413
Beginning on page 20, strike out line 16 and all that follows through page 34, line 3.

Amendment No. 1414
On page 32, line 5, insert "high" before "risk".
On page 32, line 13, insert "high" before "risk".
On page 32, line 17, insert "high" before "risk".
On page 32, line 21, insert "high" before "risk".
On page 33, line 4, insert "high" before "risk".
On page 33, line 12, insert "high" before "risk".
On page 33, line 13, insert "high" before "risk".
On page 33, line 24, insert "high" before "risk".
On page 34, line 3, insert "high" before "risk".
On page 34, line 6, insert "High" before "Risk".
On page 36, line 17, insert "HIGH" before "RISK".
On page 36, line 18, insert "high" before "risk".
On page 37, line 2, insert "high" before "risk".
On page 37, line 6, insert "HIGH" before "RISK".
On page 37, line 10, insert "High" before "Risk".
On page 39, line 13, insert "High" before "Risk".
On page 40, line 3, insert "high" before "risk".
On page 40, line 11, insert "high" before "risk".
On page 40, line 15, insert "high" before "risk".
On page 41 line 13, insert "HIGH" before "RISK".
On page 41 line 14, insert "high" before "risk".

On page 42, line 14, insert "high" before "risk".
On page 42, line 24, insert "high" before "risk".
On page 43, line 4, insert "high" before "risk".
On page 44, line 4, insert "high" before "risk".
On page 44, line 12, insert "high" before "risk".
On page 47, line 9, insert "HIGH" before "RISK".
On page 47, line 11, insert "high" before "risk".
On page 47, line 14, insert "high" before "risk".
On page 48, line 1, insert "HIGH" before "RISK".
On page 48, line 2, insert "high" before "risk".
On page 48, line 3, insert "high" before "risk".
On page 48, line 9, insert "high" before "risk".
On page 48, line 13, insert "high" before "risk".
On page 48, line 19, insert "high" before "risk".
On page 49, line 10, insert "high" before "risk".
On page 49, line 15, insert "high" before "risk".
On page 50, line 11, insert "high" before "risk".
On page 50, line 18, insert "high" before "risk".
On page 51, line 14, insert "high" before "risk".
On page 52, line 23, insert "high" before "risk".
On page 53, line 15, insert "high" before "risk".
On page 54, line 12, insert "high" before "risk".
On page 54, line 19, insert "high" before "risk".
On page 55, line 13, insert "high" before "risk".
On page 55, line 17, insert "high" before "risk".
On page 55, line 19, insert "high" before "risk".
On page 56, line 6, insert "high" before "risk".
On page 56, line 21, insert "high" before "risk".
On page 57, line 6, insert "high" before "risk".
On page 59, line 20, insert "high" before "risk".
On page 59, line 22, insert "high" before "risk".
On page 63, line 11, insert "high" before "risk".
On page 63, line 24, insert "high" before "risk".
On page 64, line 7, insert "high" before "risk".
On page 64, line 20, insert "high" before "risk".
On page 65, line 7, insert "high" before "risk".
On page 67, line 4, insert "high" before "risk".
On page 70, line 24, insert "high" before "risk".
On page 71, line 14, insert "high" before "risk".
On page 73, line 3, insert "HIGH" before "RISK".
On page 73, line 9, insert "high" before "risk".
On page 74, line 21, insert "high" before "risk".
shall prevent the Board from determining whether the term includes passive occupational health hazard with- and a similar duration of exposure; and insert in lieu thereof the following: "(1) GENERAL RULE.—Subject to the provisions of paragraph (2), the Institute.

AMENDMENT No. 1425
On page 49, lines 12 and 13, strike out "the Institute" and insert in lieu thereof the following:

AMENDMENT No. 1426
On page 49, strike out lines 12 through 17. On page 49, line 18, strike out "(e)" and insert in lieu thereof "(d)".

AMENDMENT No. 1427
On page 49, strike out lines 13 through 17. On page 49, line 18, strike out "(e)" and insert in lieu thereof "(d)".

AMENDMENT No. 1428
On page 49, strike out lines 12 through 17. On page 49, line 18, strike out "(e)" and insert in lieu thereof "(d)".

AMENDMENT No. 1429
On page 49, strike out lines 12 through 17. On page 49, line 18, strike out "(e)" and insert in lieu thereof "(d)".

AMENDMENT No. 1430
On page 49, strike out lines 12 through 17. On page 49, line 18, strike out "(e)" and insert in lieu thereof "(d)".

AMENDMENT No. 1431
On page 49, line 18, strike out "(e)" and insert in lieu thereof "(d)".

AMENDMENT No. 1432
On page 49, line 19, strike out "in" and insert in lieu thereof "in".

AMENDMENT No. 1433
On page 49, line 19, strike out "in" and insert in lieu thereof "in".

AMENDMENT No. 1434
On page 49, line 19, strike out "in" and insert in lieu thereof "in".

AMENDMENT No. 1435
On page 49, line 20, strike out "in" and insert in lieu thereof "in".

AMENDMENT No. 1436
On page 49, line 20, strike out "in" and insert in lieu thereof "in".

AMENDMENT No. 1437
On page 49, line 20, strike out "in" and insert in lieu thereof "in".

AMENDMENT No. 1438
On page 49, line 20, strike out "in" and insert in lieu thereof "in".

AMENDMENT No. 1439
On page 49, line 20, strike out "in" and insert in lieu thereof "in".

AMENDMENT No. 1440
On page 49, line 20, strike out "in" and insert in lieu thereof "in".

AMENDMENT No. 1441
On page 49, line 20, strike out "in" and insert in lieu thereof "in".
On page 58, line 7, insert “prevention,” before “recognition.”

On page 58, line 25, insert after “of” the following: “identifying occupational health hazards, producing exposure to occupational health hazards, and”.

On page 58, lines 10 and 11, strike out “and geographical proximity for designated populations”.

On page 66, line 21, insert before the period the following: “if the final medical determination is that the employee needs to be transferred”.

Beginning on page 66, line 24, strike out “on” and insert in lieu thereof the following: “who the employer knows are members of the population at risk as determined by the Board”.

On page 68, line 3, insert “EMPLOYER” after “SPECIAL”.

On page 68, between lines 12 and 13, insert the following:

(6) SPECIAL EMPLOYEE LIMITATION.—An employer shall not be required to provide medical removal protection for an employee who has been employed for less than 12 months.

On page 68, line 16, insert “by the employer” after “confidential”.

On page 59, line 15, strike out “and”.

On page 59, line 19, strike out the period and insert in lieu thereof “; and”.

On page 59, between lines 19 and 20, insert the following:

(3) assist employers to develop programs that will reduce employee risks of occupational diseases.

On page 59, line 1, insert “decrease the cost” after “and”.

On page 59, line 1, insert “the effectiveness of” after “improve”.

On page 59, line 7, insert “cost effective” after “developing”.

On page 59, line 16, insert “cost effective” after “developing”.

On page 59, line 19, strike out “and”.

On page 59, line 22, strike out the period and insert in lieu thereof “; and”.

On page 59, between lines 22 and 23, insert the following:

(F) studying and developing cost effective approaches to reducing the risk of occupational health hazards.

On page 59, line 21, insert after “define” the following: “additional cost effective medical intervention, additional cost effective approaches to reducing exposure to occupational health hazards, other factors that may increase the risk of developing occupational disease, and”.

On page 59, line 15, after “may”, insert the following: “individually or in association with other similarly situated employers.”.

Mr. HATCH. Mr. President, sometime in the near future it is expected that this body will take up S. 79, the High Risk Occupational Disease Notification and Prevention Act. To make sure that my colleagues and some of the problems with this legislation and the reasons for my opposition, I am filing today a number of amendments that address some of the flagrant flaws in this bill. Some of these amendments will be kept in mind now that the supporters of the bill have started to discuss changes in an attempt to gather support for the legislation. Like the plant that would have a stalk. I ex p a. This bill will undergo a metamorphosis of sorts prior to coming to the floor. We have already seen High Risk I and II, and in all likelihood we will see High Risk III, IV and so on before a bill is finally legislation which will help. I doubt that the proponents will agree to the degree of change necessary to salvage this bill and give it a chance of becoming law.

Some of my colleagues may be surprised, given my voting record in the past, that I am opposing S. 79. I led the fight to put new warning labels on cigarettes and smokeless tobacco products. I worked to establish the prevention block grant to help States increase their prevention efforts. I have supported programs to reduce sexually transmitted diseases and reduce childhood accidents. And in the last Congress, I authored legislation which would, have established a President’s Council on Health Promotion and Disease Prevention to take a comprehensive look at what we can do to prevent diseases in this country.

In this Congress, I introduced legislation which would help prevent infectious disease in our children and help us combat tuberculosis. Also, Senator KENNEDY and I have introduced legislation aimed at reducing infant mortality and have moved through the Committee on Labor and Human Resources legislation to reduce the spread of AIDS in this country.

Since I have spent a significant part of my career in this body advocating disease prevention programs, there is nothing I would like more than to have before Congress responsible occupational disease prevention legislation. Unfortunately, S. 79 is not such a bill.

While its stated purpose is disease prevention, its principal effect will be litigation. Its primary consequence will not be measured in terms of saved lives, but in notices mailed. And, in the name of politics, it permanently, explicitly avoids one of the most significant occupational hazards in the workplace today.

My opposition is based on several basic problems with this legislation which I will outline, along with some solutions. First, I do not believe we should create a new Federal bureaucracy simply because we are un-
happy with the performance of existing agencies. I did some checking and was able to come up with at least a dozen Federal agencies, administrations, and other departments which are currently involved in regulating health and safety. Everyone from the Occupational Safety and Health Administration to the Environmental Protection Agency to the Coast Guard to the Bureau of Alcohol, Tobacco, and Firearms is involved. And this list of more than a dozen Federal agencies does not include the numerous health and safety activities of State and local agencies.

If we can't adequately address the occupational disease problem with more than 12 Federal agencies, I doubt adding one more will provide the solution. If we are dissatisfied with existing performance, why not address the problems directly instead of creating yet another Federal bureaucracy, which may be no more successful than the ones we have? Even if there are gaps in our existing Federal occupational disease programs, gaps which I believe exist, why not fill those gaps? Why not work within the existing Federal framework?

There is already too much duplication and too little coordination of Federal efforts. Creating another new board will only exacerbate this problem, especially since we will have to cut existing programs in order to finance this idea.

Second, responsible legislation should be cost-effective. Or to put it a different way, it should be effective for its cost. 'The American public should not be forced to pay for a program which has little, if any, impact on the morbidity and mortality of occupational diseases.

Not only will it be costly, but after they may have been exposed to an occupational health hazard is not the most effective method for preventing the disease. Why not keep as our primary focus on disease prevention instead of disease control?

Efforts to reduce the morbidity and mortality of occupational disease can be divided into three approaches. Primary intervention covers efforts to prevent exposure to the hazard; secondary intervention covers those efforts which take place after exposure has occurred, but before the development of disease; and tertiary intervention includes those efforts which take place after the development of disease in an attempt to reduce its impact.

Of these three approaches, primary intervention is the only one which has the potential to prevent all occupational disease. We must recognize that, in many instances, it is very difficult to prevent the development of disease once exposure has occurred.

Too often, effective medical intervention is not available. For example, lung damage which occurs from exposure to silica is not reversible; and, other than primary intervention or stopping the worker from smoking, there is very little that can be done to slow its progress. Nor can we halt mesothelioma, which is a lung cancer associated with exposure to asbestos.

Unusually, by the time it can be detected using current medical technology, it has spread to the point where it is almost always fatal.

Secondary intervention is not only less effective than primary intervention, it is also very costly. Frequently, only a small percentage of the workers who have been exposed to an occupational health hazard acutely develop the disease. But since there is usually no technique available to separate those few workers from the others who have been exposed, every worker must be monitored, usually for long periods of time. Secondary intervention must cover every worker to have any impact at all, and must do so at considerable cost.

In protecting workers, effectiveness and cost must be factors in developing new legislation. When choosing between two approaches to reduce occupational disease, common sense tells us that, if one costs significantly more than the other yet produces no better results, why not at least consider the less costly. Unfortunately, S. 79 does not take this approach. Instead, it chooses the most costly and least effective solution.

Moreover, attempts to amend the bill to address one of the most effective methods for reducing workers' risk of developing occupational disease—smoking cessation—were vigorously blocked. We were told that despite all the stated justifications for this bill, smoking was just too politically divisive to address.

We were also told that the Board would not even be allowed to consider whether or not passive smoking is a health hazard for nonsmokers. In other words, we are being asked to adopt legislation to address workplace health hazards yet, at the same time, to bar forever any consideration of a hazard which kills 15 people a day in this country, many due to exposure at work.

Third, to be effective, any legislation must encourage the employer and the employee to work together to increase health and safety in the workplace. While the employer may be primarily responsible, if we want to continue improving and protecting the health of everyone in the workplace, it must be through a joint partnership. An employer also has some responsibility for his or her own health.

The employer must provide the equipment and training necessary to assure that the workplace environment is a healthy one. The employee needs to use the safety equipment provided and also to bring unsafe working conditions to the attention of management. In addition, an employee has the responsibility to take steps to reduce or eliminate those lifestyle practices which may increase his or her risks of disease. Again, smoking is one obvious example.

Any new program which focuses solely on the employer or solely on the employee will be only a fraction as effective as it should be. Just as many occupational hazards have a synergistic or we show projects, projects which adversely affects both workers and employers working together can have a synergistic effect when it comes to increasing health in the workplace. We must encourage the employer and the employee to work together to cooperate on providing and maintaining a healthy work environment.

Fourth, this kind of legislation must also be neutral in its impact on liability. In its current form, not even the sponsors of S. 79 have agreed that it will not increase liability costs. The best they can claim is that the increase will be acceptable.

But after looking at previous Federal occupational health programs, programs which the supporters of S. 79 point to as the models for this legislation, Robert R. Nathan Associates estimated that 25 percent of those notified will file suit against their employers, costing on the average $95,000 per suit to resolve. The sponsors expect that 300,000 people will be notified each year under this bill, generating on this issue alone annual costs of $7.125 billion.

Those who will be hit the hardest of course will be small businesses. There are some who believe that companies in this country represent an endless supply of wealth which can be continually tapped. They do not realize that if Congress enacts S. 79, mandated health benefits legislation, mandated parental leave legislation, and an increase in the minimum wage, many small companies will be driven out of business. Others will have to raise prices and inevitably lay off workers.

While there is no question that we need health and safety legislation, the S. 79 proposal is not the right approach. If we want to create a new Federal bureaucracy, we should do it in a more productive way. Successfully addressing occupational disease requires a comprehensive approach. If we are going to be faced with the decisions of Federal agencies and boards deserve to have their full due process rights protected.

Finally, to be effective such legislation must not deny anyone the right to due process. Individuals who are affected by the decisions of Federal agencies and boards deserve to have their full due process rights protected. They deserve the right to be heard before any general rule or regulation is promulgated; they deserve the right to a fair determination as to whether
the rule or regulation should apply to them; and they deserve the right of appeal. The guarantee these rights, Congress established a set of procedures for most administrative agencies to follow in the Administrative Procedures Act. S. 79, however, creates a Federal agency that is basically immune from this statute. It would be above the traditional controls we place on other branches of Government.

The amendments I am introducing today will address some of these problems. They are both technical and structural in nature. I hope my colleagues will review them and join with me in an attempt to modify S. 79 so that it becomes reasonable, responsible, and effective health promotion legislation.

PROHIBITION OF UNDETECTABLE FIREARMS ACT

McCLURE AMENDMENT NO. 1462
(Ordered referred to the Committee on the Judiciary)

Mr. McCLURE submitted an amendment intended to be proposed by him to the bill (S. 2051) entitled the "Prohibition of Undetectable Firearms Act"; as follows:

On page 3, line 12, strike out "4" and insert in lieu thereof "5".

On page 3, line 19, strike out "5" and insert "4".

On page 3, between lines 11 and 12, insert the following:

"SEC. 4. SECURITY ENHANCEMENT. "Magnetometers and x rays at all Federal Aviation Administration and other federally controlled security checkpoints shall be set to detect all existing firearms manufactured in, or imported into, the United States. "Where necessary, Federal Aviation Administration and other Federal agencies with jurisdiction over security operations shall provide funds to secure, train, secure, and operate security personnel, equipment, and procedures sufficient to ensure the ability to detect all existing firearms manufactured in, or imported into, the United States."

Mr. McCLURE. Mr. President, several weeks ago, Senator HATCH and I introduced the Prohibition of Undetectable Firearms Act, S. 2051.

Since that time, I have discussed the issue of standards for x-rays and magnetometers with the Treasury Department, and with firearms rights groups concerned with airline safety and the safety of public places. We have determined that although present technology is capable of discerning all existing firearms, in practice dangerous weapons can go undetected because of lax security enforcement. I am proposing an amendment that would address that problem.

It is not my intention to preclude discussions of this matter with other organizations concerned with airline safety or detecting dangerous weapons. Indeed, I am ready and willing to discuss this important issue, and strive for sensible answers to all concerns.

I bring this to my colleague's attention because it is my hope that this language would be incorporated into S. 2051 during its committee consideration. Should the committee choose not to incorporate this language, it is my intention to offer this amendment when S. 2051 is considered on the Senate Floor.

SENATE ELECTION CAMPAIGN REFORM

HUMPHREY AMENDMENT NOS. 1453 AND 1464
(Ordered to lie on the table.)

Mr. HUMPHREY submitted two amendments intended to be proposed by him to the bill (S. 2052) to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and partial public financing of Senate general election campaigns, to limit contributions by multicandidate political committees, and for other purposes; as follows:

AMENDMENT NO. 1453

Strike out section 6(b)(2) of the pending matter and insert in lieu thereof the following:

"(2)(A) Section 315(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441(a)) is amended by—

(i) striking out "$1,000" in paragraph (1)(A) and inserting in lieu thereof "$2,305"; and

(ii) striking out "$25,000" in paragraph (3)(A) and inserting in lieu thereof "$57,625";

(B) Section 315(c) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441(a)) is amended by—

(i) striking out "subsection (b) and subsection (d)" in paragraph (4)(A) and inserting in lieu thereof paragraphs (1)(A) and (3) of subsection (a), and paragraphs (2)(d), (1), and (2)(b), and

(ii) inserting "for subsections (b) and (d), and the term 'base period' means the calendar year of the first election after the date of enactment of the Senatorial Election Campaign Act of 1987 for paragraphs (1)(A) and (3) of subsection (a) and subsections (1) and (2)(b)" before the period at the end of paragraph (2)(B)."

AMENDMENT NO. 1464

At the end of the pending matter add the following:

Srn. . None of the provisions of this Act shall become effective until section 6(b)(2) of the pending matter is struck and the following inserted in lieu thereof:

"(2)(A) Section 315(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441(a)) is amended by—

(i) striking out "$1,000" in paragraph (1)(A) and inserting in lieu thereof "$2,305"; and

(ii) striking out "$25,000" in paragraph (3)(A) and inserting in lieu thereof "$57,625";

(B) Section 315(c) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441(a)) is amended by—

(i) striking out "subsection (b) and subsection (d)" in paragraph (4)(A) and inserting in lieu thereof paragraphs (1)(A) and (3) of subsection (a), and paragraphs (2)(d), (1), and (2)(b); and

(ii) inserting "for subsections (b) and (d), and the term 'base period' means the calendar year of the first election after the date of enactment of the Senatorial Election Campaign Act of 1987 for paragraphs (1)(A) and (3) of subsection (a) and subsections (1) and (2)(b)" before the period at the end of paragraph (2)(B)."

VIEABLE DOMESTIC URANIUM INDUSTRY

JOHNSTON (and OTHERS) AMENDMENT NO. 1465
(Ordered to lie on the table.)

Mr. JOHNSTON (for himself, Mr. FORD, Mr. BINGAMAN, Mr. McCLURE, Mrs. DOMENICI, and Mr. WALLOP) submitted an amendment intended to be proposed by them to the bill (S. 2097) to provide for a viable domestic uranium industry, to establish a program to fund reclamation and other remedial actions with respect to mill tailings at active uranium and thorium sites, to establish a wholly-owned Government corporation to manage the Nation's uranium enrichment enterprise, operating as a continuing, commercial enterprise on a profitable and efficient basis, and for other purposes; as follows:

In section 3 of the bill after paragraph (6) add the following paragraphs according:

"(7) the term 'domestic uranium' means—

(A) any uranium that has been mined in the United States, unless such uranium is deemed to be foreign uranium under section 117; and

(B) any uranium that is deemed to be domestic uranium under section 117.

"(8) the term 'Equivalent Foreign Uranium' means the natural foreign uranium employed to produce the enriched foreign uranium included in a fuel assembly, considering the quantity of enriched uranium and the isotopic enrichment assays and tails assays ordered, and applying the Department's Standard Table of Enriching Services, or its replacement formula, plus the natural foreign uranium included in the assembly;

"(9) the term 'Equivalent Uranium' means the natural uranium employed to produce the enriched foreign uranium included in a fuel assembly (excluding natural uranium employed through overfeeding), considering the quantity of enriched uranium and the isotopic enrichment assays ordered, and applying the Department's Standard Table of Enriching Services, or its replacement formula, plus the natural uranium included in the assembly;

"(10) the term 'foreign uranium' means any uranium that has not been mined in the United States, and for purposes of this Act shall be deemed to be foreign uranium under section 117.
tion 117; and (B) any uranium that is deemed to be foreign uranium under section 117;".

"(b) At the beginning of title I of the bill after the heading add the following and renum-
ber the existing subsections accordingly:

Sec. 110. DELETION OF SECTION 117.—Subsection (b) of section 117 of the Atomic Energy Act of 1954, as amended, is deleted and the remain-
ing subsections are renumbered accord-
ingly.

Sec. 111. AMENDMENT TO SECTION 170B.—Section 170B of the Atomic Energy Act of 1954, as amended, is further amended by dele-
ting '1982' and substituting '2011', by de-
ting '1982' and substituting '2000', and by de-
ting '1992' and substituting '2011' in both places it appears.

Sec. 112. IN GENERAL.—Any licensee of a civilian nuclear power reactor with fuel as-
semblies loaded after December 31, 1987, and prior to January 1, 2001, that contain foreign uranium shall be assessed and pay the charges, to be imposed and collected by the Secretary, as provided in section 113, except as provided elsewhere in this title.

Sec. 113. CALCULATION OF CHARGES.—

(a) The charge to be imposed by the Secre-

(b) For purposes of making the certifi-
tion required under section 119 and calcu-

"(c) Any transaction in which a party tenders uranium having one national origin and

"(d) If the national origin of a particular lot of uranium has not been changed from

"(e) If the national origin of a particular lot of uranium has not been changed from

"(f) For purposes of this section, the term 'uranium' shall include natural uranium and

"(g) Sec. 116. DISPOSITION OF CHARGES.—The

"(h) (i) For purposes of making the certifi-

"(i) For purposes of making the certifi-

"(j) For purposes of making the certifi-

"(k) For purposes of making the certifi-

"(l) For purposes of making the certifi-

"(m) For purposes of making the certifi-

"(n) For purposes of making the certifi-

"(o) For purposes of making the certifi-

"(p) For purposes of making the certifi-

"(q) For purposes of making the certifi-

"(r) For purposes of making the certifi-

"(s) For purposes of making the certifi-

"(t) For purposes of making the certifi-

"(u) For purposes of making the certifi-

"(v) For purposes of making the certifi-

"(w) For purposes of making the certifi-

"(x) For purposes of making the certifi-

"(y) For purposes of making the certifi-

"(z) For purposes of making the certifi-

"(A) Any transaction in which a party tenders uranium having one national origin and

"(B) Any transaction in which a party tenders uranium having one national origin and

"(C) Any transaction in which a party tenders uranium having one national origin and

"(D) Any transaction in which a party tenders uranium having one national origin and

"(E) Any transaction in which a party tenders uranium having one national origin and
ury of the United States as miscellaneous receipts.

"Sec. 119. Certification.—The owner or operator of an electric power plant nuclear power reactor must certify to the Secretary by March 1 of each year the following information for the previous calendar year:

(a) the total weight of uranium in new fuel assemblies loaded during such year;
(b) the total weight of foreign uranium included in new fuel assemblies loaded during such year;
(c) the total weight of foreign uranium used in new fuel assemblies loaded during such year;
(d) the equivalent natural uranium for each quantity of enriched uranium reported.

In section 310 of the bill, in new section 1491(d) of the Atomic Energy Act, change the references to "section 110" to "section 129".

In section 310 of the bill after the words "Section 502. Payments in lieu of taxes"—add the following subsection and reletter the subsections accordingly:

"(i) Notwithstanding any other provision of law, including 26 U.S.C. 501, the Corporation shall be exempt from Federal income taxation."

JOHNSTON (AND McCLURE) AMENDMENT NO. 1466
(Ordered to lie on the table.)

Mr. JOHNSTON (for himself and Mr. McCLURE) submitted an amendment intended to be proposed by them to the bill S. 2097, supra, as follows:

In section 213 of the bill after "January 1, 1989," insert the following: "Such reimbursement shall be provided only to such extent and in such amounts as are provided in advance by appropriations Acts."

In section 310 of the bill, strike the new section 1808 of the Atomic Energy Act and renumber the sections accordingly.

In section 310(c) of the bill in the Table of Contents strike the item "Sec. 1606. RELATIONSHIP TO FEDERAL BUDGET," and renumber the remaining items of the Table of Contents accordingly.

In section 313 of the bill after "title," insert the following: "For fiscal year 1969, total expenditures of the Corporation shall not exceed total receipts.".

FORD AMENDMENT NO. 1467
(Ordered to lie on the table.)

Mr. FORD submitted an amendment intended to be proposed by him to the bill S. 2097, supra, as follows:

In section 310 of the bill, beginning with the words "Sec. 1404. CERTAIN PENDING LITIGATION.—strike everything through the words "certain enrichment services contracts." and insert in lieu thereof the following: "Sec. 1404. CERTAIN PENDING LITIGATION.—The Corporation may enter into or continue any contract in accordance with the provisions of this title without regard to any judgment in the proceeding pending before the United States Court of Appeals for the Tenth Circuit in Docket No. 85-2426, concerning the procedure followed by the Department in setting the terms of certain enrichment services contracts."

GROUND WATER PROTECTION ACT

DURENBERGER AMENDMENT NO. 1468
(Ordered held at the desk until the close of business on February 29, 1988.)

Mr. DURENBERGER submitted an amendment intended to be proposed by him to the bill (S. 2091) to protect the ground water resources of the United States; as follows:

At the end thereof add the following new part:

PART I—FUNDS

SECTION 901. HAZARDOUS WASTE MANAGEMENT

(a) GENERAL RULE.—Chapter 38 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new subsection:

"Subchapter D—Hazardous Waste Management Tax

"Sec. 4681. Waste Management Tax.

"Sec. 4682. Exemptions; reduction where prior taxable event.

"Sec. 4683. Special rules.

"Sec. 4684. Backup tax on generator.

"Sec. 4685. Definitions and other matters.

"Sec. 4686. Waste management tax.

"(a) IMPOSITION OF TAX.—There is hereby imposed a tax on—

(1) the receipt of hazardous waste at a qualified hazardous waste management unit;

(2) the receipt of hazardous waste for transport from the United States for the purpose of ocean disposal;

(3) the exportation of hazardous waste from the United States.

(b) AMOUNT OF TAX.—

(1) IN GENERAL.—The amount of the tax imposed under subsection (a) with respect to each ton of hazardous waste shall be determined in accordance with the following table:

<table>
<thead>
<tr>
<th>Taxable Event</th>
<th>Land Disposal</th>
<th>Any Other Disposal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Calendar Year</td>
<td>Per Ton</td>
<td></td>
</tr>
<tr>
<td>1989</td>
<td>$27.00</td>
<td>$2.70</td>
</tr>
<tr>
<td>1990</td>
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<tr>
<td>1991</td>
<td>31.00</td>
<td>3.00</td>
</tr>
<tr>
<td>1992</td>
<td>35.00</td>
<td>3.00</td>
</tr>
<tr>
<td>1993 and after</td>
<td>43.00</td>
<td>3.00</td>
</tr>
</tbody>
</table>

(2) DEFINITIONS RELATING TO AMOUNT OF TAX.—

(A) For definitions of hazardous waste, see section 4685(a)(1), and

(B) land disposal and any other taxable event, see section 4688(a)(5).

(c) TAX EXEMPTIONS.—

(1) WASTE RECEIVED AT MANAGEMENT UNITS.—The tax imposed by subsection (a)(1) shall be paid by the owner or operator of the qualified hazardous waste management unit.

(2) WASTE RECEIVED FOR TRANSPORT FROM THE UNITED STATES.—The tax imposed by subsection (a)(2) shall be paid by the person holding the permit issued for transport for ocean disposal under section 102 of the Marine Protection, Research and Sanitarian Act of 1972.

(3) WASTE EXPORTED.—The tax imposed by subsection (a)(3) shall be paid by the exporter.

"Sec. 902. EXEMPTIONS; REDUCTION WHERE PRIOR TAXABLE EVENT.

"(a) EXEMPTION FOR CERTAIN REMOVAL AND REMEDIAL ACTIONS.—The tax imposed by section 4681 shall not apply to the receipt or export of hazardous waste pursuant to—

(A) an action specified in section 4685(b)(1) or (2); or

(B) certain removal or remedial action under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 which has been selected or approved by the Administrator, or

(C) an action to correct an emergency situation arising from a product spill which is certified by the Administrator to the Secretary as carrying out the purposes of the Comprehensive Environmental Response, Compensation and Liability Act of 1980.

(b) EXEMPTION FOR WASTE RECEIVED AT ANY FEDERAL FACILITY.—The tax imposed by section 4681 shall not apply to hazardous waste received at any facility owned by the United States.

(c) REDUCTION IN TAX WHERE PRIOR TAXABLE EVENT OCCURS.

(1) IN GENERAL.—If—

(A) a tax under section 4681 or 4684 was paid with respect to any hazardous waste, and

(B) a tax under section 4681 is subsequently imposed on such waste (hereinafter in this subsection referred to as the "later taxable event"),

then the tax under section 4681 on the later taxable event shall be reduced by the amount determined under paragraph (2).

(2) AMOUNT OF REDUCTION.—The amount of the reduction determined under this paragraph is the product of—

(A) the weight of hazardous waste involved in the later taxable event, multiplied by—

(B) the lesser of—

(i) the highest rate of tax paid under section 4681 or 4684 with respect to any prior taxable event involving such waste (determined without regard to this subsection), or

(ii) the rate of tax imposed by section 4681 with respect to the later taxable event (as so determined).

"Sec. 903. SPECIAL RULES.

"(a) EXEMPTIONS FOR WASTE RECEIVED AT CERTAIN WASTEWATER TREATMENT UNITS.—

The tax imposed by section 4681 shall not apply to hazardous waste received at any wastewater treatment unit.

(b) INCINERATION, ETC. WITHIN 90 DAYS OF RECEIPT—

(1) IN GENERAL.—Under regulations prescribed by the Secretary—

(A) a tax under section 4681 was paid with respect to the receipt of any hazardous waste at any qualified hazardous waste

(2) IN GENERAL.—Under regulations prescribed by the Secretary—

(A) a tax under section 4681 was paid with respect to the receipt of any hazardous waste at any qualified hazardous waste
construction and removal efficiency applicable described by the fuel or solvent, and overpayment of tax imposed by section credit or refund <without interest> to such produced any qualified chemical purposes of subparagraph (A), the term battery at any qualified hazardous waste during such month.

"(c) Qualified Chemical Fuels or Solvents.-(1) In General.—Under regulations prescribed by the Secretary, if—

(A) tax under section 4681 was paid with respect to any chemical fuel or solvent, and

(B) such fuel or solvent is sold by such person for use or used in any industrial or commercial use, then the tax so paid shall be allowed as a credit (without interest) to such person in the same manner as if it were an overpayment of tax imposed by section 4681.

(2) Qualified Chemical or Solvent.—For purposes of subparagraph (A), the term 'qualified chemical fuel or solvent' means any chemical or solvent which is determined by the Administrator as not being a hazardous waste.

(3) Recycling of Batteries.—Under regulations prescribed by the Secretary, if—

(A) tax under section 4681 was paid with respect to the receipt of any battery at a qualified hazardous waste management unit, and

(B) the recycling of such battery begins at such unit by any person within 90 days after the date of the first receipt of such battery at any qualified hazardous waste management unit, the tax so paid shall be allowed as a credit (without interest) to such person in the same manner as if it were an overpayment of tax imposed by section 4681.

(c) Tax to Apply While Corrective Action is Completed.—(1) In General.—The exemption provided by subsection (a) shall not apply (and no credit or refund shall be allowed under this subsection) with respect to any activity conducted at a facility (or part thereof) during the period that required corrective action remains uncompleted with respect to such facility (or part).

(2) Required Corrective Action.—For purposes of paragraph (1), required corrective action shall be treated as uncompleted at the end of the period—

(A) beginning on the date that corrective action is required by the Administrator or an applicable law, or

(B) subject to the requirements for obtaining interim status or a final permit under section 3005 of the Solid Waste Disposal Act or a final order under section 3004 or 3008 of such Act, and

(2) Equivalent of Incineration.—For purposes of subparagraph (A), a method, technique, or process shall be treated as the equivalent of incineration on land if—

(A) such method, technique, or process meets detailed performance standards established by the Administrator of the Environmental Protection Agency, and

(B) such standards require a destruction and removal efficiency for the hazardous waste involved at least equivalent to the destruction and removal efficiency applicable to incineration on land.

(c) Qualified Chemical Fuels or Solvents.—(1) In General.—Under regulations prescribed by the Secretary, if—

(A) tax under section 4681 was paid with respect to any chemical fuel or solvent,

(B) such fuel or solvent is sold by such person for use or used in any industrial or commercial use, then the tax so paid shall be allowed as a credit (without interest) to such person in the same manner as if it were an overpayment of tax imposed by section 4681.

(2) Qualified Chemical or Solvent.—For purposes of subparagraph (A), the term 'qualified chemical fuel or solvent' means any chemical or solvent which is determined by the Administrator as not being a hazardous waste.

(3) Recycling of Batteries.—Under regulations prescribed by the Secretary, if—

(A) tax under section 4681 was paid with respect to the receipt of any battery at a qualified hazardous waste management unit, and

(B) the recycling of such battery begins at such unit by any person within 90 days after the date of the first receipt of such battery at any qualified hazardous waste management unit, the tax so paid shall be allowed as a credit (without interest) to such person in the same manner as if it were an overpayment of tax imposed by section 4681.

(c) Tax to Apply While Corrective Action is Completed.—(1) In General.—The exemption provided by subsection (a) shall not apply (and no credit or refund shall be allowed under this subsection) with respect to any activity conducted at a facility (or part thereof) during the period that required corrective action remains uncompleted with respect to such facility (or part).

(2) Required Corrective Action.—For purposes of paragraph (1), required corrective action shall be treated as uncompleted at the end of the period—

(A) beginning on the date that corrective action is required by the Administrator or an applicable law, or

(B) subject to the requirements for obtaining interim status or a final permit under section 3005 of the Solid Waste Disposal Act or a final order under section 3004 or 3008 of such Act, and

"(b) ending on the date the Administrator or such State (as the case may be) certifies to the Secretary that such corrective action has been completed.

(3) Rate of Tax with Respect to Waste Water Treatment.—The rate of the tax imposed by section 4681 by reason of this subsection with respect to hazardous waste received at any waste water treatment unit shall be 15 cents per ton.

(2) Sunk. — The term 'ocean disposal' means the incineration or dumping of hazardous waste over or into ocean waters or the water described in section 101(b) of the Marine Protection, Research and San­

c tuary Act of 1972, pursuant to section 102 of such Act.

(2) Definitions Relating to Amount of Tax.—(A) Land Disposal.—The term 'land disposal' means a taxable event described in section 4681(a)(1) with respect to a qualified hazardous waste management unit which is a landfill, surface impoundment, waste pile, or land treatment unit.

(B) Landfill, etc. — For purposes of subparagraph (a), the terms 'landfill', 'surface impoundment', 'waste pile', and 'land treatment' have the respective meanings given to such terms in regulations issued by the Administrator pursuant to sections 3004 and 3005 of the Solid Waste Disposal Act.

(C) Other Taxable Event.—The term 'other taxable event' means—

(i) a taxable event described in section 4681(a)(1) which is not land disposal, and

(ii) a taxable event described in paragraph (2) or (3) of section 4681(a).

(3) Waste Water Treatment Unit.—The term 'waste water treatment unit' means any qualified hazardous waste management unit which is an integral and necessary part of a treatment system—

(A) for which a permit is required under section 402 of the Clean Water Act,

(B) which is subject to pretreatment standards under subsection (b) or (c) of section 307 of the Clean Water Act, or

(C) which is a zero discharge treatment system—

(i) which, if the system discharged into navigable waters, would comply with effluent limitation guidelines prescribed under paragraph (2) or (4) of section 304(b) of the Clean Water Act,

(ii) which, if the system discharged into a publicly owned treatment works, would comply with the pretreatment standards described in subparagraph (B), or

(iii) if no such guidelines or standards have been prescribed, which employs biological treatment.

The term 'waste water treatment unit' shall not include any qualified hazardous waste management unit which receives for storage or final disposition concentrated treatment residues resulting from wastewater treatment.

(4) Administrator.—The term 'Administrator' means the Administrator of the Environmental Protection Agency.

(5) United States.—The term 'United States' means the meaning given such term by section 4612(a)(4).

(6) Ton.—The term 'ton' means 2,000 pounds.

(7) Fractional Part of Ton.—In the case of a fraction of a ton, the tax imposed by this subchapter shall be the same fraction of the amount of such tax imposed on a whole ton.

(8) Treatment of Containers, etc. Which Are Related to Injection Units.—For purposes of this subchapter—
"(1) any container, tank, or surface impoundment which, with respect to any hazardous waste, is used to store or treat or store such waste before underground injection of such waste (whether or not the waste when injected is hazardous waste) into an injection well, and
"(2) the injection well into which such waste is injected.
shall be treated as a single hazardous waste management facility.
"(c) Disposition of Revenues From Puerto Rico and the Virgin Islands.—The provisions of subsection (a) and (b) of section 7692 shall not apply to any tax imposed by this subsection.

(b) Information Reporting Requirements.—

(1) In General.—Subpart (A) of part III of subchapter A of chapter 61 of such Code is amended by inserting after section 6039D the following new section:

"SEC. 6039E. INFORMATION WITH RESPECT TO MANAGEMENT TAX ON HAZARDOUS WASTE.

"(a) In General.—Any person who fails to meet any requirement imposed by section 6039E shall pay a penalty of $100 for each day during which such failure continues, unless it is shown that such failure is due to reasonable cause and not due to willful neglect. The maximum penalty imposed under this subsection shall not exceed $50,000.

(b) Penalty in Addition to Other Penalties.—The penalty imposed by this section shall be in addition to any other penalty provided by law.

(c) Conforming Amendment.—

(A) The table of sections for part A of part III of subchapter A of chapter 61 of such Code is amended by inserting after the item relating to section 6039D the following new section:

"Sec. 6039E. Information with respect to management tax on hazardous waste.

(B) The table of sections for subsection B of chapter 68 of such Code is amended by inserting at the end thereof the following new item:

"Sec. 6710. Failure to provide information with respect to management tax on hazardous waste.

(c) Penalty for Negligence To Apply To Environmental Taxes.—Section 6653 of such Code (relating to failure to pay tax) is amended by adding at the end thereof the following new subsection:

"(c) Negligence Penalty to Apply to Environmental Taxes.—For purposes of applying paragraph (1) of subsection (a) of section 6653 the provisions of subsection (a) shall be treated as including a reference to underpayments (as defined in subsection (c) of section 6653) in addition to the tax imposed by section 6653 (relating to environmental taxes).

(d) Clerical Amendment.—The table of sections for such Code is amended by adding after the item relating to subsection C the following new item:

"Subchapter D. Hazardous Waste Management Tax.

(e) Effective Date.—(1) In General.—The amendments made by this section shall take effect January 1, 1989.

(2) Backup Tax on Generator.—Section 4684 of the Internal Revenue Code of 1986 (relating to backup tax on generators), as added by this section, shall apply to waste generated after December 31, 1988.

SEC. 6032. SOLID WASTE DISPOSAL TAX.

(a) General Rule.—Chapter 38 of the Internal Revenue Code of 1986 is amended by adding after the item relating to section 4686 the following new subchapter:

"Subchapter E—Solid Waste Disposal Tax.

"Sec. 4687. Definitions.

"Sec. 4688. Exemptions; Special Rules.

"Sec. 4689. Municipal Solid Waste Tax.

"(a) In General.—There is hereby imposed a tax on—

(1) the receipt of solid waste at a solid waste management facility; and

(2) the exportation of solid waste from the United States.

(b) Amount of Tax.—The amount of the tax imposed by subsection (a) with respect to each ton of solid waste shall be $1.00. In the case of a fraction of a ton, the tax imposed by this subsection shall be the same fraction of the amount of such tax imposed on a whole ton.

(c) Liability for Tax.—

(1) Waste Received at Management Units.—The tax imposed by subsection (a)(1) shall be paid by the owner or operator of the solid waste management facility.

(2) Waste Exported.—The tax imposed by subsection (a)(2) shall be paid by the exporter.

SEC. 6085. Exemptions: Special Rules.

(a) Exemption for Waste Received at Municipal Incineration Facility.—The tax imposed by section 4688 shall not apply to solid waste received at any facility recovering energy from the burning of solid waste, provided that the waste is burned within a reasonable period of time as specified in regulations by the Secretary. Any residual material not recycled shall be deemed solid waste and shall be subject to the tax imposed by section 4688.

(b) Exemption for Resource Recovery Facilities.—The tax imposed by section 4688 shall not apply to solid waste received at any resource recovery facility, provided that such waste is processed to recover materials within a reasonable period of time as specified in regulations by the Secretary. Any residual material not recycled shall be deemed solid waste and shall be subject to the tax imposed by section 4688.

(c) Exemption for Waste Water.—The tax imposed by section 4688 shall not apply to any wastewater or domestic sewage or the byproducts of treating such wastewater or sewage.

(d) Exemption for Federal Facilities.—The tax imposed by section 4688 shall not apply to any solid waste received at any facility owned by the United States.

(e) Special Rule for Recovered Material.—The tax imposed by section 4688 shall not apply to any solid waste management facility.

(f) Special Rule for Transfer.—If tax under section 4688 was paid with respect to any solid waste, then no tax shall subsequently be imposed on such waste when received at a solid waste management facility.

SEC. 6086. Definitions.

For purposes of this subchapter:

"(a) Municipal Waste.—The term "municipal waste" means garbage, rubbish, trash, and other solid waste resulting from the normal activities of households.

"(b) Commercial Solid Waste.—The term "commercial solid waste" means garbage, rubbish, trash, and other solid waste resulting from the normal activities of businesses.

"(c) Institutional Solid Waste.—The term "institutional solid waste" means garbage, rubbish, trash, and other solid waste resulting from the normal activities of institutional facilities.

"(d) Resource Recovery.—The term "resource recovery" means garbage, rubbish, trash, and other solid waste recovered from the normal activities of households for the purpose of recovering energy or materials.

"(e) Solid Waste Management Facility.—The term "solid waste management facility" means any plant, site, or facility operated by a State or local government or other entity that processes residential, commercial, or institutional solids or hazardous waste, economically, chemically or physically and recovers valuable materials for recycling, such as shredded fuel, combustible oil or gas, steel, metal, glass, or plastic materials.

"(f) Municipal Incineration Facility.—The term "municipal incineration facility" means any facility whether operated by a State or local government or other entity at which combustion of solid waste material collected from residential, commercial or institutional sources converts such waste to recovered energy.
SEC. 609F. INFORMATION WITH RESPECT TO SOLID WASTE TAX.

Each person on whom a tax is imposed under this subchapter failing to provide the information required at the time and in the manner prescribed by the Secretary may be subject to the imposition of a service charge for such failure, unless it is shown that such failure is due to reasonable cause and not due to willful neglect.

(2) PENALTY.—Subchapter B of chapter 68 of such Code (relating to assessable penalties) shall be amended by adding at the end thereof the following new section:

SEC. 671I. FAILURE TO PROVIDE INFORMATION WITH RESPECT TO SOLID WASTE TAX.

(a) IN GENERAL.—Any person who fails to meet any requirement imposed by section 609F shall be liable to the Secretary, in addition to any other penalty which such person is required to pay, the assessment of a service charge for such failure.

(b) SERVICE CHARGE.—Subchapter B of chapter 68 of such Code is amended by adding after the section relating to penalties the following new section:

SEC. 6710. Failure to provide information with respect to solid waste tax.

(c) CLERICAL AMENDMENT.—The table of sections for subpart A of part III of subchapter A of chapter 61 of such Code is amended by inserting after the number relating to section 609F the following new item:

Sec. 609F. Information with respect to solid waste tax.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect January 1, 1989.

SEC. 609E. EXCISE TAXES.

(a) General Rule.—Chapter 38 of the Internal Revenue Code of 1986 is hereby amended by inserting after section 4691 the following new section:

SEC. 4691. IMPPOSITION OF TAX.

(a) General Rule.—There is hereby imposed a tax on the sale or delivery of water conveyed by piped conveyance by any public water system.

(b) Amount of Tax.—The amount of tax imposed by subsection (a) shall be 2 cents per thousand gallons.

(c) Liability for Tax.—The tax imposed by subsection (a) shall be paid by the person who owns or operates the public water system.

SEC. 4692. EXEMPTION SPECIAL RULE.

The tax imposed by section 4691 shall not be imposed on public water systems supplying 500 service connections or regularly services at least twenty-five individuals.

SEC. 4693. DEFINITIONS.

For purposes of this chapter—

(1) CONFORMING AMENDMENTS.—

(A) The term "pesticide" means a substance or mixture of substances intended for use as a pesticide, herbicide, or fungicide.

(B) The term "fertilizer" means any natural or synthetic material, including animal wastes and nitrogen, phosphorus, and potassium compounds used on soil to increase its fertility.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect January 1, 1989.

SEC. 9509. GROUND WATER PROTECTION TRUST FUND.

(a) Ground Water Protection Trust Fund.—

(1) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to the establishment of trust funds) is amended by adding after section 9508 the following new section:

SEC. 9509. GROUND WATER PROTECTION TRUST FUND.

(2) USE AS AGRICULTURAL PESTICIDE OR FERTILIZER.—The regulations prescribed by the Secretary, if

(A) a tax under section 4696 was paid with respect to any pesticide or fertilizer product; and

(B) such product was used by any person in the manufacture or production of any other substance the sale of which by such person would be taxable under such section,

then an amount equal to the tax so paid shall be allowed as a credit or refund (without regard to any other tax imposed by such section).

(2) USE AS AGRICULTURAL PESTICIDE OR FERTILIZER.—The regulations prescribed by the Secretary, if

(A) a tax under section 4696 was paid with respect to any pesticide or fertilizer product; and

(B) such product is subsequently used by any person in the production of an agricultural commodity,

then an amount equal to the tax paid (2 per cent of the retail value of the product) shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by such section.

(3) DISPOSITION OF REVENUES FROM PUERTO RICO AND THE VIRGIN ISLANDS.—The provisions of subsections (a) and (b) of section 7652 shall not apply to any tax imposed by section 4696.

SEC. 1009. DEFINITIONS.

For purposes of this subchapter—

(a) "Pesticide" means any substance or mixture of substances intended for use as an insecticide, herbicide, or fungicide.

(b) "Fertilizer" means any agricultural fertilizer.

(c) "Agribusiness establishment" means any person in the production of an agricultural commodity.

(d) "Pesticide" means any substance or mixture of substances intended for use as an insecticide, herbicide, or fungicide.

(e) "Fertilizer" means any fertilizer.

(f) "Agribusiness establishment" means any person in the production of an agricultural commodity.

(g) "Pesticide" means any substance or mixture of substances intended for use as an insecticide, herbicide, or fungicide.

(h) "Fertilizer" means any fertilizer.

(i) "Agribusiness establishment" means any person in the production of an agricultural commodity.

(j) "Pesticide" means any substance or mixture of substances intended for use as an insecticide, herbicide, or fungicide.

(k) "Fertilizer" means any fertilizer.

(l) "Agribusiness establishment" means any person in the production of an agricultural commodity.

SEC. 9508. GROUND WATER PROTECTION TRUST FUND.

(a) Creation of Trust Fund.—There is established in the Treasury of the United States a trust fund to be known as the "Ground Water Protection Trust Fund", consisting of such amounts as may be appropriated or credited to such Trust Fund as provided by this section.

(b) Transfers to Trust Fund.—There are hereby appropriated to the Ground Water Protection Trust Fund amounts equivalent to—

(1) taxes received in the Treasury under section 4681 (relating to the management of hazardous waste); and

(2) taxes received in the Treasury under section 4696 (relating to the sale of pesticide and fertilizer products).

(c) Expenditures.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3) amounts in the Ground Water Protection Trust Fund shall be available, as provided in appropriations Acts, only for the purpose of making expenditures to carry out the goals and requirements of the Ground Water Protection Act, including payments to the corrective action fund created by section 403 of the Ground Water Protection Act.

(2) TRANSFERS TO GROUND WATER CORRECTIVE ACTION FUND.—The Secretary shall from time to time, make transfers from the Ground Water Protection Trust Fund into the corrective action fund created by section 403 of the Ground Water Protection Act such sums as are necessary to maintain the balance in the
corrective action fund at or in excess of $500,000.

(3) TRANSFERS FROM TRUST FUND FOR CERTAIN REASONS AND CREDITS.—The Secretary shall from time to time pay from the Ground Water Protection Trust Fund into the general fund of the Treasury amounts equivalent to—

(A) credits allowed under sections 4682 or 4683 of chapter 38; and

(B) credits allowed under section 4697 of chapter 38.

(4) LIABILITY OF THE UNITED STATES LIMITED TO AMOUNT IN TRUST FUND.—

(1) In general.—Any claim filed against the Water Well Replacement Trust Fund (as the result of the operation of section 404 of the Ground Water Protection Act or other rule of law) may be paid only out of such Trust Fund.

(2) CLAIMS.—If at any time the Water Well Replaced in the Territory of the United States fails to pay all of the claims out of such Trust Fund at such time, such claims shall, to the extent permitted under paragraph (1), be paid in full in the order in which they were finally determined.

(3) TRANSFERS FROM TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the "Community Water Supply Management Trust Fund.".

(4) TRANSFERS TO THE TRUST FUND.—There are hereby appropriated to the Water Well Supply Management Trust Fund amounts equivalent to the taxes received in the Treasury under section 4688 (relating to the disposal of solid waste).

(5) EXPENDITURES.—Amounts in the Water Well Replacement Trust Fund shall be available, as provided in appropriation Acts, only for the purpose of making expenditures to carry out the purposes of section 403 of the Ground Water Protection Act, provided that expenditures made in each State shall not be less that 85 percent of the credits received to the trust fund from such State.

(6) LIABILITY OF THE UNITED STATES LIMITED TO AMOUNT IN TRUST FUND.—

(1) In general.—Any claim filed against the Water Well Replacement Trust Fund (as the result of the operation of section 404 of the Ground Water Protection Act or other rule of law) may be paid only out of such Trust Fund.

(2) CLAIMS.—If at any time the Water Well Replaced in the Territory of the United States fails to pay all of the claims out of such Trust Fund at such time, such claims shall, to the extent permitted under paragraph (1), be paid in full in the order in which they were finally determined.

(3) TRANSFERS FROM TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the "Community Water Supply Management Trust Fund.".

(4) TRANSFERS TO THE TRUST FUND.—There are hereby appropriated to the Water Well Supply Management Trust Fund amounts equivalent to the taxes received in the Treasury under section 4688 (relating to the disposal of solid waste).

(5) EXPENDITURES.—Amounts in the Water Well Replacement Trust Fund shall be available, as provided in appropriation Acts, only for the purpose of making grants to local ground water management districts as provided in section 703 of the Ground Water Protection Act.

(6) DISTRICT ENTITLEMENT.—Whenver on the last day of a fiscal year the unexpended balance in the Ground Water Protection Trust Fund exceeds $300,000,000 each State shall be entitled to a portion of the funds exceeding such amount, which shall be distributed to the States in proportion to the population residing in each State, provided only that the Governor of each State certifies by letter to the Secretary that funds allocated to the State under this subsection were used for purposes that would otherwise be eligible for support according to the provisions of the Ground Water Protection Act. There are hereby appropriated to the Water Well Supply Management Trust Fund such sums as are necessary to fulfill the entitlement provided by this paragraph in each of the fiscal years ending September 30, 1989, 1990, 1991 and 1993.

(3) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1989.

SEC. 9509. COMMUNITY WATER SUPPLY MANAGEMENT TRUST FUND.

(a) Creation of Trust Fund.—There is established in the Treasury of the United States a trust fund to be known as the "Community Water Supply Management Trust Fund.".

(b) Transfers from the Trust Fund.—There are hereby appropriated to the Water Well Supply Management Trust Fund amounts equivalent to the taxes received in the Treasury under section 4688 (relating to the disposal of solid waste).

(c) EXPENDITURES.—Amounts in the Water Well Replacement Trust Fund shall be available, as provided in appropriation Acts, only for the purpose of making expenditures to carry out the purposes of section 403 of the Ground Water Protection Act, provided that expenditures made in each State shall not be less than 85 percent of the credits received to the trust fund from such State.

(3) District Entitlement.—Whenever on the final day of a fiscal year the unexpended balance in the Community Water Supply Management Trust Fund exceeds $20,000,000, each qualified local ground water management district (as defined in section 703 of the Ground Water Protection Act) shall be entitled to a portion of the funds exceeding such amount which shall be equal to the entitlement of the national population residing in qualified ground water management districts which reside in such district as determined by the chairman or president of the governing board of the district certified by letter to the Secretary that funds allotted to the district under this subsection were used for purposes that would otherwise be eligible for support according to the provisions of the Ground Water Protection Act. There are hereby appropriated to the Water Well Supply Management Trust Fund such sums as are necessary to fulfill the entitlement provided by this paragraph in each of the fiscal years ending September 30, 1989, 1990, 1991, 1992 and 1993.

(3) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 of such Code is amended by adding after the item relating to section 9509 the following new item:


(a) Creation of Trust Fund.—There is established in the Treasury of the United States a trust fund to be known as the "Community Water Supply Management Trust Fund.".

(b) Transfers from the Trust Fund.—There are hereby appropriated to the Water Well Supply Management Trust Fund amounts equivalent to the taxes received in the Treasury under section 4688 (relating to the disposal of solid waste).

(c) EXPENDITURES.—Amounts in the Water Well Replacement Trust Fund shall be available, as provided in appropriation Acts, only for the purpose of making grants to local ground water management districts as provided in section 703 of the Ground Water Protection Act.

(d) Transfers from the Trust Fund for Certain Credits.—The Secretary shall from time to time pay from the Community Water Supply Trust Fund into the general fund of the Treasury amounts equivalent to credits allowed under section 4687 of chapter 38.

(3) DISTRICT ENTITLEMENT.—Whenever on the final day of a fiscal year the unexpended balance in the Community Water Supply Management Trust Fund exceeds $20,000,000, each qualified local ground water management district (as defined in section 703 of the Ground Water Protection Act) shall be entitled to a portion of the funds exceeding such amount which shall be equal to the entitlement of the national population residing in qualified ground water management districts which reside in such district as determined by the chairman or president of the governing board of the district certified by letter to the Secretary that funds allotted to the district under this subsection were used for purposes that would otherwise be eligible for support according to the provisions of the Ground Water Protection Act. There are hereby appropriated to the Water Well Supply Management Trust Fund such sums as are necessary to fulfill the entitlement provided by this paragraph in each of the fiscal years ending September 30, 1989, 1990, 1991, 1992 and 1993.

(3) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 of such Code is amended by adding after the item relating to section 9509 the following new item:


(3) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1989.

SEC. 9605. AUTHORIZATION.

(a) For the purpose of developing guidance, standards, requirements and regulations to carry out the provisions of sections 301, 302, 303, 310, 311, 331, 332 and 382 of this Act there are authorized to be appropriated to the Environmental Protection Agency $40,000,000 for each of the fiscal years ending September 30, 1989, 1990, 1991, 1992 and 1993.

(b) For the purpose of issuing and supervising permits pursuant to section 301 of this Act there are authorized to be appropriated to the Environmental Protection Agency $20,000,000 for each of the fiscal years ending September 30, 1990, 1991, 1992 and 1993.

(c) For the purpose of conducting monitoring and collection of data and management programs for the purpose of carrying out the provisions of section 210 of this Act there are authorized to be appropriated to the Environmental Protection Agency $20,000,000 for each of the fiscal years ending September 30, 1990, 1991, 1992 and 1993.

(d) For the purpose of conducting compliance monitoring and taking enforcement action with respect to the requirements of this Act there are authorized to be appropriated to the Environmental Protection Agency $40,000,000 for each of the fiscal years ending September 30, 1989, 1990, 1991, 1992 and 1993.

(e) For the purpose of providing training and technical assistance pursuant to section 701 of this Act there are authorized to be appropriated to the Environmental Protection Agency $20,000,000 for each of the fiscal years ending September 30, 1989, 1990, 1991, 1992 and 1993.

(f) For the purpose of carrying out the research and development activities authorized by section 601 of this Act there are authorized to be appropriated to the Environmental Protection Agency $40,000,000 for each of the fiscal years ending September 30, 1989, 1990, 1991, 1992 and 1993.

(g) For the purpose of carrying out the activities of the ground water technology development activities pursuant to section 603 of this Act there are authorized to be appropriated to the Environmental Protection Agency $600,000 for each of the fiscal years ending September 30, 1989, 1990, 1991, 1992 and 1993.
For further information, please contact Ed Barron of the committee staff at 224-2035.

Mr. LEVIN. Mr. President, I wish to announce that the Subcommittee on Oversight of Government Management, Committee on Governmental Affairs, will hold a hearing on Monday, February 29, at 2 p.m., in room 210 of the Senate Dirksen Building, on S. 1014, the Federal Civil Penalties Inflation Adjustment Act of 1987.

Mr. BUMPERS. Mr. President, I would like to announce for the public that the hearings will take place March 10, 11, and 12, 1988, beginning at 9 a.m. The hearings will be held in Idaho Falls, Boise, and Coeur d'Alene, ID respectively.

NOTICES OF HEARINGS

Mr. CHILES. Mr. President, I am pleased to advise the Senate that the Appropriations Subcommittee on Labor, Health and Human Services, Education and Related Agencies will hold its fiscal year 1989 public witness hearings on the following dates: May 7, 18, 19, 24, 25, 26, and June 7, 8, and 9. The first day of hearings will include any testimony from Members of Congress.

The deadline for interested groups and individuals to submit their testimony is Monday, March 21. All requests must be in writing and should be addressed to me in care of the Labor, Health and Human Services, Education and Related Agencies Appropriations Subcommittee, Senate Dirksen 186, Washington, DC 20510.

Those persons whose requests are received by March 21 will receive a letter providing instructions for their appearance before the subcommittee.

The purpose of the hearings is to receive testimony on two bills currently pending before the Subcommittee. The two measures are:

H.R. 2090 and S. 1479—bills to designate certain National Forest System lands in the State of Idaho for inclusion in the National Wilderness Preservation System, to provide certain National Forest System lands, and to release other forest lands for multiple use management, and for other purposes.

I would like to announce for the public that hearings have been scheduled before the Subcommittee on Public Lands, National Parks, and Forests.

The hearings will take place on March 21 and 22, 1988, beginning at 9:30 a.m. and concluding at approximately 12 noon in room SD-386 of the Senate Dirksen Office Building in Washington, DC.

The purpose of the hearings is to receive testimony on two bills currently pending before the Subcommittee. The two measures are:
ments which will be included in the official hearing record. If you would like to submit a statement, please send it to the subcommittee on Public Lands, National Parks and Forests, 364 Dirksen Senate Office Building, Washington, DC.

For further information regarding the hearing, please contact Tom Williams of the subcommittee staff, at (202) 224-7145.

COMMITTEE ON GOVERNMENTAL AFFAIRS
Mr. GLENN. Mr. President, I would like to announce that the Governmental Affairs Committee will hold hearings on Tuesday, March 1, at 9:30 a.m., on Nutrition Monitoring. For further information, please call Len Weiss, staff director, on 224-4781.

AUTHORITY FOR COMMITTEES TO MEET
SELECT COMMITTEE ON INDIAN AFFAIRS
Mr. BYRD. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs, be authorized to meet during the session of the Senate on Tuesday, February 23, 1988, to conduct a joint hearing on S. 20, the Ground Water Protection Act; S. 1105, the Ground Water Research Act—also introduced as amendments 178 to S. 20—and H.R. 791, the National Ground Water Contamination Research Act of 1987.

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

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS
Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks and Forests, Committee on Energy and Natural Resources, be authorized to meet during the session of the Senate on Tuesday, February 23, 1988, to receive testimony concerning S. 2042, to authorize the Vietnam Women’s Memorial Project, Inc., to construct a statue at the Vietnam Veterans Memorial in honor and recognition of the women of the United States who served in the Vietnam conflict.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION
Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, and the National Ocean Policy Study be authorized to meet during the session of the Senate on February 23, 1988, to hold hearings on S. 1347, child abduction.

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

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Courts and Administrative Practice of the Committee on the Judiciary, be authorized to meet during the session of the Senate on February 23, 1988, to hold a hearing on S. 1347, child abduction.

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

COMMITTEE ON GOVERNMENT AFFAIRS
Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks and Forests, Committee on Energy and Natural Resources, be authorized to meet during the session of the Senate on Tuesday, February 23, 1988, to hold hearings on S. 2042, to authorize the Vietnam Women’s Memorial Project, Inc., to construct a statue at the Vietnam Veterans Memorial in honor and recognition of the women of the United States who served in the Vietnam conflict.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES
Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, and the National Ocean Policy Study be authorized to meet during the session of the Senate on February 23, 1988, to hold hearings on S. 1347, child abduction.

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

COMMITTEE ON THE JUDICIARY
Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, and the National Ocean Policy Study be authorized to meet during the session of the Senate on February 23, 1988, to hold hearings on S. 1347, child abduction.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES
Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, and the National Ocean Policy Study be authorized to meet during the session of the Senate on February 23, 1988, to hold hearings on S. 1347, child abduction.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS
Mr. BYRD. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs, be authorized to meet during the session of the Senate on Thursday, February 25, 1988, at 9 a.m. to hold an oversight hearing on the fiscal year 1989 budget for Indian programs.

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

COMMITTEE ON FINANCE
Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on February 25, 1988, to hold a hearing on the nomination of Mark Sullivan to be General Counsel of the Treasury Department.

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

COMMITTEE ON SMALL BUSINESS
Mr. BYRD. Mr. President, I ask unanimous consent that the Small Business Committee be authorized to meet during the session of the Senate on February 25, 1988, to examine S. 193, the “Minority Business Development Program Reform Act of 1987,” and H.R. 1807, the “Capital Ownership Development Reform Act of 1987.”

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

COMMITTEE ON FOREIGN RELATIONS
Mr. BYRD. Mr. President, I ask unanimous consent that the Select Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, February 25 to 26, 1988, to examine S. 2042, to authorize the Vietnam Women’s Memorial Project, Inc., to construct a statue at the Vietnam Veterans Memorial in honor and recognition of the women of the United States who served in the Vietnam conflict.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS
Mr. BYRD. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs, be authorized to meet during the session of the Senate on Thursday, February 25, 1988, at 9 a.m. to hold an oversight hearing on the fiscal year 1989 budget for Indian programs.

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

COMMITTEE ON FINANCE
Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on February 25, 1988, to hold a hearing on the nomination of Mark Sullivan to be General Counsel of the Treasury Department.

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

COMMITTEE ON SMALL BUSINESS
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The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS
Mr. BYRD. Mr. President, I ask unanimous consent that the Select Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, February 25 to 26, 1988, to examine S. 2042, to authorize the Vietnam Women’s Memorial Project, Inc., to construct a statue at the Vietnam Veterans Memorial in honor and recognition of the women of the United States who served in the Vietnam conflict.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS
Mr. BYRD. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs, be authorized to meet during the session of the Senate on Thursday, February 25, 1988, at 9 a.m. to hold an oversight hearing on the fiscal year 1989 budget for Indian programs.

The PRESIDING OFFICER. Without objection, it is so ordered.
February 23, 1988

CONGRESSIONAL RECORD—SENATE

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, Committee on Environment and Public Works be authorized to meet during the session of the Senate on February 25, 1988 to hold oversight hearings on developments in alcohol and drug testing.

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

SUBCOMMITTEE ON WATER RESOURCES, TRANSPORTATION, AND INFRASTRUCTURE

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Water Resources, Transportation, and Infrastructure, Committee on Environment and Public Works be authorized to meet during the session of the Senate on Thursday, February 25, to conduct a hearing on speed limit issues.

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

SUBCOMMITTEE ON ENVIRONMENTAL PROTECTION

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Environmental Protection, Committee on Environment and Public Works be authorized to meet during the session of the Senate on Thursday, February 25, 1988 to conduct a hearing on speed limit issues.

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

ADDITIONAL STATEMENTS

UNITED NATIONS COMMISSION ON HUMAN RIGHTS CONSIDER EAST TIMOR QUESTION

Mr. LEVIN. Mr. President, for nearly a decade I have been very concerned about persistent reports of human rights abuses in the former Portuguese colony of East Timor. This island territory was invaded and annexed by Indonesia over 12 years ago with tragic consequences for its citizens. Since the Indonesian invasion, it is estimated that over 100,000 East Timorese out of a population of less than 700,000 have died as a result of warfare, hunger, disease, and extrajudicial executions.

I wish I could say that time has healed East Timor's wounds. Unfortunately, accounts from human rights organizations such as Amnesty International and Asia Watch as well as compelling testimony from eye witnesses lead me to believe that intense suffering in East Timor is far from over.

In recent years I have supported Senate initiatives on the East Timor issue, and I am prepared to make further efforts in the future aimed at keeping East Timor on the United States foreign policy agenda. But the East Timor problem is also an international one, and requires an international effort beyond the scope of what one country can alone.

The United Nations Commission on Human Rights is meeting this month in Geneva, and is expected to take up the East Timor question. I urge Commission members to follow the lead of the Subcommission on Prevention of Discrimination and Protection of Minorities, which in September 1987 adopted a reasonable and balanced resolution on East Timor. This resolution talks about "new allegations ** regarding the violations of human rights to which the people of East Timor continue to be subjected," and recommends the Human Rights Commission "study carefully its upcoming—session the evolution of the situation of human rights and fundamental freedoms in East Timor."

Continuous international activity in forums like the Human Rights Commission can ameliorate the humanitarian and human rights situation in East Timor, and might represent the best hope for a long-term solution to the East Timor question.

Mr. President, I ask that the text of the Subcommission resolution be printed in the Record following my remarks. For the benefit of our colleagues, I am also submitting for the Record printed testimony from the U.N. Sub-Commission's meeting last September. This testimony was given by a Timorese witness who was only 13 years old when Indonesia invaded East Timor in 1975. It makes for chilling reading. Responsible experts believe that such testimony represents only a tiny fraction of what is continuing to happen in East Timor. I ask that this testimony may be printed in the Record.

The material follows:

Resolution 1987/13 The situation in East Timor. The Sub-Commission on Prevention of Discrimination and Protection of Minorities, Guided by the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the universally accepted rules on international humanitarian law, Recalling resolutions 1982/20 of 8 September 1982, 1983/26 of 6 September 1983 and 1984/24 of 29 August 1984 concerning the situation in East Timor, Preoccupied by new allegations put forward regarding the violations of human rights to which the people of East Timor continue to be subjected because of the situation which persists in the territory, Taking note with satisfaction of the continuous spirit of concern which the authorities have given proof in order to facilitate the reunification of families, Welcomes the action taken by the Secretary-General regarding the question of East Timor, Requests the Secretary-General to continue his efforts to encourage all parties concerned, that is the administration, the Indonesian Government and the East Timor representatives, to co-operate in order to achieve a durable solution taking into full consideration the rights and wishes of the people of East Timor, Requests the Indonesian authorities to facilitate without restrictions the activities of humanitarian organizations in East Timor;

The Committee on Human Rights to study carefully at its forty-fourth session the evolution of the situation of human rights and fundamental freedoms in East Timor.

U.N. SUB-COMMISSION, SEPTEMBER 1987—ITEM 9
ORGANISATION—NAILS—NATIONAL ABORIGINAL AND INDIGENOUS SERVICES

Testimony on Torture in East Timor

Mr. Chairman, it has been stated in this Sub-Commission many times in the past, especially by representatives of the NAILS Organisation, that foreign domination and occupation result almost inevitably in systematic violations of basic individual rights.

I am a Timorese and the first to speak on behalf of this organisation.

I was 13 years old when Indonesian military forces invaded East Timor. Following the invasion, I fled to the bush with the resistance. Later I was captured by the Indonesian forces. I was then sent to a prison called Komarka, in Dili in 1986. I was held there until being transferred to the island of Atauro on 3rd September. In July 1984, I was released. I started working with the Indonesian Red Cross in 1985 and at the beginning of 1987 arrived in Portugal under the family reunification programme.

Mr. Chairman, for 12 years, I personally witnessed a great number of arbitrary executions, imprisonment, and torture, evidencing a systematic disregard for the most essential civil and political rights of the East Timorese.

In 1978-1979 the Indonesian armed forces carried out a large scale offensive against the Timorese resistance and the civilian population.

Part of my family were with me in the bush. We were all concentrated in one area and incendiary bombs were dropped on us. I managed to escape but my brother was killed during a fight. One of my sisters disappeared during the intense bombardment and my family and I never saw her again.

In 1980 I was arrested by Indonesian troops and subjected to interrogations and torture. Every Indonesian guard used his own method of torture to force me to admit to crimes. Different methods of torture were used:

I was beaten by gun butts and kicked. My hands and feet were tied up and I was pushed into a tank of water head first and then water was poured over me for up to 2 minutes. Then I was pulled up again and interrogated. As long as I did not confess, the same operation was repeated. Once I confessed in my near drowning state, more
questions were asked and torture was used again. I tied up and two small types of crocodiles (Buaya Kedli) were tied to my body. When the tails of the animals were pulled, they scratched, clawed and bit me, digging their teeth into my skin and piercing my flesh with their teeth into my skin. During this time I was asked further questions.

I saw my friends being tortured too. I saw them subjected to electric shocks, beaten by iron and wooden rods, their toes being placed under a table leg with soldiers and officers standing under the table. The burns on the faces, the rashes on the eyes and faces of my friends were subjected to electric shocks, beaten by iron and wooden rods, their toes being placed under a table leg with soldiers and officers standing under the table. The burns on the faces, the rashes on the eyes and faces of my friends were burned with swollen faces and other signs of ill-treatment. Every two months, the troops conducted a search of the island. Every time a search was conducted, the food for prisoners was cut off. When the food was cut off, the prisoners were not given any medical treatment. I was tied up and two small types of crocodiles (Buaya Kedli) were tied to my body. When the tails of the animals were pulled, they scratched, clawed and bit me, digging their teeth into my skin and piercing my flesh with their teeth into my skin. During this time I was asked further questions.

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Greece and Turkey Relations

Mr. LUGAR. Mr. President, the relations between Turkey and Greece, two key NATO allies, have been tense over the past several years. Much of this tension stems from differences over Cyprus on the one hand, and over conflicting claims of both countries in the Aegean on the other. These difficulties have longstanding historical roots, and have affected our bilateral relations with our two allies.

Therefore, I am particularly pleased that a significant diplomatic breakthrough towards the improvement of bilateral relations between Greece and Turkey took place recently in Davos, Switzerland. were Prime Minister Turgut Ozal and Prime Minister Andreas Papandreou met on January 30-31, 1988. It is a welcoming development that the calls for dialog found a positive response and that Davos encounter was successful.

In Davos, the two leaders expressed their joint determination to avoid future bilateral crises, and to move in a careful and thoughtful manner to eliminate differences between them. They agreed to establish two committees: One would help to build confidence and trust through increasing economic, trade, tourism, and cultural ties; and the other would help to define and eliminate particular problem areas. The two leaders also agreed to meet at least once a year in reciprocal visits beginning with Prime Minister Ozal's visit to Athens as early as this summer.

I congratulate these two leaders on these hopeful steps, and encourage them to use this initiative to break down the barriers between the two nations. I have included the text of the communique issued at the conclusion of the meeting for the information of all Members.

The text of the communique follows:


1. The Prime Ministers of Greece and Turkey of January 30-31, 1988, and discussed issues of mutual concern in an atmosphere of understanding and goodwill.

2. The Prime Ministers observed that accumulated problems created in time due to different approaches are, at times, exploited by certain circles. It is imperative that this should not be permitted. They agreed that closing the gap between these differences will require time, goodwill and hard work.

3. The Prime Ministers gave their views of Turch-Greek relations, starting from a historic perspective and their deterioration in time, they further elaborated on the recent crisis in the Aegean which brought the optimism introduced as a consequence of exchange of messages between them. They agreed that the efforts of the two sides should never be repeated and both sides must concentrate their efforts for the establishment of lasting and good relations.

4. The Prime Ministers agreed that rigid frames of mind have been created in various segments of their societies in relation to existing international systems, but this is the case even in textbooks. They noted also with regret some recent statements of officials not conducive to an improvement of relations between the two countries.

5. The Prime Ministers reiterated their respective positions on issues of bilateral and regional importance.

6. They nevertheless underlined that a thaw and rapprochement between the two countries would require determination, sustained efforts and building of confidence for which two sides should move to a common ground, in order to create an environment conducive to working out lasting solutions.

7. The Prime Ministers agreed to establish two committees: one to explore the areas of cooperation such as economic cooperation, cultural exchanges, tourism, communications, cultural exchanges and one to define the problem areas, explore the possibilities of closing the gap and move towards lasting solutions which would be reviewed by the two Prime Ministers. In this regard, they agreed to initiate, encourage and increase contacts among civilian and military officials, members of the business and businessmen and to establish a business council or a joint chamber of commerce and industry.

8. The Prime Ministers also agreed to meet at least once a year and to make reciprocal visits to their countries and agreed to set up a direct telephone line. They also agreed that the Ambassadors of the two countries to international organizations should increase contacts with a view to improving cooperation.

9. Finally, both Prime Ministers expressed their satisfaction in the frank and open discussions which took place among themselves and reiterated their conviction that creation of improved relations and confidence would require resolve, time and hard work.

WILLIAM W. BISHOP, JR.

Mr. LEVIN. Mr. President, I rise today to recognize a significant event because on December 29 a great and gentle man died in Ann Arbor.

He was William W. Bishop, Jr., the Edwin D. Dickinson professor of law emeritus of the University of Michigan Law School. His field was international law and for decades he was truly one of the giants.

Born in 1906, Professor Bishop received both his bachelor's degree and his law degree from the University of Michigan. During World War II, he was an assistant legal adviser in the Department of State and in 1948 returned to Ann Arbor and joined the faculty of the University of Michigan Law School.

During his tenure, Professor Bishop authored a casebook on international law which was for years the most widely used international law casebook in the country. He served as editor-in-chief of the prestigious American Journal of International Law for 10 years. He received many honors during his long and distinguished career, including the University of Michigan Faculty Achievement Award in 1965. He also served on a vast number of committees, boards, and panels both in the United States and abroad. He was, as Lee Bollinger, the dean of the law school said, "a towering figure in international law."

He was also a leader in the Boy Scouts and a devoted family man. His beloved Mary, his wife of 32 years, died in 1970. He is survived by his daughter, Dr. Elizabeth S. Bishop, of East Lansing.

Although his achievements are many, they cannot begin to measure his true impact. Bill Bishop was a very special person: a giant in the field of international law, a teacher who inspired a whole generation of law students, and a man who was loved on many campuses. Among his students, he was known as Lee Bollinger, the dean of the law school, said, a "towering figure in international law."

Professor Bishop inspired and enriched generations of students from this country and around the world. Many of his students held important positions in private practice, government and teaching. He kept in touch with many of them long after they left Ann Arbor. They remained his friends and he continued to inspire them throughout his life. I know they are trying to practice, and pass on to others, his intellectual curiosity, warmth, deep human kindness and commitment to the rule of law. That is the legacy of a great teacher.

Professor Bishop also recognized that, as a scholar and teacher of international law, he had a particular duty to foster the rule of law in international relations. He believed firmly that an important element of American foreign policy is that the United States, has an obligation to work toward a world where law, not force, governed. But he was no dreamer. His experiences in the Department of State gave him a keen appreciation of the limitations of our present international legal order.

In 1981, the American Society of International Law celebrated its 75th anniversary and asked Professor Bishop to reflect on the changes that had occurred during those 75 years. In his remarks, Professor Bishop observed:

We must recognize that law cannot coerce states in matters of primary political importance, unless there is a sufficient respect for the feeling of international political community. Law cannot bring order when there is not enough common will to keep the peace. . . .

Meanwhile, of course, international law can, and is, a most useful instrument for giving effect to policies upon which there is common agreement, but it cannot succeed if
20TH ANNIVERSARY OF MOUNT PLEASANT, NEW YORK

Mr. D'AMATO. Mr. President, 1988 is a year of bicentennial celebrations, and March 7, 1988 is one date to note. This marks the 200th anniversary of the town of Mount Pleasant, NY, in Westchester County.

Prior to its establishment as a township, the town of Mount Pleasant had been a European settlement formed by Lord Frederick Philipse, a Dutchman, in 1683. After the Revolutionary War, the lands were confiscated by the State of New York-Nelson A. Rockefeller, President of the Rockland Development Corporation, on March 7, 1988 is one date to note. There are a step closer to a more peaceful and ordered world because of agreement rather than coercion.

Today, Mount Pleasant is the third largest town in Westchester with a population of 42,000. The town covers 25 square miles, including the villages of Pleasantville and North Tarrytown, a portion of the village of Briarcliff Manor, and an unincorporated area of 21.5 square miles. Its borders the Hudson River on the west, the town of Greenburgh on the south, Ossining and New Castle on the north, and North Castle on the east.

Mount Pleasant has a rich enduring past and a bright foreseeable future. Its residents have much to be proud of. I should take pride in representing them in this body.

LITHUANIAN ANNIVERSARY

(By request of Mr. Bynn, the following statement was ordered to be printed in the Record.)

Mr. SIMON. Mr. President, on February 16, 1988, the people of Lithuania—and Lithuanian Americans with them—celebrated their 70th anniversary of their independence. This is a day I like to take this opportunity to express my support of this historic occasion.

Lithuania's independence was proclaimed on February 16, 1918, but ended 22 years later with the Soviet takeover of that country. Since 1940 the celebration of Lithuanian Independence Day has been hindered by Soviet official hostility. It is unfortunate that this seems to have also been the case for the 70th anniversary.

Reports from Lithuania indicate that heavy police presence prevented any peaceful demonstrations from taking place and that force took place despite the fact that Mikhail Gorbachev received an appeal from 200 Lithuanians asking him to allow peaceful demonstrations to proceed with the celebration.

The inability of the Lithuanian people to mark such an important occasion as the 70th anniversary of their independence casts a shadow on Mr. Gorbachev's stated policy of openness.

The suppression of the Lithuanian people also violates the Helsinki accord which the Soviet Union freely signed. It is simply unacceptable for Moscow to fail to live up to its international obligations.

I am pleased to cosponsor Senate Joint Resolution 249, which declares June 14, 1988 "Baltic Freedom Day." This resolution will again reassure the Baltic people of U.S. support as they continue to test the limits of glasnost.

In addition to this action 33 Members of this body sent a letter to General Secretary Mikhail Gorbachev urging him to allow the Baltic peoples to peacefully honor their national independence days. We also asked the Soviet leader to take all necessary measures to guarantee that the people of the Baltic do not become targets of state-sponsored harassment.

Mr. President, I have been proud to sponsor such measures as “Lithuanian Independence Day,” “Polish American Heritage Month,” “Baltic Freedom Day,” and other important commemorative resolutions. America is enriched by its presence in all walks of life and all backgrounds, and we are strengthened from our Nation's great diversity.

CHIANG CHING-KUO

Mr. KASTEN. Mr. President, one of the greatest international success stories of the last 40 years is the survival and liberalization of the anti-Communist resistance in Taiwan. The passing of Chiang Ching-Kuo is an occasion for all of us to remember how much progress Taiwan made under his leadership and how much more progress the Taiwanese people expect to see under his democratic successors.

Democracy has succeeded in Taiwan thanks to the perseverance and commitment of President Chiang Ching-Kuo. This perseverance has been exemplified by the career of Dr. Fred Chien, the former senior Vice Foreign Minister of the Republic of China who is currently the chief Taiwanese representative at the United Nations.

Dr. Chien has articulated his experience and basic beliefs in an important article in the Central Daily News of Taipei, which has been made available to me in an English translation by Dr. Nathan K. Mao. I think the article, addressed to Taiwan's young people, will be helpful to my colleagues, and I ask that it be entered in the Record.

The article follows:

PERSEVERANCE: A MESSAGE FOR THE YOUNG


Wang Yang-ming, the great Chinese sage, said, “Perseverance is key to work.” His words are simple but profound in meaning. In the last few years I have deeply felt the wisdom embedded in his saying and I wish to share my experiences with my young friends.

It has been four years and ten months since my appointment in January 1983, to Washington as Representative of the Coordination Council for North American Affairs. Prior to 1983, there had been several years during which the relationship between the Republic of China and the United States was in an extremely difficult stage. My countrymen were severely affected psychologically; my colleagues and I. In the Foreign Service were on the front lines directly facing diplomatic setbacks. During many critical moments, we sensed our young friends' deep concern and interest in their country. I was particularly moved when I witnessed the ardent desire and eagerness of many people to learn about their country, especially those who were still in school. Their heartfelt desire to see the best of our country, to return to their homeland, was an unrelenting passion. After a full day of negotiations, I felt physically and mentally exhausted, but whenever I saw the images of young men and women, earnest and eager to help, I realized that my countrymen had high expectations of me, a member of the Foreign Service. A gush of fresh energy surged and charged my body, enabling me to return to work.

Before leaving Taipei, I was aware of my countrymen's high expectations. But as I reviewed the past and looked towards the future, I felt overwhelmed. At that time I declared in all honesty that I was not God because I knew it would take me years during which the relationship between Taiwan and the United States would improve both at home and from those overseas.

Their continuous support, flowing to me through different tangible and intangible channels, refreshed me from head to toe.

Indeed I was really a novice in Washington, a city where it was known to be difficult to make friends. Although I had been in the Foreign Service for many years and
has many friends in Washington, I felt inexperienced in Washington's social circles. I was scared and yet pleased in my role as Representative of China's Washington Representative.

Because of my country's special status in the world, I felt that we ought to be able to do what we could do or could not do and whether we should have a high or low profile. On the other hand, all those official friends could not maintain such an image. My duties did not affect us. Just like the Bible says, one door is closed by God, yet another and still another door is open. Although I did not have an official title, I was surprised by a dazing frame of mind characteristic of my younger days. With the full cooperation of everyone, my colleagues and I took the initiative to make friends, slowly and assiduously building our base.

From that time on, I became more and more willing to accept the challenges of my work. I not only learned that an individual's or a group's ability to face adversities becomes stronger through perseverance, I also learned that our country is full of vitality. Despite repeated tribulations and setbacks, we conquered one difficulty after another and established a totally new image when all sectors of our society worked as one cohesive unit.

To faithfully relay Republic of China's development and progress to the world, I worked hard. In a totaly new look, I made impressions in Washington's social circles. I had many friends in Washington, I felt the way he did towards us. Was it because of his personal views, his personal circumstances, or for some other reasons? If his biases could be overcome, efforts would be made immediately. If his views were too deep or too unfounded, I would not speak with him. He didn't even want to explain to him later with more facts. Under the rubric of patience, respect and sincerity, my colleagues and I at the Coordination Council complemented one another, helping the U.S. government officials understand and respect for what's been going on at home.

In recent months, major U.S. newspapers, whether in the West Berlin or in East Berlin, have repeatedly extolled our accomplishments in the field of open-door policies. This makes me realize that because our country is moving in the right direction, has flexible and workable policies and because of our democratic spirit, the world is becoming more respectful of us and our international status. This recognition has come about only after repeated experiences of being frustrated, humiliated and tested.

What I have said is personal experiences and feelings. It's not anything deep and profound. There's no key to success. I feel that the young today are growing up in comfort and prosperity. But in truth all comfort and prosperity have come about after many others have sweated, bled, and have met with many failures. In the future we will face many difficulties and our difficulties will not be any less than those before. My young friends, if you can consider your personal experiences, societal adversities and your own conscientiousness, and if you object lessons in learning perseverance you will then become stronger as you meet unpleasant hardships with a spirit and a perseverant attitude, you will be more fully prepared to accept all types of challenges. I believe every type of difficulty would not only enable our situation, earning us even greater respect for our integrity and enhancing our country's international standing.

THE 1988 CONGRESS-BUNDESTAG STAFF EXCHANGE

Mr. LUGAR. Mr. President, I am proud to call the Senate's attention to the fifth annual staff exchange program between the U.S. Congress and the West German Bundestag. Since 1983, both countries have conducted this program, whereby staff members trade roles to observe and learn about the workings of each other's political institutions as well as the issues facing both countries. The staff exchange provides an opportunity for the development of professional friendships which aid greatly in strengthening the relations between our two countries.

The progress and promotion of the Congress-Bundestag Staff Exchange Program is most important to the continued success of our international endeavors. The program, one of several sponsored by the Congress, USIA, and both public and private institutions in the United States and West Germany, fosters a better understanding of the policies and governments of both nations.

Eight congressional staff members will visit Germany this year from April 16-May 1. They will spend about 10 days in Bonn attending meetings conducted by members of the Bundestag, Bundestag staffers, and representatives of political, business, labor, academic, and media institutions. In addition to this, they will spend a weekend in the home district of a Bundestag member. The program will conclude with debriefings to reflect on experiences and the delegates will meet with representatives of the West Berlin government and the U.S. Government representatives in West and East Berlin.

The Bundestag will send delegates to the United States in late June of this year for a 3-week period. They will attend meetings in Washington and will visit the districts of Members of Congress over the Fourth of July recess. The German delegation will submit a report to the United States as well as a number of high ranking Bundestag members.

It is important that we send a delegation of Senate and congressional staff who are experienced and share the sense of interest and responsibility in political, security, trade, environmental and other such issues as they relate to Europe and the United States. In addition, congressional participants are expected to plan and execute the program for Bundestag staffers when they visit the United States.

Applications for participation in the U.S. delegation will be reviewed initially by the Congressional Staff Group on German-American Affairs, and the final selection will be made by the U.S. Information Agency. Senators and Representatives who would like a member of their staff to apply for participation should direct them to the appropriate Senator or Representative. In any case, the staff member should submit a resume to the following:

Bill Ingle, House Foreign Affairs Committee, 808 House Office Annex No. 1; or John Parisi, Senate Governmental Affairs Committee, 346 Dirksen Senate Office Building. Applications and letters should be submitted by Tuesday, March 1.

I look forward to the continued success of this particular exchange. The Congress-Bundestag staff exchange affirms our congressional assistance and opportunity to gain valuable insight into another political culture. Best wishes to the participants in this upcoming program.

AMERICAN HEART MONTH

Mr. WEICKER. Mr. President, as a result of a 1963 congressional resolution, each year since 1964, the President proclaims the month of February as "American Heart Month." In designating this month, both the Congress and the President demonstrate the seriousness of cardiovascular diseases and stroke—this Nation's leading cause of death.

The American Heart Association reports that in 1988 an estimated 1 million Americans will die as a result of cardiovascular diseases, including about 540,000 from heart attacks and approximately 158,000 from strokes.
Moreover, they estimate that nearly 65 million people are afflicted with one or more forms of heart or blood vessel disease.

The National Heart, Lung, and Blood Institute (NHLBI), along with the American Heart Association and others, has made significant inroads in combating the mortality rates from these diseases through research, prevention, and education programs. From 1976 to 1986 the death rate from coronary heart disease has fallen by 27.9 percent and that from stroke by 40.2 percent. Much of this decline is attributed to preventive measures, that is, controlling risk factors of cardiovascular diseases including smoking, elevated blood cholesterol, high blood pressure, and diets high in saturated fats and cholesterol. Successful examples in this area include both NHLBI's National High Blood Pressure Education Program and its National Cholesterol Education Program which correspond to AHA's Physicians' Cholesterol Education Program and its Heart RX Program.

While I urge my colleagues to applaud these achievements, I emphasize that much more must be accompanied by increased biomedical research including the development of molecular biology, cardiovascular research and of continued studies into both the connection between diet and cardiovascular diseases and the effects of behavior, stress, and physical activity on heart disease.

During "American Heart Month," I salute the American Heart Association and its 55 affiliates and more than 2 million volunteers for their invaluable work. I commend the National Heart, Lung and Blood Institute for its accomplishments and I urge my colleagues to celebrate our research achievements with the dollars that will make health the No. 1 priority in this country.

I ask that this year's Presidential proclamation be printed in the Congressional Record.

The proclamation follows:

Proclamation 5162 of January 21, 1988

By the President of the United States of America

A PROCLAMATION

For more than half of this century, diseases of the heart and blood vessels collectively referred to as cardiovascular diseases, have been our Nation's most serious health problem. Last year, these diseases claimed 758,000 lives, and they caused serious and sometimes permanent illness or disability in still more Americans. Within this family of diseases, the leading killers remained coronary heart disease, which accounted for 524,000 deaths, and strokes, which accounted for 148,000 deaths.

Grim though these statistics may be, other statistics delineate a corner have been turned in 1965. Since then, mortality rates for all cardiovascular diseases, stroke, and especially the two leading killers: coronary heart disease and stroke—have been moving steadily downward. For example, since 1972, mortality rates for all cardiovascular diseases have fallen by 34 percent, and those for coronary heart disease and stroke have declined by 35 percent and 50 percent respectively.

One more of our decline in cardiovascular mortality rates is that more and more Americans are modifying their habits in the direction of better cardiovascular health. Research has identified factors that increase vulnerability to premature coronary heart disease or stroke, and millions of Americans are acting on that knowledge to eliminate or ameliorate the risk factors that can be modified. These include high blood pressure, diabetes, obesity, and sedentary living. The National Heart, Lung, and Blood Institute, encouraged by the success of its National High Blood Pressure Education Program, has now launched similar programs against two other major risk factors: cigarette smoking and elevated blood cholesterol.

Today, the person stricken with a heart attack has a better chance of surviving the acute episode, thanks to continued improvement in diagnosis and treatment. More and more of the stricken are reaching the hospital alive, thanks to the recognition of ominous symptoms, widespread teaching of cardiopulmonary resuscitation by the American Red Cross and the American Heart Association, and better-equipped emergency vehicles with better-trained crews.

Many individuals and organizations have contributed to the past four decades of progress against cardiovascular diseases. However, two organizations—the federally funded National Heart, Lung, and Blood Institute and the privately supported American Heart Association—have been in the forefront of this national effort. Since 1948, the two have worked in close cooperation to foster and support increased basic and clinical research in the cardiovascular field, to train new research scientists and clinicians, and to participate in a wide variety of community improvement and information activities. Through their efforts, Americans have become more aware of what they can do to live healthier lives. Much has already been accomplished, but much more remains to be done. Recognizing the need for all Americans to take part in the continuing battle against heart disease, the Congress, by Act approved December 30, 1963 (77 Stat. 843; 36 U.S.C. 189b), has requested the President to issue annually a proclamation designating February as "American Heart Month."

Now, therefore, I, Ronald Reagan, President of the United States of America, do hereby proclaim the month of February 1988 as American Heart Month. I invite all appropriate government officials and the American people to join with me in reaffirming our commitment to finding new or improved ways to prevent, detect, and control cardiovascular diseases.

In witness whereof, I have hereunto set my hand this twenty-first day of January, in the year of our Lord nineteen hundred and eighty-eight, and of the Independence of the United States of America the two hundred and twentieth.

RONALD REAGAN

THE 20TH ANNIVERSARY OF SEMCOG

Mr. LEVIN. Mr. President, this year marks the 20th anniversary of the founding of SEMCOG, the Southeast Michigan Council of Governments. SEMCOG was established because of the realization that the counties, cities, villages, townships, and school districts of southeast Michigan form one regional community.

The 1966 proclamation calling for a regional approach put it:

Our citizenry is bound together physically, economically, and socially, and is affected and serviced by not just one unit of local government but by many. We realize that the interdependence of the actions of the family of local governments which comprise our region.

The fact that we have many separate, yet interrelated, local governments creates serious political and organizational questions as to how we may more effectively and efficiently coordinate and plan services and programs.

During this past 20 years SEMCOG has resolved that dilemma. It has done that by establishing a process for cooperative, comprehensive, and continuing regional planning for the seven-county southeast Michigan region. More than 250 representatives of local government, public interest groups and the private sector work through a technical advisory committee and continuing regional planning activities. More than 150 representatives of local government then arrive at regional planning policy decisions through an executive committee and a general assembly.

SEMCOG serves as a forum for regular and ongoing discussions of regional problems and issues by various levels and branches of government. It has established a regional review process through which local communities can comment on State and Federal grants and programs. It has developed a long-range transportation plan for the region. It has drawn up a water quality management plan. It has developed a data analysis and forecasting process which makes population, household, and employment forecasts for all 234 units of local government for a 20-year period. It maintains an information services program which responds to more than 6,000 requests for information annually.

It also maintains such direct benefit programs as the RideShare car and vanpool program; the HomeShare Housing Match Program; the economic development Site Location Network; the innovative transit accident and crime analysis project; and the Transportation Systems Management Pro-
gram for low and moderate cost traffic improvement programs.

Mr. President, SEMOCG's 20-year history has been a success story. I salute all those involved with the past 20 years of progress. The people of southeast Michigan have been well-served by their efforts.

**SUPPORT FOR RECLAMATION GROUND WATER MANAGEMENT AND TECHNICAL ASSISTANCE STUDY OF 1987**

Mr. MOYNIHAN. Mr. President, ground water legislation has been one of the prominent issues on the legislative docket for the 99th and 100th Congresses. Legislation has been concentrating on protection of surface and ground waters, and research to support planning and management of our water resources. In the face of a growing population and increasing demand for the critically scarce resources of the crucial issues pertaining to ground water is the assurance of our ground water systems are adequately recharged to sustain future demands on our aquifers.

In New York, 6 million New Yorkers rely on ground water for their primary source of drinking water. Three and a quarter million people depend solely upon the ground water underlying Nassau, Suffolk, Queens, and Queens. By the mid-1800's overpumping of the aquifer under Brooklyn had lowered the water table to 35 feet below sea level. Salt water intrution forced abandonment of the aquifer in favor of ground water supplies from southern Queens and Nassau. This pattern of development and depletion was repeated in Queens, and over the years planners have moved eastward and continue to dig deeper to accommodate the growing demand for the drinking water from our natural underground reservoirs.

**WATERSHED LANDS AND THE WATER CYCLE**

We need to appreciate just what a complex and delicate cycle upon which we depend. The Magothy aquifer below Long Island, for example, supplies 90-percent of Nassau County's drinking water, because the shallower glacial aquifer has been polluted. The complete ground water cycle from precipitation to infiltration and migration beyond the barrier island takes approximately 800 years from the time precipitation falls on the center of the Long Island. In the Lloyd aquifer, the deepest of the three major aquifers below Long Island, this process takes about 3,000 years. The reason the water on Long Island remains drinkable so far that there are still enough undisturbed watershed and recharge areas to allow this ponderous cycle to function. However, development is relentless on Long Island, as it is nationally—the Council on Environmental Quality estimates that by the year 1990 over 75 percent of the U.S. population will live within 50 miles of the coastline.

What is happening in the watershed lands which protect and recharge Long Island's ground water? Development has greatly reduced these valuable areas. As development encroaches, natural vegetation disappears reducing infiltration of precipitation. Pollution and increased drawdown of the water table will continue to increase unless our water resources are managed properly.

Loss of recharge areas in our watershed tells the story:

The Hempstead Plains—once 45,000 acres, now 62 acres.

The Oak Brush Plains—once 50,000 acres, now 3,000 acres.

The Pine Barrens—once 200,000 acres, now 112,000 acres.

The Pine Barrens is a particularly crucial recharge area for Long Island. In fact, it is estimated that between 3.5 and 5.2 trillion gallons of water are stored in the saturated layers beneath the Pine Barrens. Fortunately, about 175,000 million gallons of water are recharged through the 112,000 acres of Pine Barrens each day. Without the benefit of recharge the total volume of ground water could be consumed in less than a month at the current rate of ground water consumption in this area. The importance of maintaining these lands as a principal source of future drinking water is self-evident.

**CONGRESSIONAL ACTION ON GROUND WATER**

The Committee on the Environment and Public Works has sponsored important environmental legislation in the 99th and 100th Congresses which directly affect ground water. As we all know, quality of ground water ties directly to quantity—if we pollute our water, most of which comes from the ground water, most of which comes from the ground water, we tap to supply the demand for additional water. Bearings this in mind, it is essential to maintain the recharge areas, such as the critical Pine Barrens in New Jersey, to ensure that we do not deplete our national supplies of drinking water.

I therefore am pleased to cosponsor this bill today with Senator Bradley. The Reclamation Ground Water Management and Technical Assistance Study Act of 1987 directs the Bureau of Reclamation to study the national capabilities for ground water recharge and the adequacy of artificial recharge technologies for varying hydrogeologic
applaud the persistent struggle of Estonians and other Baltic people who hunger for liberty and autonomy.

Their rising nationalist tone has resulted in what is now the quintessential Soviet reaction—the policy of fierce crackdowns. This policy has taken the shape of threats, detentions, labor camp sentences, and deportations. Nonetheless, the native population in Estonia continues to strive for freedom from Soviet rule and the 150,000 Red army soldiers stationed on Estonian soil.

On February 2, 1988, Senator Riegels introduced Senate Joint Resolution 249, a resolution designating June 14, 1988, as “Baltic Freedom Day.” I am proud to join my 53 Senate colleagues in cosponsoring this measure. It is through such legislation that we can best express our solidarity with the Estonians.

I invite my colleagues to support the right of Baltic self-determination by commemorating Estonian Independence Day and sending a strong signal to the Kremlin that we do not condone the illegal occupation of sovereign states.

ESTONIAN INDEPENDENCE DAY

Mr. LAUTENBERG. Mr. President, I rise today to join the people of Estonia in commemorating the 70th anniversary of the declaration of the independence of the Republic of Estonia.

On February 24, 1918, the independence of Estonia was formally declared. During the period of independence, the sovereign nation thrived but the signing of the Molotov-Ribbentrop Pact in 1939 and the Soviet occupation of the Baltic States ended the independence of the republic.

In Estonia, citizens have made plans to honor independence day with public commemorations to ensure that they run the risk of Government harassment and even arrest. But they will not be deterred. Estonian hopes for freedom and human rights are stronger than the Soviet Government’s desire to quell their activity.

National sentiment is strong in the hearts of the people of Estonia. They and their relatives in the West long for an independent nation once again.

The Senate has urged General Secretary Gorbachev to permit Estonia to participate in independence day ceremonies. Earlier this month Senators Riegels, Durenberger, and I circulated a letter in the Senate, signed by 29 of our colleagues, encouraging General Secretary Gorbachev to allow the ceremonies to commence.

Unfortunately, the individuals who participated in independence ceremonies in Estonia just 2 weeks ago were harassed and intimidated by authorities. Some were even placed under house arrest.

But today General Secretary Gorbachev has another opportunity to demonstrate that his glasnost policy is intended for the people of the Baltic States. I hope the Soviets will permit ceremonies to proceed in Estonia today without incident.

Mr. President, I urge my colleagues to join in commemorating the 70th anniversary of Estonian independence.

FRAGILE FOUNDATIONS: A REPORT ON AMERICA'S PUBLIC WORKS ISSUED BY THE NATIONAL COUNCIL ON PUBLIC WORKS IMPROVEMENT

Mr. DOMENICI. Mr. President, the National Council on Public Works Improvement issued its report to the Nation today. It is entitled "Fragile Foundations: A Report on America’s Public Works."

This is an important event, and I commend Chairman Joseph Giglio and his fellow Council members for their work to produce this valued report.

Together with other recent reports, including that of the Senate Budget Committee’s Private Sector Advisory Panel on Infrastructure Financing, I am hopeful Congress can move forward this year and address the issue of public works investments.

I was particularly pleased by the Council’s praise for the state of our Nation’s water resources. The Council notes that the cost-sharing improvements established by the 1986 act should improve project selection and reduce overall project costs.

Mr. President, I ask that a summary of the findings of the report be printed at this point in the Record.

The summary follows:

A STRATEGY FOR IMPROVING AMERICA'S PUBLIC WORKS

No single approach is adequate to ensure the future viability of America’s infrastructure. A broad range of measures is necessary to make a meaningful difference by the turn of the century. Specifically, these should include:

A national commitment, shared by all levels of government and the private sector, to increase capital spending by as much as 100 percent above current levels.

Clarification of the roles of the federal, state, and local governments in infrastructure construction and management to focus responsibility and increase accountability.

More flexible administration of federal and state mandates to allow cost-effective methods of compliance:

Accelerated spending of the federal highway, transit, aviation, and waterways trust funds.

Financing of a larger share of the cost of public works by those who benefit from services.

Removal of unwarranted limits on the ability of state and local governments to help themselves through tax-exempt financing.
February 23, 1988

强激励措施,对维护资本基础有益,并为低资本技术的使用提供动力,包括需求管理,协调土地使用规划,以及通过减少延迟和浪费来促进回收利用。我们需要对研究和开发进行更多投资,以加速技术的采用性。

一、申请和会议

1. 会议

委员会将进行公开会议,并由主席主持。所有成员均应出席并发表意见。

2. 申请

任何被邀请参加听证会的人,必须向主席提交一份申请,要求在主席任职不超过40天内,以书面形式与委员会进行会面。

3. 闭会

任何会议或听证会的闭会,必须由主席宣布,并由排名少数党成员同意。主席有权宣布任何会议或听证会继续闭会。

二、汇报

任何会议或听证会的记录,都应按照委员会的规定公开。所有报告,包括调查结果,应提供给所有成员。

三、投票

所有会议或听证会的投票,都应按照委员会的规定公开。所有报告,包括调查结果,都应向所有成员提供。

四、听证会

任何会议或听证会的闭会,都应由主席宣布,并由排名少数党成员同意。主席有权宣布任何会议或听证会继续闭会。

五、调查

所有调查报告,都应按照委员会的规定公开。所有报告,包括调查结果,都应向所有成员提供。

六、记录

所有会议或听证会的记录,都应按照委员会的规定公开。所有报告,包括调查结果,都应向所有成员提供。

FILING OF THE RULES OF THE SPECIAL COMMITTEE ON AGING 100TH CONGRESS

Mr. MELCHER, Mr. President, in compliance with section 133(b) of Legislative Reorganization Act of 1946, as amended, the Special Committee on Aging is publishing the Committee's rules, which I submit for printing in the Record.

The rules are as follows:

I. CONVENING OF MEETING AND HEARINGS

1. Meetings

The Committee shall meet to conduct Committee business at the call of the chairman. Special meetings of the members of the Committee may call additional meetings as provided in Senate Rule XXVI(3).

3. Notice and agenda

(a) Hearings.—The Committee shall make public announcement of the date, place, and subject matter of any hearing at least one week before its commencement.

(b) Meetings.—The Chairman shall give the members written notice of any Committee meeting, accompanied by an agenda enumerating the items of business to be considered, at least 5 days in advance of such meeting.

(c) Shortened notice.—A hearing or meeting may be called on not less than 24 hours notice if the Chairman, with the concurrence of the ranking minority member, determines that there is good cause to begin the hearing or meeting on shortened notice. An agenda will be furnished prior to such a meeting.

4. Presiding officer

The Chairman shall preside when present. If the Chairman is not present at any meeting or hearing, the ranking majority member present shall preside. Any member of the Committee may preside over the conduct of a hearing.

II. CLOSED SESSIONS AND CONFIDENTIAL MATERIALS

1. Procedure

All meetings and hearings shall be open to the public unless closed. To close a meeting or hearing, the ranking minority member present shall make the motion. Additional support of a majority of the members of the Committee present shall be required.

2. Witness request

Any witness called for a hearing may submit a written request to the Chairman no later than twenty-four hours in advance for his examination to be in closed or open session. The Chairman shall inform the Committee of any such request.

3. Closed session subject

A meeting or hearing or portion thereof may be closed if the matters to be discussed concern: (1) national security; (2) Committee staff personnel or internal staff management or procedure; (3) matters tending to reflect adversely on the character or reputation of or to invade the privacy of the individuals; (4) Committee investigations; (5) other matters enumerated in Senate Rule II (5) (b).

4. Confidential matter

No record made of a closed session, or material declared confidential by a majority of the Committee, or report of the proceedings of a closed session, shall be made public, in whole or in part by way of summary, unless specifically authorized by the Chairman and ranking minority member.

5. Broadcasting

(a) Control.—A meeting or hearing open to the public may be covered by television, radio, or still photography. Such coverage must be conducted in an orderly and unobtrusive manner, and the Chairman may for good cause terminate such coverage in whole or in part, or take such other action to control it as the circumstances may warrant.

(b) Request.—A witness may request of the Chairman, on grounds of ground, harassment, personal safety, or physical discomfort, that during his testimony cameras, media microphones, and lights shall not be directed at him.

III. QUORUMS AND VOTING

1. Reporting

A majority shall constitute a quorum for reporting a resolution, recommendation or report to the Senate.

2. Committee business

A third shall constitute a quorum for the conduct of Committee business, other than a final vote on reporting, providing a minority member is present. One member shall constitute a quorum for the receipt of evidence, the swearing of witnesses, and the taking of testimony at hearings.

3. Polling

(a) Subjects.—The Committee may poll (1) internal Committee matters including those concerning the Committee's staff, records, and budget; (2) other Committee business which has been designated for polling at a meeting.

(b) Procedure.—The Chairman shall circulate polling sheets to each member specifying the matter being polled and the time limit for completion of the poll. If any member so requests in advance of the meeting, the matter shall be held for meeting rather than being polled. The clerk shall keep a record of the poll; if the Chairman determines that the polled matter is one of the areas enumerated in rule II.3, the record of the poll shall be confidential. Any member may move at the Committee meeting following a poll for a vote on the polled decision.

IV. INVESTIGATIONS

1. Authorization for investigations

All investigations shall be conducted upon a bipartisan basis by Committee staff. Investigations may be initiated by the Committee staff at the request of the Chairman and the ranking Minority member. Staff shall keep the Committee fully informed of the progress of continuing investigations, except where the Chairman and the ranking Minority member agree that there exists temporary cause for more limited knowledge.

2. Subpoenas

Subpoenas for the attendance of witnesses or the production of memoranda, documents, records, or any other material shall be issued by the Chairman, or by any other member of the Committee designated by him. Prior to the issuance of each subpoena, the ranking minority member, and any other member so requesting, shall be notified regarding the identity of the person to whom the subpoena will be issued and the nature of the information sought, and its relationship to the investigation.

3. Investigative reports

All reports containing findings of recommendations stemming from Committee investigations shall be printed only with the approval of a majority of the members of the Committee.

V. HEARINGS

1. Notice

Witnesses called before the Committee shall be given, absent extraordinary circumstances, at least forty-eight hours' notice, and all witnesses called shall be furnished with a copy of these rules upon request.

2. Oath

All witnesses who testify to matters of fact shall be sworn unless the Committee waives the oath. The Chairman, or any member, may request and administer the oath.

3. Statement

Any witness desiring to make an introductory statement shall file 50 copies of such statement with the Chairman or clerk of the Committee 24 hours in advance of his appearance, unless the Chairman and ranking Minority member determine that there is good cause for a witness's failure to do so. A witness shall be allowed no more than ten minutes to orally summarize his prepared statement.

4. Counsel

(a) A witness's counsel shall be permitted to be present during his testimony at any public or closed hearing or deposition or staff interview to advise such witness of his rights, provided, however, that in the case of any witness who is an officer or employee of the government, or of a corporation or association, the Chairman may rule that representation by counsel from the government, corporation, or association creates a conflict of interest, and that the witness shall be represented by personal counsel not from the government, corporation or association.

(b) A witness who is unable for economic reasons to obtain counsel may inform the Committee at least 48 hours prior to the witness's appearance, and it will endeavor to obtain volunteer counsel for the witness. The Chairman shall be subject to the control of the witness and not the Committee. Failure to obtain counsel will not excuse the witness from appearing and testifying.

5. Transcript

An accurate electronic or stenographic record shall be kept of the testimony of all
witnesses in executive and public hearings. Any witness shall be afforded, upon request, the right to review that portion of such record which witnesses purpose, a copy of a wit­
ness's testimony in public or closed session shall be provided to the witness. Upon in­
specting his transcript, within a time limit set by the Committee, a witness may request changes in testimony to correct errors of transcription, grammatical errors, and obvious errors of fact; the Chairman or a staff officer designated by him shall rule on such request.

6. Impugned persons
Any person who believes that evidence presented, or testimony, made by a member or staff, at a public hearing or at a closed hearing concerning which there have been public reports, tends to impinge his charac­
ter or adversely affect his reputation may:
(a) file a sworn statement of facts relevant to the evidence or comment, which shall be placed in the hearing record;

(b) request the opportunity to appear per­
sonally before the Committee to testify in his own behalf; and

(c) submit questions in writing which he requests be used for the cross-examination of other witnesses called by the Committee. The Chairman may order the Committee to make the record of such requests for appearance or cross-ex­
amination. If the Committee so decides, the requested questions, or paraphrased ver­sions or portions thereof, shall be put to the other witnesses by a member or by staff.

7. Minority witnesses
Whenever any hearing is conducted by the Committee, the minority on the Com­mittee shall be entitled, upon request made by a majority of the minority members to the Chairman, to call witnesses selected by the minority with respect to the measure or matter under consideration during at least one day of the hearing. Such request must be made before the conclusion of the hearing or, if subpoenas are required to call the minority witnesses, no later than three days before the completion of the hearing.

8. Conduct of witnesses, counsel and members of the audience
If, during public or executive sessions, a witness, his counsel, or any spectator con­ducts himself in such a manner as to pre­vent, impede, disrupt, obstruct, or interfere with the orderly administration of such hearing the Chairman or preuding Members of the Committee conducting the hearing may request the Sergeant at Arms of the Senate, his representative or any law enforcement official to eject said person from the hearing room.

VI. DEPOSITIONS AND COMMISSION
1. Notice
Notices for the taking of depositions in an investigation authorized by the Committee shall be authorized and issued by the Chair­man or by a staff officer designated by him. Such notices shall specify a time and place for examination, and the name of the staff officer or officers who will take the deposi­tion. Unless otherwise specified, the deposi­tion shall be in private. The Committee shall not initiate procedures leading to criminal or civil enforcement proceedings for a witness's failure to appear unless the deposition notice was accompanied by a Committee subpoena.

2. Counsel
Witnesses may be accompanied at a depos­i­tion by counsel to advise them of their rights, subject to the provisions of Rule V.4.

3. Procedure
Witnesses shall be examined upon oath administered by an individual authorized by local law to administer oaths. Questions shall be propounded orally by Committee staff. Objections by the witnesses as to the form of questions shall be noted by the record. If a witness objects to a question and refuses to testify thereon, or in a case of relevance or privilege, the Committee staff may pro­ceed with the deposition, or may at the time or at a subsequent time, seek a ruling by telephone or otherwise on the objection from a member of the Committee. If the member overrules the objection, he may refer the matter to the Committee or he may order and direct the witness to answer the question, but the Committee shall not initiate the procedures leading to civil or criminal enforcement unless the witness re­fuses to testify after he has been ordered and directed to answer by a member of the Committee.

4. Filing
The Committee staff shall see that the testimony is transcribed or electronically re­corded. If it is transcribed, the witness shall be furnished with a copy for review. No later than five days thereafter, the witness shall return a signed copy, and the staff shall enter the transcript as requested by the witness in accordance with Rule V.6. If the witness fails to return a signed copy, the staff shall note on the transcript the date a copy was provided, and the date to return it. The individual administering the oath shall certify on the transcript that the wit­ness was duly sworn in his presence, the transcript shall certify that the transcript is a true record to the testimony, and the transcript shall then be filed with the Com­mittee clerk. Copies of the transcript shall be provided to the witness with the changes in this pro­cedure; deviations from the procedure which do not substantially impair the reliability of the record shall not relieve the witness from his obligation to testify truthfully.

5. Commissions
The Committee may authorize the staff, by issuance of commissions, to fill in pre­pared subpoenas, conduct field hearings, in­spect locations, facilities, or systems of records, or accompanied by instructions from the Committee regulating their use.

VI. DEPOSITIONS AND COMMISSION
1. Establishment
The Committee will operate as a Com­mittee of the Whole, reserving to itself the right to establish temporary subcommittees at any time during the Committee's deliberations. The Chairman of the full Committee and the Ranking Mi­nority Member shall be ex-officio members of all subcommittees.

2. Jurisdiction
Within its jurisdiction, as described in the Standing Rules of the Senate, each subcommit­tee is authorized to conduct investiga­tions, including use of subpoenas, deposi­tions, and commissions.

3. Rules
A subcommittee shall be governed by the Committee rules, except that its quorum for all business shall be one-third of the sub­committee membership, and for hearings shall be one member.

VIII. REPORTS
Committee reports incorporating Committee findings or recommendations shall be printed only with the prior approval of the Committee, after an adequate period for review and comment. The printing, as Com­mittee documents, of materials prepared by staff for informational purposes, or the printing of materials not originating with the Committee or staff, shall require prior consultation with the staff, these publications shall have the following lan­guage printed on the cover of the document: "This document has been prepared for informational purposes. It does not repre­sent either findings or recommendations formally adopted by the Committee."

IX. AMENDMENT OF RULES
The rules of the Committee may be amended or revised at any time, provided that not less than a majority of the Com­mittee present so determine at a Committee meeting proceeding by at least 3 days notice of the amendments or revisions proposed.

SEVENTIETH ANNIVERSARY OF ESTONIA'S PROCLAMATION OF INDEPENDENCE
Mr. LEVIN. Mr. President, today marks the 70th anniversary of the Re­public of Estonia's Proclamation of Independence. On February 24, 1918, the Estonian Parliament declared its independence from the Russian Czarist Empire.

On August 23, 1987, a nationalist demonstration took place in Tallinn, the capital of Estonia. This brave pro­test, the first publicly planned demon­stration of its kind, makes clear that the spirit of independence which the Estonian people have fought for so long remains strong and free Estonia lives in the hearts of Estonians.

The demonstrations were a clear expression of the determination of the Estonian people to assert their national rights, subject to the provisions of Rule V.4.

As recently as last month, 14 citizens of Estonia signed a handwritten docu­ment calling for the creation of the first independent party in the Soviet Union, the Independence Party of Es­tonia. This act, the latest in a series of bold moves by the Estonian people to promote independence, has brought a resurgence of pride in the Estonian community, and serves notice to the world that their spirit cannot be broken.

Unfortunately, the Soviet response to this action was all too familiar. Sev­eral of the signers have been detained by the police, others have been rein­
NOMINATIONS TO THE FEDERAL COURTS

Mr. METZENBAUM. Mr. President, at its business meeting of February 23, the Judiciary Committee ordered reported to the full Senate four nominations to the Federal courts. These four nominees were examined at a committee hearing held on February 17, 1988, at which I presided. For the benefit of Senators who will soon vote on these nominations, I offer the following brief summary of the nominees' background and qualifications, and of the testimony taken at the hearing on their nominations.

First. Paul Michel has been nominated to be U.S. circuit judge for the Federal circuit. The nominee is counsel to Senator Specter, whom he served as administrative assistant from 1981-87. From 1976-81, Mr. Michel served in the Justice Department, first as Deputy Chief of the Criminal Division's Public Integrity Section, and later as Associate Deputy Attorney General. Previously, the nominee had served as counsel to the Senate Select Committee on Intelligence, as an Assistant District Attorney and Assistant County Solicitor in Philadelphia. The nominee is a 47-year-old graduate of Williams College and the University of Virginia Law School. He is well regarded by most of his professional colleagues, and was rated qualified. He was examined about his work assisting in the defense of President Nixon in impeachment proceedings before the House Judiciary Committee, the nature of his private practice, his experience with pro bono work, and his views on judicial activism and constitutional interpretation.

Second. Malcolm Howard has been nominated to the U.S. District Court for the United States district of North Carolina. Mr. Howard has been in private practice since 1974, specializing primarily in bankruptcy law. Before that, he served as Assistant White House Counsel, Assistant U.S. Attorney in the Army. Mr. Howard is 48 years old, and is a graduate of the U.S. Military Academy at West Point and Wake Forest University School of Law. The ABA committee rated Mr. Howard as qualified. He was asked rate favorably in a poll conducted by the North Carolina Bar Association.

Third. Rudy Lozano has been nominated to the U.S. District Court for the Northern District of Indiana. Mr. Lozano has been a career public servant since he graduated from law school in 1966, focusing almost entirely on personal injury defense work. He is 45 years old, and he received both his undergraduate and his legal education at the University of Indiana. He is well-qualifying for appointment to the Federal circuit. He was examined about his work assisting in the defense of President Nixon in impeachment proceedings before the House Judiciary Committee, the nature of his private practice, his experience with pro bono work, and his views on judicial activism and constitutional interpretation.

Fourth. Stephen Reasoner has been nominated to the U.S. District Court for the Eastern District of Arkansas. Mr. Reasoner has been in private practice since he graduated from law school in 1969, specializing for most of that time in trial work. He is 43 years old and received both his undergraduate and his legal education at the University of Arkansas. Mr. Reasoner appears to be well regarded by his professional colleagues, and was rated well qualified by the ABA committee.

At the hearing on February 17, Mr. Reasoner was introduced by Senators Bumpers and Pryor. He was examined about the membership policies of two fraternal organizations to which he belonged, his thinking on proper judicial temperament, and his views on judicial activism. He also answered written questions about his organizational memberships, a pro bono case described in his response to the committee's questionnaire as a friendly lawsuit, and his relative lack of experience with criminal law. In his answers to the written questions, Mr. Reasoner stated his desire to resign from the two fraternal organizations in order to remove his membership in the organizations as an issue in his confirmation.

Mr. President, the Judiciary Committee has moved expeditiously to review these nominations. Let me point out for the record that the vacancies which these four nominees would fill existed for an average of nearly 15% months before the President made a nomination to fill them. Once the Senate received these nominations, we acted within an average of 3 months—five times as fast—to investigate them, hold hearings, and report them to the full Senate. These facts make clear once again that the great responsibility for unfilled judicial vacancies and there are at least 23 such vacancies today—lies with the executive branch of government, not with the Senate. In the case of these 4 nominees, as with the other 56 judicial nominations the Judiciary Committee has reported to the Congress, the committee has, in my view, fairly, thoroughly, and expeditiously carried out its role in the constitutional process of advice and consent.

SEVENTIETH ANNIVERSARY OF ESTONIA'S PROCLAMATION OF INDEPENDENCE

Mr. BOSCHWITZ. Mr. President, I rise today to recognize the 70th anniversary of Estonia's Declaration of Independence. For over two decades, Estonia enjoyed its freedom as an independent nation. However, like its two neighboring Baltic States, Estonia fell victim to the insidious deal worked out between Hitler and Stalin. What followed was the familiar Soviet pattern
of subjugation and consolidation of its power over other nations.

The United States has never recognized Estonia's annexation into the U.S.S.R. Despite its occupation by 150,000 Soviet troops and almost 50 years of Soviet control, Estonians still dream of an independent homeland. On August 23, of last year, Estonians peacefully demonstrated in their city of Tallin to make this point.

Americans of all political persuasion stand behind the people of Estonia. I truly salute these valiant people who have never given up hope, who have maintained their own sense of nationalism from generation to generation, and who seek a voice in shaping their own destiny and that of their country.

COL. JOHN F. PHILLIPS, USAF

Mr. BENTSEN, Mr. President, I want to take this opportunity to commend Col. John F. Phillips, currently the vice commander of the Logistics Management Systems Center at Wright-Patterson Air Force Base, Ohio, who has recently been selected for the rank of brigadier general. A native Texan, Colonel Phillips graduated from Jarvis Christian College in Hawkins, TX, with honors and is believed to be the first graduate of that school to be selected for general officer. He will also be 1 of only 20 total black general officers in Air Force history and 1 of 4 now on active duty. Colonel Phillips graduated from the University of Southern California's Institute of Aerospace Safety Engineering, the Air Force Institute of Technology, and is pursuing a doctoral degree through Texas A&M University.

Colonel Phillips had more than 300 combat flying hours in missions over Vietnam and was stationed in Iran at the time of the fall of the Shah. He remained in Iran until he was expelled from that country in February 1979. He has served his country with assignments in five states, the District of Columbia, and two foreign countries.

I wish Colonel Phillips the best for the remainder of his Air Force career and in his future endeavors.

DAN YARANO—SENATE HEALTH PROMOTION

Mr. BINGAMAN, Mr. President, recently Dan Yarano resigned his position as Director of the Senate health promotion campaign. During his tenure, Dan's diligent efforts to improve the health of Senate employees was a notable success. I worked closely with Dan, and I would like to take this opportunity to recognize and applaud his good work.

One of Dan's successes was the "Workin' Well Campaign," which focused on the over-all fitness of the participating Senate employees. Dan has showed us the many advantages of achieving over-all fitness within an office environment, as employee morale and productivity can be improved.

For the employer a fit work force translates into heightened productivity, lower health care costs, less absenteeism, and improved morale. For the employee, the benefits are more obvious—better health, and less risk of disease.

The Senate Service Department had a very high participation rate in the program, strongly supporting seminars on fitness, diet and hypertension, nutrition, and back care. The majority of employees are now exercising regularly, and many are enjoying healthier lifestyles, thus reducing sick leave and health care costs.

Dan also organized lifestyle improvement classes in yoga, stress, smoking cessation, and weight loss programs. They have helped hundreds of Senate employees reach their desired levels of fitness. He also organized well-attended self-help exercise clubs.

We will miss Dan Yarano, and his valuable contribution to the better health of us all. I wish him a fit and successful future.

TRIBUTE TO JOHN M. RIVERS, BUSINESSMAN IN CHARLESTON, SC

Mr. THURMOND. Mr. President, the State of South Carolina suffered a great loss with the death of Mr. John M. Rivers who died on Sunday, January 24, 1988 at the age of 85.

Mr. Rivers was a highly respected man not only in the Charleston community, but throughout the entire State. His integrity, intellect, and sound judgment led him to become one of the most capable and innovative businessmen in South Carolina.

Mr. Rivers was owner and chairman of the board of WCSC Inc., a Charleston television station, and was active throughout the number of organizations around the state.

Mr. Rivers attended the College of Charleston and later transferred to Wharton Business School, where he received his bachelor's degree in economics in 1924. He began his business career as a runner with the Bank of Charleston, the forerunner of the South Carolina National Bank. He transferred to its Greenville branch and became its manager. He was an assistant vice president of the bank when he left in 1938 to join the Charleston office of McAlister, Smith & Pate, a Greenville securities firm, as vice president.

In 1937, W. Frank Hipp, owner of WCSC-AM in Charleston, offered Mr. Rivers a job in the radio business. Hipp designated Mr. Rivers president of the South Carolina Broadcasting Co., WCSC, on Jan. 1, 1938. Mr. Rivers became president and manager of WCSC Radio, Charleston's first broadcasting medium. He purchased the station in 1944.

In 1948 he began operation of the FM radio station and then brought WCSC-TV, Channel 5, on the air in June 1953. It was the first VHF television station in South Carolina. He became chairman of the board of WCSC Inc. in 1973. WCSC Inc. was sold to Crump Communications Inc. of Houston, Texas, in 1987.

While president of the South Carolina Broadcasters Association in 1952, he was instrumental in gaining Charleston a third television station.

Mr. President, I would like to ask that an obituary from the Charleston News and Courier and an editorial from the Charleston Evening Post be inserted in the Record following my remarks.

The material follows:

(From the Charleston News Courier, Jan. 29, 1988)

BUSINESSMAN JOHN M. RIVERS DIES

John Minott Rivers of 47 Meeting St., former owner and chairman of the board of WCSC Inc., died Sunday at his residence.

The funeral will be at 11 a.m. Tuesday in St. Michael's Episcopal Church. Burial will be in the Church of the Good Shepherd Cemetery.

Mr. Rivers was born July 22, 1903, in Charleston, a son of Moultrie Rutledge Rivers and Eliza Ingram Buist Rivers. He was educated in the public and private schools of Charleston and attended Miss Briggs' School, Crafts School and the High School of Charleston. He attended the College of Charleston for two years and was the business manager of the college's magazine. He transferred to Wharton Business School at the University of Pennsylvania and received his bachelor's degree in economics in 1924.

He began his business career in 1924 as a runner with the Bank of Charleston, the forerunner of the South Carolina National Bank. He transferred to its Greenville branch and became its manager. He was an assistant vice president of the bank when he left in 1938 to join the Charleston office of McAlister, Smith & Pate, a Greenville securities firm, as vice president.

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While president of the South Carolina Broadcasters Association in 1952, he was instrumental in gaining Charleston a third television station.

He was president of the Charleston Chamber of Commerce at age 55, the youngest person ever to hold the position. He was also a past president of the South Carolina Chamber of
IMPACT OF CHINA'S ECONOMIC REFORM ON ITS PEOPLE

Mr. CHILES. Mr. President, the rather dramatic changes taking place in the People's Republic of China are being watched closely and carefully analyzed in an effort to determine what the ongoing effects will be on the economy of the world.

Last year, a group of Florida business and financial leaders accompanied State Treasurer William Gunter on a mission to China to examine those changes, in particular economic reform, and to ponder the implications for the people of China and for greater international cooperation in trade and technology.

The impressions and conclusions of the Floridians were made available to me, and in the interest of helping build better understanding about the reforms taking place in China, I want to share that information.

Mr. President, I ask that the report on this mission be included in the RECORD at this point.

The report follows:

REPORT ON PEOPLE-TO-PEOPLE MISSION TO CHINA, JULY 6-18, 1987, BY FLORIDA STATE TRUSTEE AND INSURANCE COMMISSIONER BILL GUNTER

This past summer, I was privileged to lead a delegation of Florida business and financial leaders to the People's Republic of China to visit with business and financial leaders there and to see how China was working with investors from other nations and with Florida.

Each member of the group paid his or her own way, but sought contacts and information that might be valuable to others seeking business in U.S.-China trade. Annual reports of the members of our group were a number of prominent Florida bankers, including Robert E. White, of Miami, President of the Florida Bankers Association.

The trip was arranged under the aegis of People-to-People International, a private nonprofit organization created in the 1950's by President Eisenhower, dedicated to the pursuit of world peace through better personal understanding between citizens.

We were especially interested in learning about China's new economic reform campaign and meeting officials of the People's Bank of China which underwrites Chinese participation in international joint economic ventures. In preparing for visits with our Chinese counterparts, we were immensurably aided by Catherine Houghton, U.S. Commercial Officer at the U.S. Embassy in Beijing who briefed us on the economic opportunities now open to foreigners in China.

As our bus moved through the streets of Beijing, passing the many highrises cropping up throughout the suburbs, we noticed a marked difference between what we were seeing today and what we saw in the evening news fifteen years earlier when Richard Nixon first went to China.

For one thing, the streets, then dominated by bicycles, carts and pedestrians, were now nearly choked with trucks, buses and cars. Some busy streets, bicycles no longer allowed. Another change was in the style of dress. China's booming textile and clothing manufacturing industries certainly have an internal market. Clothes were colorful and fashionable. And it was obvious that little trouble or expense was spared in dressing the little children—especially since one child-per-couple is now the practical rule among all but China's minority nationalities.

Although our group felt free to go where we liked, together or individually, with or without a guide, and although we felt the Chinese we met spoke with us freely, there was a generally somber mood. The Communist Party has not let go of the reins of political power. Demonstrations for even more accelerated economic reform earlier this year ended with the resignation of Communist Party Secretary Hu Yaobang, protege of Deng Xiaoping, and a renewed campaign against the dangers of bourgeois liberalism.


Each bank has a "umbrella" bank with financial services in its area of specialization. Also under that umbrella is the Insurance Corporation of China, which has the whole system numbers about 1.1 million.

The Bank of China operates chiefly in China's coastal areas, designated "Special Economic Zones," to lure foreign investors. There are 369 offices within China, with a staff of about 21,000, and 347 branches overseas with a total staff of 11,000 in Macao, Hong Kong, Singapore, Sydney, Luxembourg, Paris, London, New York, and Tokyo. Bank officials expressed a hope that operations might also soon be extended to Los Angeles. The bank has correspondent relationships with about 3600 financial institutions in 153 nations. As we noted on our return trip through Hong Kong, the Bank of China building there is the tallest in the colony.

Up until the economic reforms of late 1978, the bank dealt mainly in the settlement of international payments. Today, its responsibilities and freedom of action have been greatly expanded. The bank now also engages in loans, international leasing, and equity participations. It also underwrites the Chinese national market and issues stocks and corporate bonds on behalf of domestic enterprises.

The Bank of China is authorized to conduct business with foreign governments and central banks. In order to enhance the ability of the branches themselves to develop business, more decision-making power is also being delegated to the provincial and municipal levels.

Increasingly, the Bank of China is involved in managing foreign exchange funds of the state in addition to its own helping to raise foreign funds for developing joint ventures. Our publication was provided announced that the Bank of China was joining, on a trial basis, twocharge cards for permanent foreign representatives; the "Great Wall Debit Card" in foreign currency, and the "Great Wall Credit Card" in Chinese currency.

At the end of 1978 when the economic reform campaign began, the Bank of China's assets were around 38.7 billion renminbi (RMB), or about US$10.5 billion at the exchange rate of RMB 3.7 per U.S. dollar. This amount was increased 60 percent over the course of our trip. The Bank of China 1986 Annual Report showed assets of RMB 345 billion, or more than US$69 billion—around nine times as much as it held in 1978. The report also showed at about RMB 3 billion for 1986. The
Joint ventures outside the Special Economic Zones began. The U.S. capital market.

Since China's Joint Venture Law was adopted by the Fifth Congress in July 1979, the Chinese government has set up a number of "Special Economic Zones" where Chinese and overseas partners working in joint ventures can independently hire and fire workers and set wages on a competitive basis. Joint venture applications:

- 1. Energy and knowhow. As Florida follows its commitment to growth in these areas, there will be increasing opportunities for exchange.
- 2. Western sellers either have to negotiate to pay lower rates than the official exchange rate, or-as some have decided to sell their goods on the black market-
- 3. For some western joint venture partners—such as the Foxboro Company of Foxboro, Massachusetts—who take their earnings from the Chinese market and yet need foreign exchange to buy components from the United States, the government has been willing to convert renminbi to dollars but with a 20% penalty on the official exchange rate, an expensive solution for Foxboro.
- 4. Negotiating deals for joint ventures can be time consuming—requiring as much as a year or more and repeated trips. Hotel accommodations and air transportation are expensive in China. Popularity and custom's wisdom dictates that principles governing settlement of disputes should be written into contracts.

The domestic economy

A meeting had also been arranged with Luo Shi Lin, a vice president of the People's Bank of China in Shanghai. Through Mr. Shi and another vice president of the Bank of China, we were able to learn a little more about the domestic side of the Chinese economy and the domestic side of Chinese banking for which the People's Bank of China is responsible.

The savings rate in China, Mr. Luo told us, is about 15% of income—similar to that in Japan and much higher than the American savings rate. Although operating costs are high here, the Bank of China would like to strengthen its presence in the United States. It now has a branch in New York and is planning a branch in Los Angeles. Mr. Lei felt prospects for U.S.-China trade are bright. A number of U.S. syndicates are also providing capital for U.S.-China joint ventures, and China is looking for low-interest loans in the U.S. capital market.

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- 3. For some western joint venture partners—such as the Foxboro Company of Foxboro, Massachusetts—who take their earnings from the Chinese market and yet need foreign exchange to buy components from the United States, the government has been willing to convert renminbi to dollars but with a 20% penalty on the official exchange rate, an expensive solution for Foxboro.
- 4. Negotiating deals for joint ventures can be time consuming—requiring as much as a year or more and repeated trips. Hotel accommodations and air transportation are expensive in China. Popularity and custom's wisdom dictates that principles governing settlement of disputes should be written into contracts.

The domestic economy

A meeting had also been arranged with Luo Shi Lin, a vice president of the People's Bank of China in Shanghai. Through Mr. Shi and another vice president of the Bank of China, we were able to learn a little more about the domestic side of the Chinese economy and the domestic side of Chinese banking for which the People's Bank of China is responsible.

The savings rate in China, Mr. Luo told us, is about 15% of income—similar to that now in Japan and much higher than the American savings rate. Although operating costs are high here, the Bank of China would like to strengthen its presence in the United States. It now has a branch in New York and is planning a branch in Los Angeles. Mr. Lei felt prospects for U.S.-China trade are bright. A number of U.S. syndicates are also providing capital for U.S.-China joint ventures, and China is looking for low-interest loans in the U.S. capital market.

Since China's Joint Venture Law was adopted by the Fifth Congress in July 1979, the Chinese government has set up a number of "Special Economic Zones" where Chinese and overseas partners working in joint ventures can independently hire and fire workers and set wages on a competitive basis. Joint venture applications:

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- 3. For some western joint venture partners—such as the Foxboro Company of Foxboro, Massachusetts—who take their earnings from the Chinese market and yet need foreign exchange to buy components from the United States, the government has been willing to convert renminbi to dollars but with a 20% penalty on the official exchange rate, an expensive solution for Foxboro.
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CONGRESSIONAL RECORD—SENATE

February 23, 1988

ANTITAKEOVER LEGISLATION IN THE STATES

Mr. RIEGLE. Mr. President, antitakeover legislation is one of the major issues currently being debated in State legislatures across the country. In its February 7, 1988 issue, the Detroit News published a debate presenting the pro and con positions. Arguing in favor of State antitakeover legislation are Dr. Walter Adams, distinguished university professor and past president of Michigan State University, and Dr. James W. Brock, a renowned professor of economics at Miami University of Ohio; Drs. Adams and Brock are coauthors of "The Big­ness Complex," selected as one of the 10 best business books of 1987. Arguing against antitakeover legislation is Dr. E. Han Kim, professor of business administration and finance at the University of Michigan. I am pleased to make this important and informative debate available to the Members of the Congress. Mr. President, I ask that the text of this article be printed in the Record directly following my remarks.

The article follows:

DOES MICHIGAN NEED AN ANTI-TAKEOVER LAW? PRO

(By Walter Adams and James W. Brock)

Anti-takeover legislation is a burning issue throughout the country, and Michigan is no exception.

The conflagration has been sparked by the massive corporate merger and takeover movement across the country, and by Washington's dereliction in enforcing the federal antitrust laws. The number of mergers completed (and broken) record highs in each of the past few years. The dollars spent on this unproductive paper entrepreneurialism have skyrocketed from $33 billion in 1980 to $10 billion in 1988. It is ominous that, with the precipitous decline of the dollar, more and more of these takeovers involve the acquisition of American firms by foreign interests.

Promoters of this vociferous feeding frenzy say it benefits small stockholders as well as the U.S. economy. They predict antitakeover legislation would have catastrophic consequences. But does the evidence support these dire claims? It does not.

First, do mergers and takeovers really discipline substandard management? Do they really transfer control of business to more competent hands—all to the benefit of millions of small stockholders? No.

Target companies on average are just as (if not more) profitable than American companies. Only the 'raiders' seeking to take them over.

Following takeovers, the stock value of acquiring firms typically falls—on average of 1.5% during the first nine months and a cumulative 16 percent in the three years after takeovers. The article continues...
over. This fact is not disputed, even by take­
over speculators.

These declines overwhelm and cancel out any stock value gains of target firms at the time of takeovers.

The bulk of the mind-boggling booty generated by mergers and takeovers does not primarily accrue to small stockholders. The lion's share of the mind-boggling gains is made by those with power to refuse to sell shares and by those who buy on credit. The latter are paid not only what their shares are worth prior to the offer but an average of over $27 million in each such transaction. Thus by shielding inefficient managers from hostile takeovers, the bill would depress the prices of shares these firms would otherwise sell and thus make them cheaper to the stockholders who receive the takeover bid, where does the money go? If the target company is in Michigan, a sub­stantial portion of it is paid to stockholders inside the state and finds its way to the most productive uses, thus reinvigorating the Michigan economy. The anti-takeover bill would further dampen investment by making capital more expensive for Michigan firms. Recent studies by the Securities and Exchange Commission and the Federal Trade Commission have found that anti-takeover laws in Ohio and New York caused immediate and per­manent drops in the share prices of affected companies. The shares had become less attrac­tive to investors. Lower stock prices mean higher costs of equity capital, which in turn means higher rates of return before undertaking capital projects.

The anti-takeover bill, if enacted, would act like a temporary antidote to a serious disease. Such a remedy may seem to bring instant relief, but it will eventually worsen the disease by treating the symptoms instead of the disease. Though takeovers cause short-term disruptions in inefficiently managed firms, they help the health of the Michigan economy by performing major surgery where and when it is most needed.

ESTONIAN INDEPENDENCE DAY

Mr. SARRANES. Mr. President, today Estonians around the world mark the 70th anniversary of their Nation's last true Declaration of Inde­pendence. We join with them today in commemorating not just their declara­tion of independence from the shackles of Soviet con­stitution, but also their success and prosperity during the brief periods in which Estonia was not plagued by war and their stubborn will to survive an­nomaly and repression at the hands of the Soviet Union. Their courage and determination over the centuries command our profound respect and admiration.

From the very beginning, an independence of spirit and the quest for liberty have been hallmarks of the Es­tonian people. The battleground of
endless foreign rivalries throughout the millennium, Estonia emerged from World War II a newly independent land eager to be the path of development, modeling its constitution on those of the French, Swiss and the Americans. Its fresh democracy invigorating a burgeoning economy, Estonia soon proved that model of political and economic diversity, of academic and educational excellence, and of agricultural and industrial growth. Estonians abroad, particularly in the United States, have carried that rugged independence of spirit wherever their fortunes have brought them. We in the United States can be especially proud today of our Estonian American friends’ unique contributions to the fabric of America’s culture, political system and economy.

Yet as we reflect on Estonia’s brief period of sovereignty, we remember how quickly liberty was snatched from them, first by the advent of World War II and the Soviet invasion. Witness to Estonia’s continued repression, we are all the more solemn in commemorating that Nation’s Declaration of Independence 70 years ago. Estonians today carry with them the memory of what their land once was and the vision of what it could be in the future. Their heroes of today come to mind, human rights activists such as Mart Niklus and Enn Tarto, men and women who defy Soviet authorities’ temporal punishment in upholding the principles of the Helsinki accord. Many have spent most of their adult lives in the Soviet prison camps. Mr. Niklus, who first translated the Universal Declaration of Human Rights into Estonian, has spent many years in Soviet labor camps and prisons, including the notorious Perm camp 36-1, and he remains in solitary confinement. Mr. Tarto, currently serving his third long prison sentence, has been imprisoned simply for distributing unofficial literature, establishing contacts with emigres and signing statements protesting the Soviet Union’s annexation of the Baltic States.

Despite official harassment, Estonians will not be denied their rights to free speech and assembly on this auspicious day. As Estonians gather today in their capital, Tallinn, which has been declared off-limits to Western diplomats and journalists by the Soviet Government in anticipation of the mass demonstrations, let us join with them to honor the memory of an independent nation and the perseverance of an indomitable people.

CONCERNS OF DISABLED AND ELDERLY PERSONS

Mr. SIMON. Mr. President, at the beginning of this year, while many of us were looking forward to President Reagan’s inaugural and the opportunities some were looking at the opposing
tunities the new year might offer—dreaming of how we can improve the future and make our country better for all of us. One of those on my wish list of dreams for a better future was Charles D. Goldman, an attorney who focuses on the rights of people with disabilities.

In the following article from “C.O.D.E., Concerns of Disabled and Elderly Persons,” a Minnesota newspaper, Mr. Goldman describes the incompleteness of Federal laws protecting persons with disabilities and discusses the need for a Federal law prohibiting discrimination in places of public accommodation.

This is an issue to which we should give serious consideration. There is a need to renew our national commitment to our 36 million citizens with disabilities by ensuring that they are welcome participants in all parts of society.

Last year I had the opportunity to review Mr. Goldman’s new book, “Disability Rights Guide,” in which he sets forth practical solutions to problems affecting people with disabilities. I recommend the book, and the following article.

CONCERNS OF DISABLED AND ELDERLY PERSONS

While future articles in this space will provide practical insights into current legal issues or events, I want to review an organization that is now holiday season. While we should be thankful for what we have, it is also nice to dream and make wish lists as well as New Year’s resolutions. It is a time to try and sit back and relax and contemplate—even such seemingly mundane things as a child’s game of catch or baseball.

As a practicing attorney my list would include laws to help my clients. Sweeping federal civil rights legislation prohibiting discrimination against persons with disabilities in all employment situations and in all housing related situations would definitely be included. Near the top, if not at the very top, of my priority list is enactment of a Federal law prohibiting discrimination against persons with disabilities in places of public accommodation. These are laws persons with physical, psychological, and mental, need enacted to have full fledged federal civil rights.

Let me explain why a public accommodations law is at the top of my wish list this year. Places of public accommodation are the places where people are participants in the fabric of society. These are places and the activities within them where the public in general is invited and welcomed. These are parks, restaurants, hotels, banks, malls, stores, movies, theatres, concerts, stadiums, etc. Two situations this year, one involving a highly qualified disabled adult and the other involving disabled children dramatically underscore the need for this law as both entail exclusions and America’s past-time, baseball. One concerns a softball league manager in Nebraska and the other some prospective Little Leaguers in Massachusetts.

Let’s put this in the perspective of time. Jackie Robinson, my boyhood hero in Brooklyn, was the first black major leaguer in 1947. Civil rights sit-ins and marches were held in the 1950s, and the Civil Rights Act of 1964. The major civil rights bill of this century was the Civil Rights Act of 1964. By breaking the national logjam on civil rights questions it paved the way for enactment of other legislation, such as the Rehabilitation Act of 1973. The Civil Rights Act of 1964 is a national commitment to human decency for minorities and guarantees employment opportunity and it guarantees the right to use public places, places of recreation, and to vote. In one word: a message to the states to enact similar protections and to the Nation that racial bigotry was intolerable.

Recently, in 1987 while we commemorate the 40th anniversary of Jackie Robinson in baseball and the silver anniversary of the Civil Rights Act of 1964 is on the horizon, there is no similar guarantee of federal civil rights for persons with disabilities.

Persons with disabilities do not have the same protections and rights as other groups, such as minorities. There are no guarantees of civil rights in places of public accommodation or in most everyday employment and housing situations. The federal law is extremely limited, to employees of the federal government, contractors and re-employers. Only federal employees (retired and thus, not VA or FHA) housing is covered by the Rehabilitation Act mandates not to discriminate.

This cavernous gap of civil rights protections has been highlighted by the incidents in Nebraska and Massachusetts. In one, a boy is in the course of playing Little League baseball has been told he can no longer manage the field in his wheelchair and must be on the bench. The boy’s father, a lawyer, has been told by his coach that he cannot be on the field. In one, a man, Bob Lowenstein, like his able-bodied colleagues, had been managing the field for years. The games are played by people who do not have the right to participate in the games. Bob Lowenstein is no ordinary person. He is a public school teacher who enjoys sports. He was also qualified enough to be appointed a Commissioner of the Nebraska Equal Opportunity Commission. Now he finds himself embroiled in costly, protracted litigation.

The other instance which perked me up recently is the situation brewing with Little League and some children with disabilities in Massachusetts. Initially the kids were being rejected or barred from participating with their able-bodied colleagues. Now, Little League appears to have relented. Apparently, the powers that be cannot decide what to do with these kids who have disabilities and who want to play ball. While there are ongoing negotiations, litigation may be necessary to try and settle the issues.

The answer in both situations is simple: Let’ em play. Both Bob Lowenstein and kids in Massachusetts deserve their chances. Bob Lowenstein has proven his capacity of handling himself on the field. Disabled kids can play. Ask anyone who saw the baseball game at this year’s Pan American Games. The most valuable player was Jim Abbott, a pitcher from the University of Michigan, who happens only to have one arm. As a former youth soccer coach and referee, I know firsthand that sports can be great equalizer and integrator. Kids are kids who play when allowed grownups do not interfere. Coaches, umpires, managers, referees, and players make reasonable accommodations by allowing kids to play to the best of their abilities, not to the best of the parents’ or administrators’ preconceived standards.

Last spring AL Campanis, then a Los Angeles Dodgers Vice President, made a statement on television which shocked the country...
into realizing how little executive and managerial equal employment there was for minorities in baseball. Will the Little League case be a similar catalyst for disabled persons? Disabled persons are at the point where they get into the game. It reminds me of the cartoon that appeared in the early 1970s in which a bus without a ramp lifted up a young man and a black person in a wheelchair were there. The person in a wheelchair says "But some of us can't even get on the bus."

Both Bob Lowenstein and the would be Little Leaguers are going to be following state laws in their cases. Thankfully, most states, including both Massachusetts and Nebraska, prohibit discrimination against persons with disabilities in places of public accommodation. But would either controversy have arisen if there had been a national commitment, a federal law prohibiting such discrimination? Almost twenty-five years after enactment of laws prohibiting discrimination against minorities in places of public accommodation, the time has come for a similar federal law for persons with disabilities.

Jackie Robinson and Dr. Martin Luther King, Jr., would both have testified for such a law. They believed everyone had the right to ride the bus and in the game on their merit.

Holidays remind us of what we have, the goodness in people, our merits. But we need to think of the more that can and should be done.

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**CHILD CARE SERVICES IMPROVEMENT ACT, S. 1678**

- Mr. HEINZ. Mr. President, I rise to honor Sr. M. Eamon O'Neill, dean of the Graduate School of Arts and Sciences of Marywood College in Scranton, PA, for her outstanding efforts to stimulate voter participation.

Today, the National Student/Parent Mock Election is recognizing Sr. Eamon, along with two other colleagues from Michigan and Georgia, for "national leadership in parent involvement and citizenship education, and her untiring effort on behalf of the Nation's children, their parents, and their teachers."

Sr. Eamon is an active, involved and informed citizenry. She is in the first line of defense against the apathy that has reached epidemic proportions, particularly among younger voters. In 1984, only 53 percent of the eligible voters under 30 bothered to vote. How can our freedom be protected if so few young Americans care to participate?

Sr. Eamon is working to reverse those statistics. As Pennsylvania Statewide Coordinator of the National Student/Parent Mock Election for the last 10 years, Sr. Eamon has taught thousands of Pennsylvanians what is meant by responsible citizenship. In 1984, 18,000 Pennsylvania students and parents cast their ballots in the mock elections, and over 2 million Americans participated nationwide.

In 1988, organizers of the National Student/Parent Mock Election expect that between 5 and 10 million will participate. Participants in these mock elections learn to discuss their decisions with their parents and friends. They develop an interest in citizen issues and become leaders in local government. They learn about the political process and how to contact their representatives. They develop an interest in political issues and become leaders in local government.

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**ESTONIAN INDEPENDENCE DAY**

- Mr. DeCONCINI. Mr. President, on this day, February 24, 1988, Estonians all over the world will celebrate the 70th anniversary of the declaration of independence of the Republic of Estonia.

Unfortunately, the celebrations in Estonia itself will be somewhat subdued. For the last 48 years, Estonia, along with its Baltic neighbors Latvia and Lithuania, has been illegally, bilaterally, and brutally occupied by the Soviet Union.

The United States has never recognized the illegal occupation of Estonia, and to this day recognizes the Estonian mission in New York City as the legitimate diplomatic representative of Estonia.

For 47 years, the Soviet Government has tried vainly to eradicate Estonian national consciousness, the language, the cultural heritage, the memory of freedom. In 1940 and 1941 alone, over 40,000 Estonians were sent to Siberia. Thousands more followed when Stalin reestablished control after World War II. The last President of Estonia, Konstantin Pats, disappeared into the Gulag without a trace. In free Estonia, his birthday would have been celebrated yesterday, February 23.
In an interview following his emigration to the West, veteran Ukrainian political prisoner Danylo Shumuk described the fate of Estonians in Stalin's death camps in the late 1940's and early 1950's.

Between 1945 and 1953, the largest proportion of those who died were Estonians. They found it especially difficult to master Russian and they did not adapt to the Gulag conditions as quickly as the Ukrainians, Lithuanians, or Latvians. The Estonians would work until they dropped and then die of hunger.

Following Stalin's death, the repression in Estonia became more subtle, but no less harmful. Free political expression was out of the question, as was unhindered travel abroad or emigration. Many works of preoccupation literature and music were banned, historical monuments destroyed, and the Estonian language downgraded in schools. The history taught in those schools was distorted beyond recognition in a vain attempt to keep Estonians from learning the truth about their nation's past.

Moreover, immigration of non-Estonians has threatened to make Estonians a minority in their own country. In a sense, Estonians are being punished for their own industriousness, their stubborn refusal to turn their formerly prosperous little nation on the Baltic into a typical Sovietized wasteland. Everyone wants to move about their nation's past.

But Estonians have continued to resist. Strikes and work stoppages have been staged by workers, the flag of independent Estonia is raised surreptitiously over public buildings, and spontaneous demonstrations break out at public gatherings. Two of the most prominent dissidents remaining in the infamously labor camps are Estonian Hans Kiiko and Eeri Tarto. Their countryman Yuri Kukk died in March 1981 during a hunger strike while being transferred to a labor camp following conviction on political charges.

Meanwhile, changes are occurring in the Soviet Union, even in occupied Estonia. Glasnost, the “giving voice” through which General Secretary Gorbachev hopes to invigorate the Soviet people and resurrect the moribund economy, has given voice to the demand for truth. The first 6 months of 1987 saw active protests by Estonians against the phosphate mining that continues even now seems destined to carry out despite the hazards to the local populace. On August 23, 1987, the anniversary of the signing of the Molotov-Ribbentrop Pact, there were demonstrations throughout the Baltic states. In Tallinn, the capital of Estonia, several thousand people marched in solidarity with activists in Latvia and Lithuania, calling for the publication of the Pact, exposure of Stalin's crime, and the return of political prisoners.

Events have since moved quickly. There have been more demonstrations. Some organizers have been expelled from the Soviet Union, others reportedly beaten by the police. The Estonian Communist Party Secretary for ideological work has been fired. The press has begun to seriously address the relationship between Estonian natives and Russian immigrants. Estonian intellectuals have publicly proposed a plan for making Estonia economically self-sufficient from Moscow. And 16 dissidents have founded the Estonian National Independence Party to "restore a free and independent Estonia."

Mr. President, Tass reported recently that General Secretary Gorbachev plans to convene a special party meeting in the near future to deal with nationality issues. That serious about easing the nationality question in Estonia, it might heed its own Constitution, specifically article 72, which states that each Soviet republic retains the right to freely leave the U.S.S.R. According to Soviet historiography, the Estonian people voted, by more than 90 percent, to enter the Soviet Union in 1940. After 48 years, perhaps its time to have another vote.

TRIBUTE TO BONNIE BLAIR

Mr. SIMON. Mr. President, I want to call the attention of all of my colleagues in the Senate to the exceptional accomplishment of an outstanding young woman from Champaign, IL. On Monday, February 22, 1988, Bonnie Blair of Champaign established a world record time of 39.12 seconds for the 500 meter speed skating event and won America's second gold medal in the Winter Olympics. I want to join my distinguished colleague, the senior Senator from Illinois, Alan Dixon, in commending Bonnie Blair on her singular accomplishment.

Ms. Blair is a wonderful example to all young women of what hard work and dedication can do for someone who wishes to achieve athletically. She also serves as a reminder to those of us in the public sector of the importance of title IX of the Education Amendments of 1972. My own daughter Sheila—during her collegiate days at Wittenberg University—excelled in intercollegiate athletics as a result of title IX.

Recently during our debate on the Civil Rights Restoration Act, the Senate took important steps to continue our commitment to nondiscrimination in Federal programs and continue opportunities for women in intercollegiate athletics. If we doubt our wisdom in that regard, we should remember Bonnie Blair and her world's record, as well as countless other women who benefit from title IX on a daily basis.

Congratulations to my fellow Illinois, Bonnie Blair.

NAUM MEIMAN

Mr. SIMON. Mr. President, it is with great pleasure that I am able to announce that the needs of my constituent and a hero of our country, Mr. Naum Meiman, is drawing to a close. On Friday, Naum Meiman will be leaving the Soviet Union and traveling to Vienna. Then, at long last, on Sunday Naum will fly to freedom in Israel.

Ironically, Naum's release comes on the 1-year anniversary of Inna's death. It is indeed tragic that Naum will not be able to rejoice in his freedom with Inna. Let us hope that we all have learned a valuable lesson from this personal tragedy. Freedom cannot be based on ill health and years of struggle. Freedom, basic religious freedom, must be guaranteed for all regardless of their nationality or homeland.

This past month has been a time of celebration and great relief for Naum, his loved ones, and those that have worked so hard to obtain his release. Though we share Naum's happiness, we cannot end our commitment to the thousands of refuseniks whose struggle continues. We must continue to honor and remember those who live with persecution every day of their lives merely because of their religious faith. We must continue to speak out. We must remain vigilant. Mr. President, I pledge to continue my efforts in this area and I urge my colleagues to do the same.

KING BIRTHDAY AND BLACK HISTORY MONTH

Mr. SIMON. Mr. President, February marks the nationwide celebration of Black History Month. It is a time when black Americans look with pride upon their past, present and continuing contributions to American history, culture, government and public affairs, national defense, education and every other aspect of our lifestyle. It is a time to recall the achievements of Frederick Douglass and Sojourner Truth; Booker T. Washington and Mary McLeod Bethune; General Daniel Hale Williams and Dr. Charles Drew; Madame C.J. Walker and Benjamin Banneker, as well as to acknowledge the contributions of Marian Anderson, Louis Armstrong and Rosa Parks, and praise the diligent efforts of Shirley A. Chisholm, Barbara Jordan and Blanche K. Bruce.

The importance of Black History Month to white Americans should not
be overlooked. It is a chance for many of us of become informed about the contributions of black Americans to the development of this Nation. From inventing the traffic light to discovering new medical procedures, black Americans have been the first to die in our country's fight for freedom and independence to completing the work of laying out the city of Washington, D.C.—we would not be what we are without black Americans. For most of us our knowledge is limited and our information spotty at best. We know of Martin Luther King, Jr. and his fight for civil rights and we are familiar with many of our current political leaders.

I had the opportunity on January 18, 1988 to be a part of history as a participant in the Third Annual Celebration of Dr. King's birthday as a national holiday at Ebenezer Baptist Church in Atlanta, GA. As Dr. Joseph Lowery, president of the Southern Christian Leadership Conference (SCLC) and pastor of the Cascade United Methodist Church told the Congregation, "This was the ... nineteenth celebration of Martin's birthday as a holy day. This was a unique opportunity to hear leaders talk about this great man and the struggle he led."

One of those who spoke was our colleague Senator Lowell Weicker. His speech, among others, moved those in the audience to stand and applaud. I, too, was moved by his eloquence and sincerity. I hope all of my colleagues will take time to read his brief statement.

Mr. President, I ask that Senator Weicker's statement of January 19 be inserted in the Record.

The statement follows:

**REMARKS OF SENATOR LOWELL WEICKER, JR., EBENEZER BAPTIST CHURCH**

Good morning. It is a great honor for me to share in this memorial service in a church where Dr. King and his example lives as powerfully as faith. I am glad to be here this morning to be a part of this celebration of Dr. Martin Luther King, Jr., his family and community. In these pews, he worshiped as a youth. And when he became a man, these walls were the backdrop of his life.

But the nation celebrates today because Dr. King took the gospel of brotherhood and of justice beyond these doors. Picket lines and jail cells became his pulpits. And before long, poor people and President Johnson joined his congregation.

Dr. King spoke out of love without ever shying away from the truth. His message—redemption and reconciliation were possible but only if the American people had a true change of heart. His goal: a country as good as its Constitution. "Now is the time to make real the promises of democracy," he told us. Now, not tomorrow, or some day in the indefinite future.

For too long, there were those in New England who pretended that racism in America was a local problem. Once Dr. King and the men and women of the Southern Christian Leadership Conference and the young Freedom Riders and all those who manned the movement forced truth into the open, civil rights legislation rolled through Congress. There was no stopping it.

Twenty-four hours passed since the night when shocked Americans gathered in vigils and swore that all Dr. King had done would not be in vain. Yet today that vision seems to be slipping away by the factors of oppression—and our generation needs to face up to it.

During the last decade we have seen a systematic dismantling of civil rights enforcement, an abandonment of our commitment to equal justice under law, and just as ominously, a failure of people to insist on their hard-won rights.

Recent actions by the courts combined with inaction by Congress have made it possible for institutions—hospitals, schools, even local governments—to discriminate against black Americans, Hispanics, the elderly, the mentally retarded and women and still get the benefit of our tax dollars. Congress could pass a law tomorrow to put an end to subsidized discrimination, but it won't until there is a crisis.

For all the truth of a Justice Department in fundamental disagreement with the Bill of Rights, the truth is that few Americans are even aware of civil rights agendas in Congress, the White House, statehouses or town halls. Judge Bork was right about one thing: The people are supposed to be the last repository of our rights. The people, their legislators and their President are the first. Let me repeat, so this is not a fingerpointing exercise at some mythical "them". People—that's us, legislators—Democrats and Republicans, and our President are No. 1 to make things happen. Yet today, everybody wails and no battle is joined.

Now, I am well aware that Baptists are known for their church music, but I would like to leave you with a hymn from my faith. "Once to every man and nation comes the moment to decide, in the strife of truth with falsehood, for the good or evil side. Then it is the great man chooses, while the coward stands aside 'till the multitude • • • and the multitude fills, but it is a calamity not to dream. **•••** It is not a calamity to die with dreams unfilled, but it is a calamity not to dream. It is not a disgrace to be unable to capture your ideal, but it is a disaster to have no ideal to capture. It is not a disgrace not to reach the finish line, but it is a disgrace to have no start to reach for. Not failure, but low aim, is sin.

Mr. President, some might ask what is there left for Morehouse to do? Are there other financial resources mountains to climb? Other fertile academic fields to be plowed? Dr. Keith has answered in the affirmative during his inaugural address. He sets forth a bolde plan of action which represents a true challenge for the trustees, faculty, students and alumni. I ask that his remarks be included in the Record. I also urge my colleagues to read and understand from Dr. Keith what black higher education is doing to provide expanded educational opportunities for black students at a time when despite major opportunities—higher education is still often segregated and rising costs represent a clear barrier to the poor, especially those who are black and brown.

The speech follows:

**INAUGURAL ADDRESS OF PRESIDENT LEROY KEITH**

Mr. Chairman, Mayor Young, Dr. Glotzer, Mr. Alexander, members of the board of trustees, students, faculty, staff, alumni, representatives of colleges, universities and learned societies, friends and relatives, I am grateful and extremely honored to be inaugurated as the eighth President of this great citadel of learning called Morehouse College. This occasion will hold rank in my memory along side my marriage to Anita Keith, my son David Keith, my daughter, the birth of my four children, Lori, Susan, Kelli, and Kimberly. I only wish that Roy and Lula Keith, my parents, were here to select individuals who have served as its presidents.

Among those individuals are two whom I have known. Dr. Hugh M. Closter, who retires after 20 years as president, Morehouse and two decades of leadership in higher education—as a spokesperson for black higher education, and as one of the outstanding college presidents in America. He leaves Morehouse with a stable endowment, an improved physical plant, and an enhanced academic environment for the development of young, black men's minds. One of our Nation's most beloved educators was Dr. Benjamin E. Mays. While he was well known in the black community, his academic lantern was bright but hidden from the eyes of many white Americans. Jimmy Carter during his presidency took counsel on education, as well as other issues, from Dr. Mays. Dr. Mays' light took on new meaning and purpose during this time, although he was up in years.

One of my favorite quotes comes from Dr. Mays: "It must be borne in mind that the tragedy of life doesn't lie in not reaching your goal. The tragedy lies in having no goal to reach. It isn't a calamity to die with dreams unfulfilled, but it is a calamity not to dream. It is not a disaster to be unable to capture your ideal, but it is a disaster to have no ideal to capture. It is not a disgrace not to reach the finish line, but it is a disgrace to have no start to reach for. Not failure, but low aim, is sin.

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The speech follows:

**INAUGURAL ADDRESS OF PRESIDENT LEROY KEITH**

Mr. President, on Saturday, February 20, 1988, Dr. LeRoy Keith was installed as the eighth president of Morehouse College in Atlanta, GA. Morehouse is one of the nation's premier historically black college and university community. Dr. Keith's inauguration represents a singular achievement for Morehouse College, as it brings one of its own home to lead this truly outstanding institution of higher education, and an important accomplishment of him as an educator—he could be paid no higher compliment than to be asked by his own alma mater to join its short list of
share this experience with us because they made this day possible by instilling in me the virtues of discipline and achievement and the necessity to be a decent human being and to do good to others. There are many people in this chapel today who have played a role in my life and career. I would like to thank them. From Chattanooga who are so proudly represented. When hometown people are around, they renew your sense of humility with stories of how they knew you when you were knee-high to a duck or I used to change your diapers. It is good to have you all here today.

My beginning at Morehouse take me back to the year I entered as a young college freshman. As I reflect back over my stay, I am impressed that the student who enters here will be well trained and will become more meaningful with time. My reflections take me back to the charge to my graduating class of 1961 by President Benjamin E. Mays which was a propitious statement for me. The following are two excerpts from that charge:

"There is an air of expectancy at Morehouse College. It is expected that the student who enters here will do well. It is also expected that once a man bears the insignia of this college, he will do exceptionally well. We expect nothing less.

"May you perform so well that when a man is needed for an important job in your field, you will be the candidate of the committee of selection will be compelled to examine your credentials. May you forever stand for something noble and high. Let no man demean you with a wave of the hand or a shrug of the shoulders."

That day in June as I sat listening to the inspiring words of Dr. Mays, I knew you when I used to change your diapers. I knew you when you were knee-high to a duck. It is important that we continue to do our job of making them aware of their options. It is the job of making them aware of their options. It is a spirit that builds character and self-esteem; it is a spirit that when combined with our rigorous academic programs makes the "Morehouse Man" a man for all seasons. It is a spirit that, I believe, can make us a small intimate environment that is characteristic of a high quality undergraduate institution. Intellectual discourse between faculty and students will be far better served in a small intimate environment. In addition, academic advising by faculty will be enhanced.

It is my hope that the Morehouse of tomorrow will remain exclusively an undergraduate institution. I believe it will take all of our financial resources to advance our mission as an undergraduate institution of distinction. Our graduates will continue to have tremendous opportunities for future personal and professional study throughout the world. Because graduate education is very expensive, it would have a deleterious effect on the quality of our undergraduate programs if it were introduced here.

I believe the Morehouse of the future should have a more integrated core curriculum to eliminate the interrelationships between the liberal arts disciplines. To this end, I will ask the faculty to begin a comprehensive review of the General Education Program. This review will assist us in determining the strengths and weaknesses of our core curriculum. At the same time, I will initiate an ongoing program review process at the departmental level.

In connection with the review of our academic programs, we must strive to develop more balance in program interest throughout our curriculum. To be quite succinct, the humanities and social science programs at the college should receive more emphasis. We will need to help our incoming freshman and continuing students to understand that there are many career options available to them if they pursue a major in the humanities. Major corporations will gladly hire our liberal arts majors as they do our business majors. We will never attempt to dictate students' majors as we are attempting to decline in Morehouse students who go on to pursue Ph.D.'s. This is a national trend that the college must examine the quality in the curriculum at American colleges and universities in the next century. It is important that we continue to be a leader in producing academic degrees; however, there have been some call for more career opportunities for graduates will improve in secondary schools. More States are changing their teacher certification laws to allow liberal arts majors to teach without having completed a professional education curriculum.

To interest our students in graduate school and teaching, Morehouse has implemented a program funded by the Ford Foundation with matching funds from the Dupont and Culerpean Foundation. We were the only historically black college funded for this program by Ford. It is a terribly important program to Morehouse and the college's competitiveness as we approach the 21st century. To this end, I envision a Morehouse that will compete with the finest liberal arts colleges in the country when measured against the quality of the alumni and support of the institution.
As we move toward the next century, the need for a highly technical workforce will be more acute. Morehouse should continue to diversify its educational offerings in high technology through its own science and math programs and through the enhancement of its existing computer center as a sharing center. We have to do this in concert with Georgia Tech and the other participating institutions.

We will also establish our own computer science program, share it with the other Atlanta undergraduate institutions, and work closely with the Technical College of the State of Georgia and the Post-Secondary Education and Training Act and a variety of other programs to support Georgia Tech in the development of a local computer science program.

As a result, I believe that all of our students, regardless of major, will need to be committed to continuing their education throughout their careers. Our faculty and staff must be improved.

As I stated earlier, we have been in the business of black male education for 121 years. Given the very disturbing trends regarding black males, I think the logical place to begin a serious research program is to study the black male in high school and to determine the factors that might impact that individual. Our study should be prepared to live in an environment that will require greater interdependence among all people regardless of geographic differences.

I will ask the faculty to develop plans for a program in international education that will focus on the language, culture, history, and economics of selected countries throughout the world. I believe funding will be available to pursue this program, perhaps in partnership with another Atlanta University Center college.

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ment of students and financial aid counsel-
ing in their local areas. We held our first
alumni workshop on admissions and finan-
cial aid in December. We now believe the
alumni can provide invaluable assistance to
students and parents as they weave their way
together with the admissions process. We
also believe that an alumni program for inter-
viewing prospective students can help us in
the admissions process. We encourage you to
support your support and cooperation, for your
continuing role is essential to a bright future
for the college.

Since its founding in 1867 at the Spring-
field Baptist Church in Augusta, GA, this
small college seems to have been destined
for a special place in history. It has endured
in spite of racial oppression and other bar-
riers. Remarkably, here we are in 1988 with
a Morehouse experience that would make the
founding fathers who probably had no idea
that the institution they started with a lim-
ited objective is now a prominent college
with a future.

This brings us to today, February 20, 1988
where on this day Dr. Hugh Gloster and I
have formally completed the transition of
Morehouse College to me. But as Dr. Glas-
ter, knows it will take the concerting of
talents of the president to make this admin-
istration successful.

I urge you to join me in this effort to
propel Morehouse into the 21st century
with the competitive edge to be deemed one
of America's foremost institutions of higher
learning. The House will become a stronger
house. With God's help, we will realize our
goals.

ESTONIAN INDEPENDENCE DAY

Mr. WEICHER. Mr. President, today
I would like to draw to my colleagues atten-
tion a special event that will take place
in Washington next month. This
event is the Sixth National Leadership
Conference, cosponsored by the United
Jewish Appeal's Young Leadership
Cabinet and Young Women's
Leadership Cabinet.

The conference, which runs from
March 13 through March 15, brings
more than 3,000 young Jewish leaders
to Washington from 36 States and
crosses the country. I am proud to say that
approximately 300 Floridians will be
participating.

The purpose of the conference is to
bring together young Jewish leaders in
an environment of discussion and
learning. The program educates the
participants on major issues that
affect the Jewish community and
emphasizes the importance of being
active in both the Jewish community
and the American political process.

I am proud to be one of the speakers
at this year's conference. I know that
many of my colleagues have also al-
ready arranged to participate. New
York Gov. Mario Cuomo, Israeli For-
minister Shimon Peres, Defense
Minister Yitzhak Rabin, and former
refusenik Natane Shcharansky are
some of the guests scheduled to speak.

Experts on United States-Israel rela-
tions, as well as White House and
State Department officials, will brief
the participants on the state of United
States-Israeli relations and the current
situation in the Middle East. Other
seminars include one on international
terrorism and one dealing with Ameri-
can's role in the Persian Gulf.

The conferences are also going to
do some rejoicing. A celebration is being
held for the 40th anniversary of the
birth of Israel and the 50th birthday of the
United Jewish Appeal.

Mr. President, the continuing suc-
cess of the Young Leadership Confer-
ence and similar programs is a clear
sign of the health and vibrancy of our
participatory democracy. I look for-
ward to greeting the conferees next
month.

INAUGURATION OF ROH TAE

- WOO

Mr. DASCHLE. Mr. President, the
inauguration of Roh Tae Woo marks
an important and historic moment in
the Republic of Korea. As this govern-
ment begins a new chapter in Korean
political progress, the eyes of the
world are upon it.

Certainly, within the United States
there is great interest in the new
Korean leadership. I am sure that I
speak for all of my colleagues in wish-
ing the President and his government
well as they commence. For it is our
sincere hope that the governments
of both of our countries will work to find
constructive solutions to the mutual
challenges and opportunities which we
face.

Having just returned from Korea, I
clearly remember my many conver-
sations with both business and govern-
mental leaders with regard to their
earnest desire to continue the close rela-
tionship with the United States.

While we may see our mutual prob-
lems from different perspectives, it
will only be through that close rela-
tionship that we can enable our coun-
tries to overcome them.

Certainly the most pressing of these
is trade. It is my strong desire to see
the major imbalance of trade between
Korea and the United States reduced
significantly this year. It continues to
be the responsibility of both govern-
ments to demonstrate not only their
willfulness but their capability to do
so.

From my perspective, there is no
more important trade issue than the
one involving the prohibition of im-
ported American beef in Korea. Now,
with its change in government, Korea
can seize upon an opportunity to dem-
strate its good faith and determina-
tion to reduce the trade deficit this
year by removing this long standing
prohibition as soon as possible.

For our part, it is important that we
avoid the temptation to pass protec-
tionist legislation in retaliation to the
current difficulties posed by such pro-
hibitions and quotas in Korea and
other countries of the Pacific rim.
While trade legislation may be necessary for many reasons, such legislation must be prospective, not retrospective. It must be aimed at strengthening trade relationships, not tearing them down. Building bridges, not walls.

The people of my State desire cooperation, not confrontation. We want to build friendship with both the people of our country and people of the world. We seek similarities, not differences. Opportunities, not obstacles.

To President Roh Tae Woo, his government, and his people, let us send our sincere best wishes for a bountiful future of social and economic growth in full partnership with the people of the United States.

S. 2062—STATE AND LOCAL GOVERNMENT EXTENSION REAFFIRMATION ACT

Mr. MELCHER. Mr. President, I am joining my colleague from Oklahoma, Don Nickles, in cosponsoring S. 2062, legislation which would exempt State and local governments from paying Federal gasoline excise tax on gasoline.

State and local governments have been exempt from this Federal tax and they should remain exempt. We shouldn’t expect them to pump their limited dollars into the Federal Treasury just because the Federal Government needs some new schemes to balance its budget. We’ve already clobbered their strained budgets enough with our cuts in Federal programs, particularly revenue sharing.

Then Congress turns around and says these governments can apply for a refund on a quarterly or annual basis if they can show they used the gasoline for their own exclusive needs. What a bunch of hogwash. That just means more paperwork and that the Federal Government has found a new way to get interest-free loans.

Plus this tax is unfair to the smaller towns—those governments who won’t pay over $1,000 in gasoline tax per quarter. These governments have to wait until the end of the year to get a rebate whereas the larger governments who pay more than $1,000 in gasoline tax per quarter can get repaid quarterly.

This tax simply makes no sense and we should repeal it immediately.

FEBRUARY 25, 1870: FIRST BLACK SENATOR

Mr. DOLE. Mr. President, 118 years ago today the Senate voted 48 to 8 to seat Hiram Revels of Mississippi—the first black person ever elected to the U.S. Senate.

An emotional debate preceded the vote on Revels’ credentials. Democrats cast doubt on the authority of the re-construction government of Mississippi, but Republicans charged them with “hiding their anti-Negro sentiments behind a mask of technicalities.” Senator Garrett Davis of Kentucky declared the seating of a black man in the Senate a “morbid state of affairs,” and denied that freed slaves could even be citizens, let alone serve in the national government. Senator Willard Saulsbury of Maryland denied that the fourteenth amendment was a legitimate part of the Constitution and called the seating of a “negro or mulatto or octoroon in the Senate of the United States” to be a “great and daring outrage.” Against such blatantly prejudiced arguments, the majority of the Senate stood firm and voted to seat Hiram Revels.

Revels’ term in the Senate lasted only from 1870 to 1871, but during that period he spoke out in defense of freedom’s rights, in favor of enforcement of Federal election laws, and in opposition to segregated schools.

If race had not been an issue, it is doubtful what Hiram Revels would have been raised against Hiram Revels, who possessed strong qualifications and experience. He was a college graduate and an ordained minister in the African Methodist Episcopal Church. He had helped to organize black regiments during the Civil War, served as a chaplain in the Union army, as an alderman from Natchez, MS and as a State senator. After completing his short term in the U.S. Senate, he returned to become secretary of state of Mississippi and president of Alcorn Agricultural College. Of all these accomplishments, however, he will be most remembered for having integrated the U.S. Senate.

SIGMUND STROCHLITZ ON ISRAELI-PALESTINIAN CONFLICT

Mr. DODD. Mr. President, I would like to bring to the attention of the Senate an excellent article from the New London Day that was written by a constituent and close friend of mine, Sigmund Strochlitz.

Ziggy, as he is affectionately known, is an admirable individual who has devoted his life to bridging the gap and differences among peoples. A Holocaust survivor, he has taken an active role in national and international human rights issues.

The plight of the young suffering from the Israeli-Palestinian conflict is a matter which is of great concern to all of us. His article will not resolve the current conflict, but it will make many think about the larger issue of human suffering that has resulted from the instability of the region.

I ask that the article be printed in the Record.

The article follows:

(From the New London Day, Feb. 14, 1988

AN AMERICAN JEW’S FAITH IN ISRAEL’S HUMANITY

(By Sigmund Strochlitz)

I am saddened by the violence and pictures of Turkish soldiers shooting and Molotov Cocktails at not much older Israeli soldiers. I am appalled by the shootings and beatings and the psychological damage to Israeli civilians who hate each other. I am distressed by extremists on both sides gaining the upper hand and even more by the new announcements of Arab leaders that they will turn Israel into another Lebanon.

Isn’t one Lebanon enough? One hundred thousand. But this time problem was created in the last few years and the killing is still going on. Moammar Arabs fighting Christian Arabs, one brother against another. Shitites killing Palestinians and Sunni Moslems fighting the druze community. When will the Arab leaders come to their senses and help build a climate of cooperation, not confrontation, and in the process accept Israel’s right to exist?

Having said that, let us understand that the problem in the Middle East did not begin in 1987. The refusal of the Arab Nations to accept the 1947 decision of the United Nations to partition Palestine into an Israeli and Palestinian state is the root of the problem. Had the Arabs accepted the United Nations plan, there would today be a separate Palestinian state living alongside a Jewish state.

Instead of agreeing to peace with Israel, the Arabs attacked the new nation, urging their people to live in their homes and promising them that they would return with the victorious Arab armies and drive the Jews into the sea. That did not happen.

But a refugee problem was created by their own leaders who betrayed them and have kept them in refugee camps for 40 years in order to use them as political pawns.

If that is not enough, let us remember that in 1967, 20 years later, Israel was forced to fight another war, being attacked by five Arab armies and pleading with King Hussein, on the first day of the war, not to enter the fighting. Israel won that war and those territories of the Arab states that in 1967 are today referred to by the Arabs as occupied territories.

The war in 1967 was fought in June, and Israel was prepared to give back territories for peace. And yet in September of that year, the Arab States met in Khartoum and issued the famous three nos: “No peace, no recognition and no negotiations with Israel.” To this day all Arab nations, except Egypt, continue to be unwilling to talk directly with Israel and help relive the lot of the Palestinian people. Israel is forced to rule over Palestinians largely because these Arab nations have left no other choice.

I have heard many say that Israel should walk away from the occupied territories in the hope that this gesture would produce enough Arab goodwill for peace. History and geography counsel against such a gamble. There is a great likelihood that Arab extremists would use these territories as bases that would ultimately constitute a threat to Israel’s very existence. Israel should therefore not be discouraged or panicked by reaction to the riots.

I believe that we have come up with a new tactic. Instead of troops and tanks and planes, they are resorting to stones and Molotov Cocktails. Instead of
dispatching trained terrorists to murder Jewish civilians, they are sending young Palestinians against young Israelis. That tactic has been proven to be a political in Israel by the fact that anything they do in trying to restore order draws the wrath of the world upon their heads.

Thus, when Israel's troops responded with live ammunition, Israel was condemned. When Israeli authorities sentenced a number of riot leaders to expulsion, Israel was condemned. The same tactics of shooting to other methods in order to save lives, Israel was again condemned. I have to ask myself, is there anything Israel can do and not be condemned? Or must Israel not only be good, but also look good at whatever costs. And finally, are we witnessing a repetition of the old scenario that when Jews are being attacked and killed, the world is indifferent. But when Jews defend themselves they are being condemned.

I would like to conclude by quoting a speech delivered by Associate Supreme Court Justice William Brennan during the recent disturbances. Justice Brennan said:

"The United States has a basic legal duty not only to the United States that provides the basic hope for building a jurisprudence that can protect civil liberties against the demand of national security. The United States that has been facing real and serious threats to its security for the last 40 years and seems destined to continue facing such threats.

"The struggle to establish civil liberties against the backdrop of these security threats, while difficult, promises to build a bulwark of liberty that can endure the tears and frenzy of sudden danger guaranteeing that a nation fighting for its survival does not sacrifice these national values that make the fight worthwhile. In this way adversity may yet be the handmaiden of liberty."

For my part I am bound by the modern Jewish imperative that Israel must live. Since I do not daily share its danger, it is cause I have faith, but I do not sacrifice these national values that make the fight worthwhile. In this way adversity may yet be the handmaiden of liberty.

Sigmund Strochilch, of New London, is a Holocaust survivor who is active in a number of humanitarian causes nationally and internationally.

INFORMED CONSENT: RHODE ISLAND

Mr. HUMPHREY. Mr. President, abortion is not a safe, simple procedure to remove the products of conception from a woman's womb. It is a major surgical procedure that involves serious risk and potential consequences to the woman and death to her unborn child. Thousands of women have submitted to this procedure without the full realization of the facts of abortion. My informed consent legislation will ensure that women are given basic information that will enable them to make an informed, voluntary choice. The law states that a letter from a woman in Rhode Island who supports informed consent be entered into the Congressional Record.

The letter follows:

August 19, 1986.

DEAR SENATOR GORDON HUMPHREY, I have been a victim of abortion twice. The first time I did not talk about it. I was just 17 and I was scared and confused. Some years later, I was still confused in life and I had another abortion. I looked back on the whole scene and I was devastated. When I got pregnant the second time, I could not make up my mind. It was harder to have the second one because I promised God that I would never do that again. I was not in my right mind when I went through with it.

I believe they (the abortion clinics) should test these girls the facts. That at 2 to weeks old the heart beat is traceable, and itself I have seen it and feel, etc. If the patient could and would hear the truth. I'm sure there would be a change of heart. For one know that if I had been told the truth about the fetus and that I would be supported, I would not have aborted the child.

They also don't warn you about the psychological effects which will occur shortly after and will grow progressively worse with time. I have experienced this and can only try to explain and have you understand the excruciating feelings of guilt, pain, and shame you have endured. You suffer guilt, a sense of loss, the realization of murder. You feel evil, unforgivable, and you lose whatever self respect you had. These are just a few of the problems.

I don't think that there are many cases where the woman feels a sense of relief. Maybe initially she does, but it doesn't last, no matter what she thinks, or if she tries to deny it.

Worfs cannot express the torture that I put myself through, and I am writing to you so you can help to put an end to this violence against babies, women, and society itself. I hope you will help me do something.

Words cannot express the torture that I put myself through, and I am writing to you so you can help to put an end to this violence against babies, women, and society itself.

I have experienced this a.nd can only hope we can save them and others. Possibly our most important accomplishment today will involve more than merely thanking the wonderful people involved in Big Brothers/Big Sisters of America.

In the State of New Mexico, the Albuquerque Big Brothers/Big Sisters has been helping children for over 20 years. In Albuquerque alone, some 150 youngsters, most of them between the ages of 8 and 14, are benefiting from the program.

With enrollment increasing at a rate of 20 percent annually, with grants from local sources like the Association of Retired Citizens, and with the addition of new projects, such as a sexual abuse prevention program, Big Brothers/Big Sisters is making a dramatic, positive impact on the lives of many children in the city of Albuquerque.

Increasingly, concerned parents are seeking the kind of support offered by Big Brothers/Big Sisters. They recognize that a Big Brother or Sister is not a substitute parent, but an ally who can help a child through the challenges of growing up. Nothing could be more needed in our Nation. We see drug abuse and crime on the rise, but we see hope offered by our good friends at Big Brothers/Big Sisters of America.

BIG BROTHERS/BIG SISTERS APPRECIATION WEEK

Mr. DOMENICI. Mr. President, as an honorary member of the Board of Directors of Albuquerque Big Brothers/Big Sisters, I would like to take this opportunity to thank the more than 60,000 Big Brothers and Big Sisters nationwide who are doing so much for the youth of this country.

In acknowledging the efforts of these generous, loving individuals, we not only say thank you, but we spread the word far and wide to children who need warmth and guidance, youngsters who need the help of organizations like Big Brothers/Big Sisters.

With a commitment of 4-to-6 hours per week over a year period, and at a cost of only $85 per year, Big Brothers and Big Sisters fill a void in our society caused by increasing numbers of one-parent families. While not all children of single-parent families have extra-familial support, an estimated one-fifth of children in one-parent families could use a hand.

And the alternatives to the Big Brothers/Big Sisters program can be so frightening for those youngsters in peril. For example, it costs taxpayers $3,000 for each child entered into the juvenile justice system. It costs from $18,000 to $65,000 a year for institutionalization. The normal troubles of childhood must not be allowed to develop into something so serious.

Possibly our most important accomplishment today will involve more than merely thanking the wonderful people involved in Big Brothers/Big Sisters. I am sure my colleagues will agree that the greatest gift will be if we can expand the present programs to include even more of the estimated 3 million children in need of help.

So far, only 200,000 of these can be identified, and hardly any can be helped. We need to help only 100,000 children. This means 100,000 children are on waiting lists, because the supply of volunteers fails to meet the demand.

Volunteers, especially men and members of minority groups are needed. And funds are needed at both the local and national levels. There is a particular need to make certain that parents of girls are aware that this service is available to them and their youngsters.

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AMERITRUST'S COMMUNITY SERVICE

Mr. GLENN. Mr. President, it is a common misconception that U.S. Government checks are fairly easy to cash. After all, these checks, which include Social Security and pension checks, are backed by the full faith and credit of the U.S. Government and might
very well be the safest instruments in circulation. Unfortunately, it's not quite that simple. Those Americans who rely on small retirement bank accounts must generally pay a substantial fee just to cash their checks. Some senior citizens pay as much as $8.50 or more to cash their Social Security checks.

This situation is intolerable. Last year, my fellow Ohioan, Senator Metzenbaum, tried to amend Federal law to require banks to cash government checks free of charge. I understand he may try again this year. His efforts are broad in scope, and they might also forestall congressional action to its great credit.

One Ohio bank did not wait for congressional action—to its great credit. The AmeriTrust Development Bank of Cleveland recently introduced a "DirectCheck" program to meet the needs of Social Security and other government beneficiaries. The DirectCheck account is free as long as a customer uses direct deposit and writes a maximum of six checks a month.

I commend AmeriTrust for developing this outstanding program, and submit the following complimentary article from the January 1988 edition of Consumer Reports for the Record.

The article follows:

A BETTER WAY TO CASH GOVERNMENT CHECKS

The checks you know won't bounce are U.S. Government checks, Social Security pensions, and the like. They should be the easiest to cash. But about 20 percent of the adults in the U.S. don't have a bank account and often find it inconvenient and expensive to cash one of Uncle Sam's checks.

Many of those people spend hundreds of dollars each year to cash Government checks at storefront check-cashing outlets, which charge an average of $8.50 to cash a $500 Social Security check.

Customers are concerned about the exorbitant cost of cashing Government checks, proposed last year that banks be required to cash Government checks free. But bankers protest, claiming that cashing checks from nondepositors would invite fraud and forgery. They also feared the logistical problem of coping with a flood of people on the day the Government checks arrive in the mail.

Congress backed off and requested that the General Accounting Office study the problem. The GAO is scheduled to release a report next month.

One obvious solution to the check-cashing problem is to replace checks with electronic funds transfer. The Government has long encouraged Social Security recipients to use direct deposit so their payments will auto- matically be credited to their bank account. More than 17 million Social Security checks now go to direct-deposit accounts every month—but 75 million others must be physically deposited or cashed. To facilitate direct deposits, basic banking service should be made available to everyone.

AmeriTrust Development Bank of Cleveland, Ohio, already has demonstrated the effectiveness of basic banking with its Direct Check program, introduced last summer.

The bank used to cash Government checks free for noncustomers, but discontinued the service because it cost about $1 million a year to operate. The Direct Check is free as long as the customer uses direct deposit for checks and writes only six checks a month. (There's a $1 fee for each additional check.)

To help persuade people who are intimidated by banking to try to use the new account, AmeriTrust ran a successful consumer-education program. About half the noncustomers who cashed Government checks at AmeriTrust have opened a basic account. People who don't want to open a Direct Check account can still cash Government checks at AmeriTrust, but they must now pay a $2 fee. That's about half the cost of the cheapest check-cashing service.

We think more banks should follow AmeriTrust's example. More basic, low-cost checking accounts like the Direct Check program would provide a useful service. They might also forestall congressional action that would be less palatable to banks.

BURLINGTON, VERMONT BUSINESS PEOPLE

Mr. LEAHY. Mr. President, one of the things you'll be living in Vermont is that you get to know so many of the people in your home State.

Recently, a newspaper in Vermont ran an excellent article by Ross Snead in which 75 of Chittenden County, V.T.'s business people were asked to rate the 11 most influential business people in the greater Burlington area.

As a native Vermonter and a Burlington resident, I have had the opportunity of knowing these people throughout much of my life. They are all good friends, but even more importantly, they are among the special group of people who make me so proud of Vermont and of my home city of Burlington. I would like to share with my fellow Senators the reason for this pride and I ask that the article be printed in the Congressional Record at this point.

The article follows:

TOO GUY'S—CHITTENDEN COUNTY'S ELEVEN MOST POWERFUL IN BUSINESS

(By Ross Snead)

Natives only need apply.

When Business Monday asked 75 of Chittenden County's most influential business people who were the most powerful among them, every one of the top choices was either born or raised in Vermont.

The seemingly short list is a testament to the 48-year-old business community's faith in downtown and the city's ability to hold its own against developing suburbs.

After years of false starts by others seeking to develop the site, Pecor took over what was known as the Strong Block, got financing for his project and signed up the area's largest law firm to occupy two floors before the first spade of dirt was turned.

Ranked by their colleagues, Burlington's 11 most influential business people, in order of ranking, are:

Ray Pecor Jr. of Lake Champlain Transportation Co.

Patrick S. Robins of McAuliffe Inc.

Duane J. Davis of Merchants Bank.

Angelo Pizzagalli of Pizzagalli Construction Co.

Dave Hackett of Hackett, Valine & McDonald.

Harlan C. Sylvester of E.F. Hutton.

Antonio Pomerleau of the Pomerleau Agency.

Robert E. Boardman of Hieckoe & Boardman Inc.

Ernest Pomerleau of the Pomerleau Agency.

Nancy Lang of Lang Associates Inc.

David Coates of Peat Marwick Main & Co.

All 11 run thriving, profitable companies. All 11 also say making money was not the only reason for their success. Each serves in a variety of other capacities, too, as on boards of directors of area banks, non-profit agencies and economic development companies.

Beyond the impressive titles, there is a common denominator to the quality among the Burlington 11: influence.

When they see a problem, they pick up a telephone and set in motion the process for a solution. They see an untapped need and they pick up a checkbook and pay to fill it. They see an opportunity and they organize the right people to go after it.

Make no mistake, though. When a job needs doing in Greater Burlington, be it for business or civic pursuits, others in the community are often turned to this elite group for help, according to their responses to the Business Monday survey.

These then, are the "top guns" of Greater Burlington.

1. RAY PECOR JR.

Almost 10 years ago, when Greater Burlington's business-people were asked by the Free Press who was the likely "up-and-comer," a person apt to be among Chittenden County's most powerful in a decade, Ray Pecor Jr. was their man.

The prediction, it turns out, was a pretty good one.

Pecor is the top choice of his peers, a man whose counsel is sought by business.

10. Hardly a day goes down that somebody doesn't call him," said McAuliffe Inc. President Patrick S. Robins, one of his long-time friends. "He's just a commonsense, upbeat kind of guy. I'd do a million-dollar deal with Ray on a handshake.

Pecor himself has been in the middle of several key business deals in the last decade, among them the renovation of Champlain Mill in Winoski, the development of Champlain Cable Corp. in Colchester and, most recently, Courthouse Plaza in downtown.

The five-floor plaza, now being readied for its grand opening at Main Street and South Winoski Avenue, has cemented Pecor's position of prestige in Burlington.

The 70,000-square-foot structure, standing in what had been for 15 years an empty lot, is a testament to the 48-year-old businessman's faith in downtown and the city's ability to hold its own against developing suburbs.

After years of false starts by others seeking to develop the site, Pecor took over what was known as the Strong Block, got financing for his project and signed up the area's largest law firm to occupy two floors before the first spade of dirt was turned.
Ray's a bit of a risk-taker and he hung it out there on this project," said Peter Clay­velle, Burlington's community and economic development director. "This building, whether you like it or not, has this statement: It sets a standard for future projects in the heart of the city.

The project also tells a great deal about Ray Pecor, the man. "Ray did that project not because there's great short-term profit in it, but because it needed to be done," Clay­velle said.

Pecor himself is the first to admit that he doesn't build another building to make money. He has that. He is somewhat hard-pressed, though, to explain exactly why he has put so much money into Court­house road.

He likened the effort to the work he put into renovation of the Champlain Mill, a landmark that had stood idle for years in downtown Winooksi.

"I see it (Courthouse Plaza) a lot like the mill," he said, gazing out over Burlington harbor and across Lake Champlain Transpor­tation office on the King Street Dock. "I drove past the mill for years and years and said to myself, 'Why should anybody do it.' Nobody did it, so I did it."

Pecor views the Courthouse Plaza and Champlain Mill projects as the responsibil­ity of his generation. "I think a lot of people live here because they love it. It's more than just a place to work; it's a living," he said.

It is a role in which he clearly revels. Although the state's largest office products supplier, is the base from which Robins works, it is clear his heart is in the various public projects in which he gets involved. "I think it's a great privilege to do all this stuff," he said. "I don't see myself as part of the 'business community.' . . . I'm interested in public policy issues."

He says he is concerned that the vitality of downtown is not impenetrable and worries that they need to start thinking of themselves as a himself. "It's a role I want to play, not as a businessman."

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Hackett is a man of two professions. He makes his livelihood in the insurance business, heading up the successful Hackett, Valine & McDonald in South Burlington. But he is also passionate about politics, an ardent Republican who served in the Legislature and mounted an unsuccessful campaign for governor in 1972.

Two things here provide the Burlington native with a powerful stage, but at first blush it would appear that the influence of Hackett is on the wane—after all, Democrat Gov. Madeleine M. Kunin is in the seat house and an avowed socialist, Mayor Bernard Sanders, rules City Hall.

But Hackett is on the wane after all. Democrat House Speaker Joseph Sylvester is on the rise, and Hackett is not to be underestimated. He chairs the Howard Bancorp board of directors and the Vermont Electric Power Co. He also serves on the boards of Central Vermont Railway, his opinion matters, he said, to non-profit and charitable organizations.

Hackett's name turned up on the lists of businesspeople of every stripe. No matter their political point of view, they respect Hackett. They get caught up in the white picture and is willing to weigh in and do something about it, but usually in the background, said active governor, president of the University of Vermont.

Sylvester speaks guardedly when discussing his role in state government. He is keenly aware that he serves at the pleasure of the governor and does not want to give the appearance of speaking for her. But there can be no mistaking his influence when he drops by the Pavilion Office Building in Montpelier.

Sylvester and others in business were opposed to last year's plant-closing legislation and made that known to Kunin. A compromise was worked out where the legislation was tabled pending congressional action on the issue.

Another key area where the stockbroker is sure to have influence is the cleanup of Lake Champlain, an issue with serious consequences. "When it's written in the New York Times that there's sewage going into Lake Champlain, what does that do to our tourism?" he asked.

He knows the answer and believes that it's time action is taken. He supports co-opera tion and efforts to control pollution and that the state to spend part of Vermont's budget surplus on sewage treatment facilities. He doesn't say what role he played in hammering out such a solution, but he certainly endorses it.

"We've got to have these kind of relations going on regularly, not sporadically," he said.

Making that kind of contribution is something Sylvester grew up with and he views it as a responsibility of a businessman. He takes pleasure in recounting tales of traveling with his father from their St. Albans home to Montpelier so his dad could serve in the Legislature and occasionally lobby a legislative page. His current duties, he said, are an outgrowth of those experiences.

"If you're going to make a living in a community, you ought to put something back into it," he said. "I enjoy community activity. You get a lot of satisfaction out of a job well done."

Sylvester is the quintessential behind-the-scenes operator. As chairman of the governor's Council of Economic Advisers, he has a lot of contacts and keeps close track of Vermont's economic fortunes.

Business colleagues see Sylvester's style as an effective one for dealing with the problems. That's his style: He is a man of few, well-chosen words, usually spoken beyond the glare of media attention.

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him in demand for other boards and committees.

It is that broad background that draws others to Victor Coates, Boardman said. "Richard Friske, interim president of Bank-Vermont Corp. and colleague of Boardman’s, on several boards. "He has a very broad background of experience in order to make astute suggestions and comments in a variety of business fields, which Bob does," Friske said.

Boardman believes he is able to interact effectively with others is the key to his success. He traces his community involvement back to his participation in Jaycees in the late 1950s. He said he encourages young business people to get involved in such an organization because it teaches cooperation and contributes to the community.

"Jaycees was inordinately helpful to me," he said. "It taught me that things were done. That opportunity still exists with United Way and others." 10. NANCY LANG

"Hard-working" are the words most often used to describe Nancy Lane.

She got into the real estate business in 1961 working for Hickock & Boardman in Burlington. She became the first person in Vermont to sell more than $1 million in real estate.

The following year she opened her own firm with a payroll of $15,000. She has parlayed that small investment into a thriving business which employs 30 associates and is one of the leaders of the area’s competitive real estate pack.

Through that success she has gained influence and become perhaps the most powerful female business leader in Greater Burlington. Integrity and hard work are hallmarks of Nancy Lang, respondents to the Business Monde Monday to get in touch with her as a top business leader.

"Nancy has done a hell of a job," said Anton Pomerleau, a long-time real estate leader in Burlington. "She has done more to advance the real estate business than anyone I know who has been around here for a long time."

"Turquoise," respondents to the Business Monde Monday to get in touch with her as a top business leader.

"It's more than just a single focus," he said. "The role of the business community is significant. We are successful and we create a winning environment because our knowledge of business in general and Greater Burlington in particular.

Business leaders ask Coates for advice on mergers, acquisitions and personnel in addition to typical accounting chores such as tax planning, said Patrick R. Robins of MeAdulla Inc.

Coates said he believes it is best to step back and see the big whole when looking at business. It's a very inefficient way to raise revenue since an increase in the price of imported oil would allow domestic producers to raise their prices as well. Since oil remains a critical raw material, the American consumers should expect to see price increases across the board, not only for gasoline and home heating oil but also petrochemicals and other oil-based products.

First, it is a very inefficient way to raise revenue since an increase in the price of imported oil would allow domestic producers to raise their prices as well. Since oil remains a critical raw material, the American consumers should expect to see price increases across the board, not only for gasoline and home heating oil but also petrochemicals and other oil-based products. Congress should also consider the impact of an oil import fee on our neighbors to the North and South and our friends and allies such as Canada, Mexico and Great Britain. Indeed, it would be illegal under the proposed U.S.-Canadian trade agreement, not to mention a possible violation of international trade rules.

The complications, however, hardly stop there. Implementing an import fee would be a headache. The burden of the tax would fall most heavily on the Midwest and Northeast. Lawmakers from these areas could be expected to seek exemptions, and they likely would get them, diminishing the import fee as a tool for deficit reduction.

9. DR. CARL RAYMOND RENG

Mr. PRYOR. Mr. President, Arkansans were saddened last week by the death of Dr. Carl Raymond Reng, former president of Arkansas State University. I join the other members of the Arkansas congressional delegation and the entire State in grieving the loss of this fine man and remembering his many contributions to higher education in Arkansas.

Dr. Reng became President of ASU 37 years ago when it was Arkansas State College. He was best known for spearheading the drive in 1967 that gained the institution university status—his long sought after dream. In essence, this achievement was a reflection of his own enthusiasm and leadership that led to unprecedented growth for the institution.

During his 24-year tenure at ASU, Dr. Reng had a superb record in construction progress and academic achievements. At the time of his retirement, the ASU Herald reported that every building on the campus had been either erected or renovated during his tenure. Moreover, the number of baccalaureate degree programs more than tripled from 21 to 69. Also, the number of faculty members holding doctorate degrees was only 11 at the time he came to Jonesboro in 1951, and had jumped to 166 by the time he retired a year later.

I strongly believe that our Nation’s unmatched level of prosperity and intellectual advancement has been made possible by the outstanding education provided our citizens by American colleges, universities, and administrators.
Indeed, a source of America's success can be found in these men and women who dedicate their lives to enriching the minds of our children—the future of this great country. Mr. President, Dr. Carl Raymond Reng was indeed one of these dedicated individuals. I count myself fortunate to have known him as a good friend. I shared his pride in his great accomplishments and I deeply mourn his passing. I join my fellow Arkansans in paying tribute to a man who has left lessons, impressions, and marks for his successors that will long be remembered.

HOMELESSNESS IN AMERICA

Mr. CHILES. Mr. President, the President said in his budget that we are increasing assistance to the homeless in America.

A look at his budget shows otherwise. The budget sent to the Hill claims a 4-percent increase in homeless funding over last year's levels.

A closer look shows, however, that the administration actually recommends cuts of 52 percent, or $414.8 million, from last year's program levels.

This recommendation is particularly disturbing in light of recent disclosures that even current food resources for the homeless, such as surplus food commodities and the temporary emergency food assistance programs, are closing down.

Homeless assistance should remain a national priority and I've asked Budget Director James Miller to show how the administration can claim a 4-percent increase in homeless funding when our analysis shows a 52-percent decrease.

Mr. President, I ask to include a letter to Mr. Miller, a table showing the funding levels, and the President's response to a question at a press conference last night about the same issue.

The material follows:

U.S. SENATE

COMMITEE ON THE BUDGET

Washington, D.C., February 23, 1988

Chairman JIM:

On page 2b-13 of the President's 1989 Budget proposal, it is claimed that the President funds $0.4 billion for programs and activities for homeless individuals, a claimed 4 percent increase. When actual 1988 total program and new funding levels are compared to the comparable figures in the President's 1989 budget submission, a different story emerges. The President is actually proposing a cut of $414.8 million, or 52 percent, from the 1988 program level. The President also proposes a cut of $114.8 million, or 37 percent, in new funding from 1988.

HOMELESS FUNDING

(Budget authority in millions)

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<th></th>
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<th>New funding</th>
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<td>FEPA</td>
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1 In 1988, the Interagency Council on Homelessness administered $0.4 billion. The President's budget includes this funding area. The President claims a 4 percent increase over 1988.

Mr. DODD, Mr. President, today I am recognizing Big Brothers/Big Sisters Week, which is being observed nationwide the week of February 21-27, 1988. Over 50,000 volunteer men and women are currently providing 1 to 1 informal friendship to children, ages 6 and 17, who are primarily from single parent homes.

For over 80 years, Big Brothers and Big Sisters have helped youngsters through the trials and tribulations of growing up by giving them supportive, mature friendship and informal guidance. Studies have shown that these "special" relationships are highly effective in preventing juvenile delinquency and emotional problems and in preparing children for adulthood.

I commend the nine local Big Brother/Sister organizations in my home State of Connecticut: Bridgeport, Bridgeport, New London, Norwalk, and Westport, and Willingford. Along with the 1 to 1 contact the volunteers have with the participants, there are various outings throughout the year, with an annual Halloween and Christmas party.

I appreciate the time and work to which the Big Brother/Big Sister volunteers have committed themselves. I am certain that the young people with whom they work will be grateful for their dedication. I applaud them all.

From the Washington Post, Feb. 25, 1988

HELPING THE HOMELESS

The budget that you have proposed to Congress would cut, would eliminate three housing programs for the homeless. It would make deep cuts in an emergency food program, and it would end a job-training program for the homeless.

I believe that the problem of the homeless is less pressing now than just a year ago when you signed legislation from Congress to create these programs. It is sad that we're doing a great many things, and we also are keeping track of the extent to which the private sector is joining in and helping on this. And this budget is the result of long weeks of negotiation, with the Democrats and ourselves, and I think that we're meeting the problems.

Again, I also have to say that sometimes our budget and programs can reflect another program we've had going which is a management program, and we have had a team for a considerable period of time now that had been actually investigating the management practices of government programs as compared to the way they're done in the private sector. And there are millions and millions of dollars that are being saved so that something that maybe looks smaller does not mean that the people in need are going to get less. It means that we are able to provide that with less administrative overhead.

When I came here from a governorship, as a governor I had seen federal programs administered in our state in which it was costing the federal government $2 for every $1 that reached a needy person. This is something we've been trying to change, and we've made some progress in it.
TRIBUTE TO JACLYN ROBERSON, POSTER CONTEST WINNER FOR A DRUG-FREE AMERICA

Mr. BINGAMAN. Mr. President, I would like to take this opportunity to honor a very special young lady from my constituency, Jaclyn Roberson. Jaclyn is a first grade student at Tomasita Elementary School in Albuquerque, NM. Recently, she was named a winner in a nationwide poster contest sponsored by the White House Conference for a Drug-Free America.

The White House Conference for a Drug-Free America was established under the Omnibus Drug Abuse Prevention Act passed by the Congress and signed into law in October 1986. It is very gratifying to see the positive effects this legislation is beginning to have in the lives of American youth across the country. As one of its duties, the conference established 10 committees that have traveled across the country working with concerned citizens to establish community-based drug abuse prevention programs. In preparation for the arrival of the committee, the public schools in each host city sponsored a city-wide poster contest.

Jaclyn's winning poster, which depicts two children facing each other with large hearts drawn on their chests, was created by her first grade teacher, Ms. Marietta Stevenson from Cottonwood Elementary School in Albuquerque, NM. Recently, she was named a winner in a nationwide poster contest sponsored by the White House Conference for a Drug-Free America.

The principal of Tomasita Elementary School, Ms. Terry Toman, and Jaclyn's first grade teacher, Ms. Marietta Ravenscraft, should be commended for their success in encouraging their students to participate in the poster contest and to discuss the dangers of drug abuse in the classroom. Ms. Ravenscraft and her students spent a considerable amount of time discussing choices, decisionmaking, and peer pressure. She asked her students to make posters that reflect the many alternatives to drug use. The result was Jaclyn's winning poster, which depicts two children facing each other with large hearts drawn on their chests. The caption below reads, "No to Drugs, Yes to Talking to a Friend."

Jaclyn will be honored in Washington, DC, during this city's week-long Conference for a Drug-Free America, the public schools in each host city sponsored a city-wide poster contest.

Jaclyn is a first grade student at Tomasita Elementary School in Albuquerque, NM. Recently, she was named a winner in a nationwide poster contest sponsored by the White House Conference for a Drug-Free America. The dedication and resolve of all individuals involved in the conference and programs like it across the Nation will go far in our battle against drug abuse.

EXECUTIVE CALENDAR

Mr. BYRD. Mr. President, I inquire of the distinguished Senator from California, who is presently the acting leader on the other side of the aisle, as to whether or not the following calendar orders on the Executive Calendar have been cleared for action: Calendar Orders 533, 534, 535, 536, 537, 538, and 539, all of which appear on page 4 of the Executive Calendar.

Mr. WILSON. They have, Mr. President.

Mr. BYRD. Mr. President, I thank the Senator.

EXECUTIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the aforementioned calendar orders on the Executive Calendar, that they be considered en bloc, agreed to en bloc, that the motions to reconsider en bloc, be laid on the table, that the President be immediately notified of the confirmation of the nominees, and that the Senate, which went into executive session, resume legislative business.

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

The nominations considered and confirmed, en bloc, are as follows:

THE JUDICIARY

Malcolm J. Howard, of North Carolina, to be U.S. district judge for the eastern district of North Carolina.

Stephen M. Reasoner, of Arkansas, to be U.S. district judge for the eastern district of Arkansas.

Rudy Lexano, of Indiana, to be U.S. district judge for the northern district of Indiana.

DEPARTMENT OF JUSTICE

John E. Fryatt, of Wisconsin, to be U.S. attorney for the eastern district of Wisconsin for the term of 4 years.

Patrick J. Fiedler, of Wisconsin, to be U.S. attorney for the western district of Wisconsin for the term of 4 years.

Edgar W. Ennis, Jr., of Georgia, to be U.S. attorney for the middle district of Georgia for the term of 4 years.

Charles A. Banks, of Arkansas, to be U.S. attorney for the eastern district of Arkansas for the term of 4 years.

LEGISLATIVE SESSION

RAIL SAFETY IMPROVEMENT ACT

Mr. BYRD. Mr. President, on behalf of Mr. Hollings, I ask the Chair to lay before the Senate the following message from the House of Representatives.

Resolved, That the House insist upon its amendments to the bill (S. 1539) entitled "An Act to amend the Federal Railroad Safety Act of 1970 and for other purposes," and that a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That Mr. Dingell, Mr. Thomas A. Luken, Mr. Slattery, Mr. Lent, and Mr. Whitaker be the managers of the conference on the part of the House.

Mr. BYRD. Mr. President, on behalf of Mr. Hollings, I move that the Senate disagree to the amendments of the House, agree to the conference requested by the House on the disagreeing votes between the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Chair (Mr. Conrad) appointed Mr. Hollings, Mr. Exon, Mr. Adams, Mr. Danforth, and Mr. Kasten conferees on the part of the Senate.

NATIONAL AGRICULTURE DAY

Mr. BYRD. Mr. President, on behalf of Senator Leahy and others, I ask unanimous consent to introduce and place on the calendar a joint resolution proclaiming March 20, 1988, as National Agriculture Day.

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

H.R. 3960 PLACED ON THE CALENDAR

Mr. BYRD. Mr. President, I ask unanimous consent that H.R. 3960, a bill relating to technical corrections to the agricultural credit laws be placed on the calendar.

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

S. 2091 HELD AT THE DESK

Mr. BYRD. Mr. President, I ask unanimous consent that S. 2091, a bill introduced today by Mr. Durbeniger, and the accompanying amendment, No. 1406, be held at the desk until the close of business on Monday, February 29, 1988.

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

SENIATE SCHEDULE

Mr. BYRD. Mr. President, does the distinguished Senator from California (Mr. Wilson), who is the acting leader, have anything further he would like to say or any further business he would like to transact?

Mr. WILSON. I thank the majority leader.

Mr. President, the only thing that I would add is that in the wake of the cloture vote, should cloture fail, and the majority leader should seek to move to other items, one of those items is Calendar No. 541, Senate Res-
The PRESIDING OFFICER. The Senator is correct.

PROGRAM

Mr. BYRD. Mr. President, the Senate will come in tomorrow at 9 a.m., following a recess.

The 1 hour under the cloture rule will begin running immediately after the prayer, and will be inclusive of the prayer, as a matter of fact. A rollcall vote will occur on the motion to invoke cloture at 10 a.m., barring a quorum call. I do not presently anticipate a quorum call.

That rollcall vote will be a 30-minute vote by order previously entered. I hope that Senators will be present and voting. I have not asked that the regular order be automatic at the conclusion of 30 minutes, but I shall do so at this time.

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

Mr. BYRD. Further rollcall votes are expected to occur tomorrow, one or two are possible. Such rollcall votes have already been discussed.

Mr. President, I thank all Senators for their patience that has been shown, I think at one time or another, at least, by every Senator here during this debate. The vote will occur on cloture, I hope that cloture will be invoked. I am not at this hour under any delusions about it. But as I have stated before, this is an issue that will not go away. There has been a suggestion that this particular bill at this particular time may not survive a cloture motion vote tomorrow, but no Senator should be under the impression that this issue is going away. Nor should anyone be under the impression that the issue will not be revisited in some form this year.

So, Mr. President, having said that I again ask my friend if he has anything further he wishes to say. If not, I shall move that the Senate go out.

Mr. WILSON. Mr. President, I do not. I thank the distinguished majority leader.

Mr. BYRD. Mr. President, I thank the Senator again.

RECESS UNTIL TOMORROW AT 9 A.M.

Mr. BYRD. Mr. President, in accordance with the previous order, I move that the Senate stand in recess until the hour of 9 a.m. tomorrow morning.

The motion was agreed to and the Senate, at 7:24 p.m., recessed until 9 a.m., Friday, February 26, 1988.