

# HEARING ON CAMPAIGN FINANCE REFORM

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HEARING  
BEFORE THE  
COMMITTEE ON HOUSE  
ADMINISTRATION  
HOUSE OF REPRESENTATIVES  
ONE HUNDRED SEVENTH CONGRESS  
FIRST SESSION

HEARING HELD IN WASHINGTON, DC, JUNE 28, 2001

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## HEARING ON CAMPAIGN FINANCE REFORM

THURSDAY, JUNE 28, 2001

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON HOUSE ADMINISTRATION,  
*Washington, DC.*

The committee met, pursuant to call, at 1:15 p.m., in Room 1310, Longworth House Office Building, Hon. Robert W. Ney (chairman of the committee) presiding.

Present: Representatives Ney, Ehlers, Mica, Linder, Doolittle, Reynolds, Hoyer, Fattah and Davis.

Staff Present: Neil Volz, Staff Director; Channing Nuss, Deputy Staff Director; Roman Buhler, Counsel; Paul Vinovich, Counsel; Fred Hay, Counsel; Jeff Janas, Professional Staff; Troy Walton, Staff Assistant; Sara Salupo, Staff Assistant; Bob Bean, Minority Staff Director; Keith Abouchar, Minority Professional Staff; Matt Pinkus, Minority Professional Staff; and Charles Howell, Minority Chief Counsel.

The CHAIRMAN. The committee will come to order. The House Administration today is holding its fifth hearing on campaign finance reform. This committee received numerous requests from Members who wish to be heard on this issue. Members have introduced bills that don't care and to put them on the record. We have a number of Members waiting to testify. So we will get started, and Mr. Barr of Georgia will begin.

### STATEMENT OF THE HON. BOB BARR, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF GEORGIA

Mr. BARR. Thank you very much, Mr. Chairman. I deeply appreciate the opportunity to testify this afternoon on an issue that should seriously concern every American citizen who values the U.S. Constitution. In fact, Mr. Chairman, I would like to even thank you for holding this hearing at all. For all of the posturing, the bloviating and the media interviews by Members of the other body during debate on McCain-Feingold earlier this year, not a single hearing was held. Not one word of testimony from ordinary Americans was heard. This is sadly ironic, since the leaders of this effort in the Senate claim those are the very people they are seeking to help. Yet during debate the voices of everyday Americans were extinguished, which is exactly what would happen throughout this Nation if the campaign finance bill passed by the Senate is ultimately enacted into law.

Americans will be deliberately and viciously stripped of their first amendment rights and threatened with jail time if they dare

to speak out with their fellow citizens in the hopes of affecting the electoral processes.

This is not reform legislation to help ordinary American citizens make their voices heard. This is incumbent protection legislation. It is designed specifically to muzzle the voices of American citizens at the most critical time in which their voices should be heard in the weeks leading to an election. In fact, the restrictions on free speech are so severe in this bill, I have trouble distinguishing it from a quote made recently by the Chinese Foreign Ministry spokesman regarding impending restrictions on free speech in Hong Kong. He said, "People will have full freedom of expression, but all freedoms must be within the limits allowed by law." It sounds to me a bit like the old adage in *Animal Farm*, "All animals are equal, but some animals are more equal than others."

Another parallel, Mr. Chairman, is found in testimony submitted in writing by Mr. Phil Kent, President of Southeastern Legal Foundation, earlier this month, in which he compared the eerie resemblance between the McCain-Feingold language and the Sedition Acts from the late 18th century in which it was a crime to speak out against government policy or individuals.

In a country, Mr. Chairman, of hundreds of millions of people, it is often difficult for one person to make his or her voice heard. However, working together with fellow citizens, Americans have the ability to accomplish great things, to be heard. Yet this legislation from the Senate would severely limit the ability of legitimate grassroots organizations, such as the National Rifle Association and the Christian Coalition, to educate and inform voters. Heaven forbid that a lawful organization, comprised of concerned citizens, would hand out fliers, educating voters on the issues and candidates' voting records. Mr. McCain would put them in jail.

At a time when we are finding it increasingly difficult, Mr. Chairman, to educate voters as to issues and candidates when, for example, in the last presidential election only 50 percent of eligible voters voted, and in the most recent Congressional cycle, I believe the figure was down about 42 percent, and at a time when far too few citizens are registering to vote or actually voting, we ought to be doing more to improve voter awareness and participation.

The legislation passed by the Senate doesn't either and in fact moves us in the opposite direction. In Senator McCain's America, citizen organizations, such as the NRA, face severe monetary fines and their offices face prison time if they dare to even share their views with the public on an issue important to their members 60 days before a general election. What is Senator McCain thinking? Is this his goal, to silence the NRA and other grassroots organizations? I take particular exception to the spin employed by the campaign finance zealots who have smeared effective grassroots organizations as the so-called Washington personal interests who are corrupting our electoral system. If recognizing that without a strong second amendment Americans might as well forget the rest of the Bill of Rights, especially the first amendment's free speech protections, then, yes, I and other members of the NRA and other grassroots organizations take a special and vested interest in defending those rights.

However, those who disagree with that cause, those who believe that the second amendment should be wrapped in Federal red tape, as do several sponsors of the Senate legislation, should not have the right to stand before television cameras, doing media interviews night after night and promote their beliefs, while at the same time making it illegal for ordinary citizens who oppose them from defending themselves. This is morally wrong, and it is an affront to our Constitution.

But consistency is not always a surplus commodity on the other side of the Rotunda. Before passing bad legislation such as this, Mr. Chairman, we ought to do a better job of enforcing the many campaign laws already on the books. Consistent law enforcement and protection of the first amendment rights of American citizens to express themselves in public elections are the keys to creating a quality system of campaign finance, not more laws, such as McCain-Feingold or Shays-Meehan.

In closing, Mr. Chairman, I can't help but notice that from Senator McCain's perspective, this legislation would have at least one benefit. The 250,000 dollar anti-gun ad campaign in which he is participating, shown at movie theatres around the country, which I might add is funded not by the grassroots donations of thousands of citizens but by a single Internet billionaire, would be exempt from the severe free speech restrictions of his own bill. You see, the so-called public service ads are not restricted under this legislation. At least certain privileged Americans would still be able to speak their minds in public, such as Mr. McCain, if this bill is passed.

As George Orwell would have said, "All voices are equal, but some are more equal than others." he might be proud of McCain-Feingold, but we should not be, and I commend you, Mr. Chairman, and this committee for listening to the public, listening to their representatives in the Congress and being respectful of the Constitution of the United States of America. Thank you, Mr. Chairman.

[The statement of Mr. Barr follows:]

**Testimony by U.S. Representative Bob Barr (GA-7)**  
**Before the Committee on House Administration**  
**Regarding Campaign Finance Reform**  
**Thursday, June 28, 2001**

Mr. Chairman, thank you for the opportunity to testify this afternoon on an issue that should seriously concern every American citizen who values the United States Constitution. In fact, Mr. Chairman, I would like to thank you for even holding this hearing at all. For all of the posturing and media interviews by members of the other body during debate of McCain-Feingold earlier this year, not a single hearing was held; not one word of testimony from ordinary Americans was heard. This is sadly ironic, since the leaders of this effort in the Senate claim those are the very people they are seeking to help. Yet, during debate, the voices of every day American citizens were extinguished, which is exactly what would happen throughout this nation if the campaign finance bill passed by the Senate is ultimately enacted into law. Americans would be deliberately and viciously stripped of their First Amendment rights and threatened with jail time if they dared to speak out with their fellow citizens in the hopes of affecting the electoral process.

This is not reform legislation to help ordinary American citizens make their voices heard. This is incumbent protection legislation designed specifically to muzzle the voices of American citizens at the most critical time when their voices should be heard -- in the weeks

leading to an election. In fact, the restrictions on free speech are so severe in this bill, I have trouble distinguishing it from a quote made recently by the Chinese Foreign Ministry spokesman, regarding impending restrictions on free speech in Hong Kong; he stated, "... people will have full freedom of expression, but all freedoms must be within the limits allowed by law." Sounds a bit like the adage in *Animal Farm* -- "All animals are equal, but some animals are more equal than others."

This legislation is not reform; it is the path of least resistance. It is the typical Washington response to a perceived problem: don't enforce the laws already on the books, that would take work, not just talk; instead, pass more regulations, hire more bureaucrats, and create more government. New laws mean nothing if existing laws are not enforced; but oh, how the pious can garner headlines by touting their "new laws." Strong campaign finance laws have been on the books for more than 25 years, and yet, most recently in 1996, they were flagrantly, and repeatedly violated, and the enforcement was, at best, minimal. Yet, just like the gun control effort, the proponents of this legislation have yet to take their blinders off; they continue to believe that if we keep adding more and more laws to the already bloated federal law books, and more federal bureaucrats to the already bloated federal payrolls, then maybe the system will be fixed. There is a word for this -- poppycock.

Unfortunately, in this particular case, the implications go far beyond the size of government. The campaign finance zealots have chosen to limit and regulate two of America's most

precious commodities -- free speech and freedom of association.

In a country of hundreds of millions of people, it is often difficult for one person to make his or her voice heard. However, working together with fellow citizens, Americans have the ability to accomplish great things; to be heard. Yet, this legislation would severely limit the ability of legitimate, grassroots organizations, such as the NRA and the Christian Coalition, to educate and inform voters. Heaven forbid that a lawful organization, comprised of concerned citizens, would hand out flyers educating voters on the issues and candidates' voting records. Mr. McCain would put'em in jail.

At a time when we are finding it increasingly difficult to educate voters as to issues and candidates, and in a time when far too few citizens register to vote or actually vote, we ought to be doing more to improve voter awareness and participation. The legislation passed by the Senate does neither, and in fact, moves us in the opposite direction. In Senator McCain's America, citizen organizations, such as the NRA, face severe monetary fines and their officers face prison time, if they dare to even share their views with the public on an issue important to their members, 60 days before a general election. What is Senator McCain thinking? Is this his goal? To silence the NRA and other grassroots organizations?

I take particular exception to the spin employed by the campaign finance zealots who have smeared effective grassroots organizations like the NRA, as the "Washington special



interests" who are corrupting our electoral system. I am a member of the NRA and proud of it; as are more than 4 million other men and women from around this country. If recognizing that without a strong Second Amendment, Americans might as well forget the rest of the Bill of Rights -- especially the First Amendment's free speech protections -- then, yes, I and the other members of the NRA take a special and vested interest in defending that right.

However, those who disagree with that cause; those who believe the Second Amendment should be wrapped in federal red tape, as do several sponsors of the Senate legislation, should not have the right to stand before television cameras during media interviews and night after night promote their beliefs, while at the same time, making it illegal for ordinary citizens who oppose them from defending themselves. That is morally wrong and it is an affront to our Constitution. But, consistency is not always a surplus commodity on the other side of the Rotunda.

Before passing bad legislation such as this, we need to do a better job enforcing the many campaign laws already on the books. Consistent law enforcement, and protection of the First Amendment rights of every American to express themselves in public elections, are the keys to creating a quality system of campaign finance, not more laws such as McCain-Feingold, or Shays-Meehan.

In closing, I can't help but notice that from Senator McCain's perspective this legislation

would have at least one benefit. The \$250,000 anti-gun ad campaign in which he is participating, shown at movie theaters around the country -- which I might add, is funded not by the grassroots donations of thousands of citizens, but by a single Internet billionaire-- would be exempt from the severe free speech restrictions of his own bill. You see, so-called "public service" ads are not restricted under this legislation. At least certain, privileged Americans will still be able to speak their minds in public if this bill is passed. As George Orwell would have said, "all voices are equal, but some are more equal than others." He would be proud of McCain-Feingold. We should not be.

The CHAIRMAN. I thank the gentleman from Georgia for testifying. As I understand, he has another commitment and won't be available for questions. Correct?

Mr. BARR. I do appreciate if I could be excused, Mr. Chairman. We have a markup on a very important piece of legislation for the President, the faith-based initiative bill in Judiciary Committee, and Chairman Sensenbrenner has asked us to be there, and if I could take my leave of the committee, I would appreciate it.

Mr. HOYER. Mr. Chairman, can I make an observation, and I don't want to get into a discussion. I know your time is limited, but I was struck and I understand entirely your argument with respect to the ability of the NRA to make its points, as it should be able to do, just like every other group should be able to do, but I am struck somewhat in your language, from my perspective, so you understand, in terms of the Paycheck Protection Act. That would effectively prohibit labor unions, in my opinion, from doing the same thing that you suggest; that is, communicating both with the public and with legislative bodies at every level, absent every time they wanted to make a statement checking with all their members. A corporation couldn't do that and a labor union would be effectively put in the same position.

I offer that only because I think the principle for which you speak is absolutely an essential one in a democracy, but you might want to look at that. It obviously has broader application and effect. But I thank you for your testimony.

Mr. BARR. And I understand the distinguished gentleman's point of view, and I certainly understand it deeply. Thank you. Thank you again, Mr. Chairman.

The CHAIRMAN. And we will move on to Mr. Gonzalez, the gentleman from Texas.

**STATEMENT OF THE HON. CHARLES GONZALEZ, A  
REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS**

Mr. GONZALEZ. Mr. Chairman and ranking members of the committee, first of all thank you for taking me out of order and to my colleagues for allowing me to go first here. I am due to testify over in the Senate, and I am going to be a few minutes late but this is obviously a very important issue. Campaign finance is an issue about which I and other members of the Hispanic Caucus feel very strongly. I will briefly outline the concerns and issues many of the members of the Caucus have discussed over the past several months on campaign finance reform.

As minorities, the right to vote and participate in the political system has only come after long, hard battles. My father, who represented the 20th Congressional District for 37 years and who I have the privilege today of succeeding after he retired from Congress, was a tireless proponent of political participation for minorities. The first bill he introduced when he came to Congress in 1961 was legislation to eliminate the poll tax.

While some of these issues may seem more closely related to election reform than campaign finance reform, the Caucus believes the right to participate in the electoral process extends beyond voting, to issues of how our elected officials campaign for office. In essence, the work we do on campaign finance should constitute an-

other step in the development of a more accessible and equal election system, one where those with money do not have an inordinate amount of clout as opposed to the average citizen.

The Hispanic Caucus has met a number of times as a group to discuss this topic and has developed several principles which I will discuss today. But first let me state that the Caucus supports the broad principles of campaign finance reform as set forth in the Shays-Meehan bill, which all Caucus members voted for in the last Congress. The members of the Caucus wholeheartedly agree that the unregulated use of soft money, especially that has been used by outside groups to fund media attacks, is wrong and destructive to our system of governance. The Caucus does, however, recognize that there are legitimate campaign activities where the limited use of soft money could be beneficial. I am referring specifically to voter registration and get-out-the-vote programs that serve to enhance the participation of every voter and encourage an honest and rigorous debate. The Caucus strongly supports limited use of soft money for these activities.

Secondly, the Caucus has determined that it is not in the best interest of our collective constituencies to support a doubling of the hard dollar individual limits from \$1,000 to \$2,000. Philosophically, many members of the Caucus feel that if we are eliminating soft money because it is a corrupting influence on the process, we should not at the same time increase the hard dollar limits, which only further widens the political access gap between the wealthy and the poor.

Additionally, for minority members with poor constituencies, we believe that an increase in the hard dollar limit would require those members to look outside their districts to raise money, even more than they do today. We believe this has a negative effect on the ability of these members to represent their constituents and potentially makes them beholden to and dependent on outside influences.

Consequently, the Hispanic Caucus strongly submits keeping the current limits.

Third, the Caucus is firmly opposed to any efforts to limit or eliminate the ability of legal permanent residents to contribute to Federal campaigns. As the committee already knows, under current law legal permanent residents may make political contributions under the same rules as United States citizens. As representatives of Congressional districts that often consist of large numbers of local residents who are not allowed to vote, the Hispanic Caucus does not want to see these people further removed from the political process.

Furthermore, the Caucus feels that it is in the best long-term interest of this country to have these future citizens involved in the process as early as possible. It is common knowledge that minorities vote at rates far lower than those in the majority communities. But allowing these legal residents to remain involved in the process may help them to be more involved as citizens and voters at a later date.

I would like to conclude by just saying that the Hispanic Caucus' opposition to increasing the hard dollar campaign contribution limits, its support for exemptions that would allow soft money to be

used for voter registration and get-out-the-vote activities and its support for the right of local permanent residents to make campaign contributions should not, and I repeat should not, be viewed as a retreat from or an attempt to frustrate the essential aim of campaign finance reform, which is to eliminate the abuses of soft money. These concerns are raised simply to ensure that we avoid unintended and negative consequences affecting minority voter participation and the ability of Hispanics to get elected to public office.

Again, I commend you all for what you are doing. I am glad you are bringing this to the forefront, maybe offering some alternatives, addressing the concerns of all interested parties, and again I wish I could remain, if you had any questions on campaign finance reform and the minority communities. Again, thank you very much for this opportunity.

[The statement of Mr. Gonzalez follows:]

Gonzalez Testimony  
of  
Congressman Charles Gonzalez (TX-20)  
Before  
the  
House Committee on Administration  
on  
June 27, 2001

Mr. Chairman, Ranking Member and Members of the committee, thank you for the opportunity to testify today on behalf of the members of the Congressional Hispanic Caucus regarding the Committee's efforts to reform the campaign finance system. I ask for unanimous consent to revise and extend my remarks. Campaign finance is an issue about which I and the other members of the Caucus feel very strongly. I will briefly outline the concerns and issues many of the members of the Caucus have discussed over the past several months on campaign finance reform.

As minorities, the right to vote and participate in the political system has only come after long hard fought battles. My father, who represented the 20<sup>th</sup> Congressional District for thirty-seven years and who I had the privilege of succeeding after he retired from Congress, was a tireless proponent of political participation for minorities. The first bill he introduced when he came to Congress in 1961 was legislation to eliminate the poll tax. While some of these issues seem more closely related to election reform than campaign finance reform, we believe the right to participate in the electoral process extends beyond voting, to issues of

how our elected officials campaign for office. In essence, the work we do on campaign finance should constitute another step in the development of a more accessible and equal election system. One where those with money do not have an inordinate amount of clout as opposed to the average citizen.

The CHC has met a number of times as a group to discuss this topic and has developed several principles which I will discuss today. But first let me state unequivocally that the CHC supports the broad principles of campaign finance reform as set forth in the Shays-Meehan bill which all CHC members voted for in the last Congress. The members of the CHC wholeheartedly agree that the unregulated use of soft money especially as it has been used by outside groups to fund media attacks is wrong and destructive to our system of governance. The CHC does, however, recognize that there are legitimate campaign activities where the limited use of soft money could be beneficial. I am referring specifically to voter registration and get-out-the-vote programs, that serve to enhance the participation of every voter and encourage an honest and vigorous debate. The CHC strongly supports limited use of soft money for these activities.

Second, the CHC has determined that it is not in the best interest of our collective constituencies to support a doubling of the hard dollar individual limits from \$1000 to \$2000. Philosophically, many Members of the Caucus feel that if we are eliminating soft money because it is a corrupting influence on the process, we should not at the same time increase the hard dollar limits, which only further widens the gap between wealthy and poor. Additionally, for minority members with poorer constituencies, we believe that an increase in the hard dollar limit would require those members to look outside their districts to raise money. We

believe this has a negative effect on the ability of these members to represent their constituents and makes them beholden to outside influences. Consequently the CHC strongly supports keeping the current limits.

Third, the CHC is firmly opposed to any effort to limit or eliminate the ability of legal residents to contribute to federal campaigns. As the committee already knows, under current law, legal residents may make political contributions under the same rules as U.S. citizens. As representatives of congressional districts that often consist of large numbers of legal residents, who are not allowed to vote, the CHC does not want to see these people further removed from the political process. Furthermore, the Caucus feels that it is in the long term interests of the country to have these future citizens involved in the process as early as possible. It is common knowledge that minorities vote at rates far lower than whites, but allowing these legal residents to remain involved in the process may help them be more involved as citizens and voters.



The CHAIRMAN. I want to thank the gentleman from Texas, Mr. Ehlers.

Mr. EHLERS. Thank you, Mr. Chairman. I just wanted to thank you for those comments, and of course I always have a great appreciation for your father, too, and enjoyed serving with him. The principles you have outlined as a representative of the Congressional Hispanic Caucus are very valid ones. There is one case, and I don't mean to take time to go into details, one case where you can't go as far as you want simply because of constitutional restrictions, but the majority of it I think is agreed to by this committee, and I believe that is the direction we will be moving. And I think what we are likely to produce is much more likely to be an agreement with the principles that you have stated than the Shays-Meehan proposal.

So I appreciate your comments. They reflect my thinking as well, and I hope we can get that done and get it passed by the House. Thank you.

Mr. GONZALEZ. And the Caucus appreciates that we do have input. Thank you.

The CHAIRMAN. Thank you. Mr. Hoyer.

Mr. HOYER. Mr. Chairman, I want to thank Mr. Gonzalez. He has been the point person for the Hispanic Caucus on not only campaign finance reform but also election reform on which you and I are working so hard. He, as I think, Mr. Ehlers pointed out, gave a very thoughtful statement on which I think many of us could agree with most of the points raised, and I appreciate his comment as well that those comments were not offered in any way to undermine the basic thrust for reform and reducing the effects of unlimited soft money into the system, and I appreciate very much his testimony. It was excellent testimony, and I testified before him, and perhaps we took too long. So he is now returning to the Senate to testify.

Mr. GONZALEZ. Thank you very much, and Congressman, most of the members have been on discharge petitions on Shays-Meehan, and we have gone on record voting for it in the past. We are looking at it now, and of course there are a couple of minor problems, but still the very heart and soul of that legislation will not be laws, even with these recommendations, but thank you again.

The CHAIRMAN. I want to thank the gentleman and note also you have the commitment.

Thank you. We move on to Mr. Petri.

**STATEMENT OF THE HON. THOMAS PETRI, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WISCONSIN**

Mr. PETRI. Thank you, Mr. Chairman, for giving me this opportunity as well. I would like to bring to your attention a proposal that I hope is relatively noncontroversial, but at the same time would go a long way toward curbing one of the abuses in today's campaigns. This is embodied in H.R. 150. It would bring the campaign method known as "push" or "smear" polling into the Federal Election Commission reporting system.

Most of you are aware and perhaps even from first-hand experience of this practice, in which someone claiming to take a poll asks the respondent if he or she would support a particular candidate

if that candidate had committed some terrible act, thereby planting in the voter's mind the thought that indeed the candidate had done so. A sample smear poll question would be something like, would you still vote for candidate X if you knew that he is having an affair with his secretary or that he cheated on his taxes, and so forth?

This practice has been used against members of both parties and the targeted candidate is usually unable to respond, because unlike attacks on public speeches or on TV or radio, he or she is usually not aware of it until it is too late. For so-called polls which involve more than 1,200 recipients, my bill requires a disclaimer informing the respondent of the source of funds for the poll. It also requires those conducting such polls to report to the Federal Election Commission the source of funds for the polls, the number of households contacted and the copy of the questions that are asked.

I believe that setting the number of respondents at 1,200 will keep legitimate polls exempt, as such polls rarely require samples that large. An effective push poll, on the other hand, involves calling many more than 1,200 households, because its purposes is to spread rumors as quickly and as widely as possible. The legislation does not affect legitimate phone banks in any way.

To qualify for the FEC reporting requirements of this bill, one has to ask questions about candidates for Federal office, not merely disseminate information. The aim here is not to restrict campaigning but merely to remove the cloak of anonymity from one very specific tactic. If candidates, parties or independent organizations still want to use push polls, they are free to do. So it is a free country. They should, however, be willing to stand behind their actions and to take credit or blame for them.

We could find a suitable vehicle to advance this reform. It would be a small but concrete way to improve the conduct of campaigns. It is a similar legislation that has been introduced by my Democratic colleague in the last several Congresses, Carolyn Maloney from New York. We have testified together before the Federal Election Commission, which felt it well within their purview to do this, because disclaimers are required on printed matter, but this is a new technology, and so—but they felt it should be done by Congress, not by them. And so we are turning to you to, as you review the different bills before you, consider including this as a provision.

I thank you.

[The statement of Mr. Petri follows:]

STATEMENT OF REP. THOMAS E. PETRI  
Committee on House Administration  
HR 150 (disclosure requirements for push polls).  
1313 LHOB, June 28, 2001

Mr. Chairman and Members of the Committee, I appreciate the opportunity to testify at these hearings. I would like to bring to your attention a proposal that should be relatively noncontroversial. But at the same time, it will go a long way towards curbing one of the worst abuses in today's campaigns.

Legislation I have introduced, H.R. 150, would bring the campaign method known as "push" or "smear" polling into the FEC reporting system. Most of you are aware, perhaps even from first-hand experience, of this insidious practice in which someone claiming to take a poll asks the respondent if he or she would support a particular candidate if that candidate had committed some terrible act -- thereby planting in the voter's mind the thought that, indeed, the candidate had done so.

A sample smear poll question would be something like "Would you still vote for Candidate X if you knew that he is having an affair with his secretary, or that he cheated on his taxes", and so forth. This practice has been used against members of both parties and the targeted candidate is usually unable to respond because, unlike attacks in public speeches or on TV or radio, he or she is usually not aware of it until it is too late.

For so-called polls which involve more than 1,200 respondents, my bill requires a disclaimer informing the respondent of the source of funds for the poll. It also requires those conducting such "polls" to report to the Federal Election Commission the source of funds for the poll, the number of households contacted, and a copy of the questions asked. I believe that setting the number of respondents at 1,200 will keep legitimate polls exempt, as such polls rarely require samples that large. An effective push-poll, on the other hand, involves calling many more than 1,200 households because its purpose is to spread rumors as quickly and as widely as possible.

My legislation also does not affect legitimate phone banks in any way. To qualify for the FEC reporting requirements in this bill, one has to ask questions about candidates for Federal office, not merely disseminate information. The aim here is not to restrict campaigning, but merely to remove the cloak of anonymity from one very specific tactic.

If candidates, parties, or independent organizations still want to use push-polls, they are still free to do so. This is a free country, after all. They should, however, be willing to stand behind their actions and take credit or blame for them. If we could find some suitable vehicle to advance this reform, it would be a small, but concrete, way to improve the conduct of campaigns, and I urge the Committee to adopt this proposal as we move forward on campaign reform. Thank you again for this opportunity and I appreciate your attention to this issue.

The CHAIRMAN. I thank you. I appreciate that testimony. Mr. Bereuter.

**STATEMENT OF THE HON. DOUG BEREUTER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEBRASKA**

Mr. BEREUTER. Chairman Ney, Mr. Hoyer, members of this committee, thank you very much for this opportunity to testify on behalf of the specific element of campaign reform legislation.

It is clear to me that effective campaign finance reform is of fundamental, even crucial importance to our political system. Our failure to reduce the disproportionate impact of money in elective politics is having a corrosive influence on the American political process, contributing to suspicion and cynicism in the American people.

Furthermore, there is more than enough blame to go around, as I believe it is deplorable that the two political parties have been unwilling to come together to reform this process by relinquishing or modifying the inappropriate elements of our current campaign finance system that favor each particular party. I remain committed to such a package of reform and will continue to be active in pursuing it. Actually, I put this on top of my agenda of the things we need to do in Congress because it affects so much else that we do or fail to do here.

In the past I have introduced some comprehensive legislation, and I have been involved in various task forces to look at it, but I come again to this committee with one specific proposal not too hard to understand. It comes about as a result of what we learned during the 1996 presidential election season, campaign contributions from foreign sources. And I believe Mr. Hoyer has heard this testimony in part at a previous time. In December of that year, I announced my intention before a local Chamber of Commerce in Lincoln to introduce legislation to make it impossible to prohibit foreign individual campaign contributions, and I introduced that legislation on the first day of the 105th Congress. The House acted, included it by an amendment on the floor. We had no appropriate action in the Senate.

On the first day of the 106th Congress, I reintroduced that legislation. Again, the House acted in that respect, took the provisions of my legislation as they did in the previous Congress, fought by filibuster in the Senate.

So in the first day of this Congress, I again introduced it in a form of H.R. 35. I introduced it because the situation remains the same.

Many Americans believe it ought to be illegal for foreigners to make Federal campaign contributions and certainly oppose such a contribution loophole. The problem is that they are both right and wrong, under our current Federal election laws. The fact of the matter is that under our current Federal election laws, you do not have to be a U.S. Citizen or U.S. National to make campaign contributions to Federal candidates. Under our current election laws, you can make a campaign contribution to a candidate running for Federal office if you are a permanent legal resident alien, I repeat, a permanent legal resident alien, and you in fact reside in the United States.

I believe the situation is wrong. I believe that most American would agree it is wrong, and I believe that it is a problem begging for correction. IN addition, of course, it is highly problematic to check on whether the person with the permanent legal resident alien status actually does reside in the United States, and we saw that was abused in 1996 and undoubtedly subsequently.

So the act—the proposal that I have put before the Congress this year, H.R. 35, would change our Federal election laws so that only U.S. Citizens or U.S. Nationals, as defined by the Immigration Naturalization Act, are permitted to make the individual contributions to a candidate running for Federal office.

To me, it is a very simple and common sense rationale. If you want to be fully involved in our political process, then you must become a citizen of the United States. If you don't make the fully commitment to our country by becoming a U.S. Citizen, then you shouldn't have the right to participate in our political system by making a campaign contribution and thereby affecting the lives of American citizens. You shouldn't have a role in electing Americans officials. It is very obvious that the process of electing our officials should be a right reserved for citizens. It is wrong and dangerous to allow even the potential to exist for undue foreign influence in electing our government, and H.R. 35, and the provisions I present to you, is one of numerous important steps to do so.

I can go on and suggest to you a few other reasons why it is problematic to permit the current law to prevail, but I think in the interest of affording the opportunity for my colleague from California to testify before we have to go to vote, I will cease.

[The statement of Mr. Bereuter follows:]

REPRESENTATIVE DOUG BEREUTER

House Administration Committee Testimony

H.R. 35 - Illegal Foreign  
Contributions Prohibition Act of 2001

June 28, 2001

Mr. Chairman, thank you for the opportunity to testify today as a sponsor of campaign finance reform legislation.

As many of my colleagues know, I have long been a supporter of campaign finance reform. It is clear to me that effective campaign finance reform is of fundamental, even crucial, importance to our political system. Our failure to reduce the disproportionate impact of money in elective politics is having a corrosive influence on the American political process contributing to suspicion and cynicism in the American people. Furthermore, there is more than enough blame to go around, as I believe it is deplorable that the two political parties have been unwilling to come together to reform this process by relinquishing or modifying the elements of our current campaign finance system that favor each particular party. I remain committed to such reform and will continue to be active in pursuing it.

In the past, I introduced legislation that included a number of campaign finance reform provisions. However, today I am testifying only on the need for reform on one specific problem that really for the first time came to the attention of the American public during the 1996 presidential election season -- campaign contributions from foreign sources.

As a result of what we saw in that campaign year, on December 16, 1996, during a meeting with the Lincoln Chamber of Commerce, I announced my intention to introduce specific campaign finance reform legislation which would prohibit foreign individual campaign contributions when the previous 105th Congress convened in January of 1997. I kept my promise as on the very first day of the 105th Congress I introduced H.R. 34 (i.e., January 7, 1997). While H.R. 34 was passed by the House and included as an amendment to the House-passed version of campaign finance reform, unfortunately the issue of campaign finance reform once again died in the Senate when the Senate did not take further action on campaign finance reform.

Therefore, on the very first day of the previous 106th Congress I re-introduced the Illegal Foreign Contributions Prohibition Act of 1999 (H.R. 69). Once again the House-passed version of campaign finance reform included my reform provisions regarding foreign contributions, but once again the issue of campaign finance reform, unfortunately, died in the Senate when a series of procedural votes failed to secure the 60 votes necessary to break a filibuster.

Therefore, I again reintroduced, on the very first day of the current 107th Congress, the Illegal Foreign Contributions Prohibition Act of 2001 (H.R. 35). I re-introduced my legislation because the situation remains the same -- many Americans believe that it is already illegal for foreigners to make Federal campaign contributions. The problem is that they are both right and wrong under our current Federal election laws. The fact of the matter is that under our current Federal election laws, you do not have to be a U.S. citizen or U.S. National to make campaign contributions to Federal candidates. Under our current Federal elections laws, you can make a campaign contribution to a candidate running for Federal office if you are a permanent legal resident alien -- (I repeat) -- a permanent legal resident alien and you, in fact, reside in the United States.

**I believe that this situation is wrong, I believe that most Americans would agree it is wrong, and I believe that it is a problem begging for correction.**

The Illegal Foreign Contributions Prohibition Act of 2001 (H.R. 35) would change our current Federal election laws so that only U.S. citizens or "United States Nationals" (as defined in the Immigration and Nationality Act) are permitted to make an individual contribution to a candidate running for Federal office. Please note that under the "United States Nationals" provision, such an extension of coverage would allow U.S. Nationals, such as those individuals from American Samoa, to contribute to Federal campaigns.

To me it's very simple and common sense rationale -- if you want to be fully involved in our political process, then you must become a citizen of the U.S. If you don't make the full commitment to our country by becoming a U.S. citizen, then you shouldn't have the right to participate in our political system by making a campaign contribution and affecting the lives of American citizens; you shouldn't have a role in electing American officials. I believe it is a very obvious conclusion that the process of electing our officials should be a right reserved for citizens. It is wrong and dangerous to allow even the potential to exist for undue foreign influence in electing our government, and H.R. 35 is one of numerous important steps to do so.

The abuse that allegedly resulted from foreign campaign contributions in our last two presidential campaigns is a terrible indictment of our current campaign finance system.

Indeed, the Congress must be concerned about the issue of legal and illegal foreign campaign contributions. Everyone here today should be concerned about this recent insidious development in our presidential election process, and should understand that these statutory and procedural changes, like the passage of H.R. 35, are necessary to protect the integrity of the American electoral process. We must insure that it is Americans who choose our President and Congress.

We simply cannot allow foreign corporations and foreign individuals to decide who is elected to public office at any level of our government. Therefore, my legislation (H.R. 35) to

require that only U.S. citizens and U.S. Nationals be allowed to make contributions to candidates for Federal office is one of my priorities for the 107th Congress. This issue must be addressed and I intend to push for this change until successful.

With regard to soft money from American subsidiaries of foreign corporations, we must, as a minimum, enforce the current law that such contributions can only come from the profits of their U.S. subsidiaries until greater and appropriate changes can be made.

I would also like to take this opportunity to note that I have declined to co-sponsor the current Shays-Meehan version of campaign finance reform (H.R. 380) for a very specific reason - while the 107th Congress version of the Shays-Meehan legislation is generally a re-introduction of the bill passed by the House in the 106th Congress with relatively minor changes, one of those so-called "relatively minor changes" involves the provision that I initially introduced as legislation in the 105th Congress (H.R. 34), in the 106th Congress (H.R. 69) and have now reintroduced in the 107th Congress (H.R. 35) prohibiting foreign campaign contributions. The current version of the Shays-Meehan legislation relating to foreign contributions makes **significant changes** to my legislation by banning direct or indirect contributions or their solicitation from "foreign nationals" in connection with any U.S. election (Federal, state or local) or to a national political party, **but retains the current permanent resident alien exemption.** Therefore, the current version of the **Shays-Meehan legislation provides for a loophole for non-citizens to continue to make campaign contributions, and, as such, I have determined that I cannot co-sponsor any such legislation which allows for this loophole. Therefore, I would ask the Committee to adopt my H.R. 35 language on foreign contributions as an amendment to the Shays-Meehan if that legislation is advanced by the Committee.**

Again, Mr. Chairman thank you for this opportunity to testify before the House Administration Committee regarding my legislation (H.R. 35) to prohibit foreign individual campaign contributions.



The CHAIRMAN. I want to thank the gentleman. Mr. Calvert.

Mr. CALVERT. Thank you, Mr. Chairman—

Mr. LINDER. Forgive me. I don't mean to take up much time, but is your provision in either the Shays-Meehan or the McCain-Feingold?

Mr. BEREUTER. It is not. I have suggested it to them, but they have failed to take it up. They are unwilling to go quite as far as it would be necessary to close the loophole.

Mr. LINDER. Thank you.

The CHAIRMAN. Mr. Calvert.

**STATEMENT OF THE HON. KEN CALVERT, A REPRESENTATIVE  
IN CONGRESS FROM THE STATE OF CALIFORNIA**

Mr. CALVERT. Thank you, Mr. Chairman. Mine is a very simple request, and I certainly thank you for the opportunity to speak to the committee about the Shaw-Calvert 50/50 Campaign Finance bill. I have been here before to speak on this issue, as Mr. Hoyer has heard before, and our bill is a simple reform that would make candidates far more accountable to the people they represent by requiring candidates to raise at least 50 percent of their campaign funds from the individuals who live within the State they represent.

Well, this is a simple requirement. It would give all Americans a greater voice in the political process, because when a candidate primarily relies on money from people outside their home state, one can argue they no longer need to listen to the concerns of their very own constituents.

The bill is simple and straightforward. On the first report to the Federal Elections Committee after an election, candidates would have to show that they raised a majority of funds for that election from individuals within their own State.

If it is determined that they have not met these requirements, they will be subject to an FEC fine of two times the amount of the margin between in-state and out-of-state contributions. Candidates will have 30 days from that determination to pay the penalty interest free. If the deadline passes without payment, interest will begin to be assessed. Because it is impossible to determine the origins of money contributed by political parties, these contributors would be considered 50 percent in-state money and 50 percent out-of-state money. In other words, the parties can continue to contribute as they wish.

I introduced similar language in an amendment to the campaign finance bill that came to the floor last Congress. That received 179 votes.

In past years I have heard from a number of Members who were concerned about wealthy candidates abusing provisions with their own advantages. These are valid concerns. We have amended the language accordingly. In this year's bill, should a candidate face an opponent that uses more than \$250,000 of their own funds in a campaign, all candidates would be exempt from this bill's provisions.

This bill is common sense electoral reform that would go a long way toward restoring Americans' faith in the election campaign

system, and I certainly thank you, Mr. Chairman, for allowing me to testify.

[The statement of Mr. Calvert follows:]

COMMITTEE ON HOUSE ADMINISTRATION COMMITTEE HEARINGHearing on  
Campaign Finance Reform Thursday, June 28, 2001 1:15 -- 4:00 pm1310 Longworth House  
Office Building

**Testimony of Rep. Ken Calvert**

Mr. Chairman, thank you for the opportunity to speak to the committee about the Shaw-Calvert 50-50 Campaign Finance bill. Our bill is a simple reform that would make candidates far more accountable to the people they represent by requiring candidates to raise at least 50% of their campaign funds from individuals who live within the state they represent.

Through this simple requirement, it would give all Americans a greater voice in the political process because when a candidate primarily relies on money from people outside their home state, one can argue they no longer need to listen to the concerns of their own constituents.

The bill is simple and straightforward. On the first report to the Federal Election Commission after an election, candidates would have to show that they raised a majority of funds for that election from individuals within their own state.

If it is determined that they have not met these requirements, they will be subject to a FEC fine of two times the amount of the margin between in-state and out-of-state contributions. Candidates will have thirty days from that

determination to pay the penalty interest-free. If the deadline passes without payment, interest will begin to be assessed. Because it is impossible to determine the origins of money contributed by political parties, these contributors would be considered 50% in-state money and 50% out-of-state money.

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In this year's bill, should a candidate face an opponent that uses more than \$250,000 of their own funds in a campaign, all candidates would be exempt from the bill's provision.

This bill is common sense electoral reform that would go a long way towards restoring Americans' faith in our election campaign system. Again, thank you Mr. Chairman for asking me to testify.

The CHAIRMAN. I want to thank the gentleman. The gentleman from Pennsylvania, Mr. English.

**STATEMENT OF THE HON. PHIL ENGLISH, A REPRESENTATIVE  
IN CONGRESS FROM THE STATE OF PENNSYLVANIA**

Mr. ENGLISH. Thank you. Mr. Chairman, what I would like to do is spread my remarks on the record and keep my actual statement very brief.

I wanted to support, first of all, what Mr. Calvert is doing, and what Mr. Shaw is doing. I have introduced similar legislation, H.R. 1445, that comes at campaign finance from maybe a different perspective than some of the other proposals. I see one of the primary problems through our system of campaign finance that we tend to advantage incumbents over challengers. I think we need to have a more competitive system and have a healthier system, and I think at the same time we need to control the flow of hot cash. The best way to do that is through a 50/50 proposal, as Mr. Calvert outlined, to require that 50 percent of a candidate's money be raised in their home State and 50 percent of it be raised from individuals as opposed to political action committees. That will force incumbents to attend to their districts, force candidates to base their support in their home communities, and in the long run I think dramatically improve our system.

Two other suggestions to improve the system: One, I think we should go back before this became politically incorrect and take a look at putting restrictions on bundling. Back when I was first getting involved in campaign finance reform, many of the organizations that were concerned about our system of campaign finance targeted bundling as a very serious abuse. Since then some seem to have accepted bundling, which is, after all, a way around the limits as a legitimate practice. There are a number of ideological groups that practice bundling, and so there is great resistance to tackling bundling as an abuse. I would encourage this committee to take a look at bundling and putting a ban on bundling that would restore the original intent of contribution restrictions.

And finally, I am very concerned with the growth in incidence of wealthy candidates who apply uneven resources to campaigns and are able to buy their way into higher office. One of the particularly troublesome aspects of this is to see a candidate loan themselves a large amount of money and then once they are elected to Congress, spend a lot of time repaying the loan, in effect raising money from within the political community to pay themselves back.

I would suggest one way to deter millionaire candidates or at least make sure they are serious about what they are committed to is to deem any loan to one's own campaign after an election, the first of the next year, to have been a contribution rather than a loan. That would go a long way toward leveling the playing field and providing for a more even distribution of resources.

I thank you, Mr. Chairman, for the willingness of this committee to directly tackle some of these very important issues and think outside of the box on how to do a campaign finance reform that will level the playing field, allow both parties to be competitive, allow challengers and incumbents to be competitive and reduce the de-

pendence on hot cash and get back to grassroots campaign, which I know the chairman is particularly a practitioner of.  
[The statement of Mr. English follows:]

STATEMENT OF REPRESENTATIVE PHIL ENGLISH  
H.R. 1445  
House Administration Committee  
June 28, 2001

Mr. Chairman, Members of the Committee:

I appreciate this invitation to come before the House Administration Committee today. With all of the loopholes in our campaign finance laws, its no wonder why Americans are cynical about the political process. Harry Truman said 'some people like government so much they want to buy it' and nothing has changed much in the past forty years. Campaign finance reform is an issue whose time has come. It is important that citizens have an active role in their government which is not overshadowed by the wants of special interest groups.

Campaign finance reform is an issue which I have been working to reform since I arrived in Congress. I have worked with other Members to develop reforms which may be useful to the Committee as you work to craft a comprehensive campaign finance reform bill.

Recently, I have introduced H.R.1445, which would require that at least half of the money raised by a Congressional candidate should be from within their home state, and at least half should be from individual donors as opposed to political action committees. This legislation would also eliminate the practice of bundling.

Bundling was created explicitly to circumvent the existing donor limits. If we are going to close loopholes, bundling is an obvious candidate. A contribution from an individual should be exactly that. Bundling, under the current law is used to amplify the influence of the contributions that often come from representatives of the same industry or company.

H.R. 1445 simply states that intermediaries cannot engage in bundling. They can only provide advice to individuals about making a contribution (providing addressing information).

Our current campaign finance system favors incumbents over challengers. Many ideas for campaign finance reform increase that imbalance, significantly contributing to the reluctance of challengers to seek office against incumbents. This imbalance must be addressed through common sense reforms to create a level playing field for both incumbents and challengers, not increased through flawed so-called "reforms".

Changes in the campaign finance system must consider and effectively provide for the accountability of candidates by requiring a minimum percentage of support from the candidate's home state *as well as* requiring a minimum percentage of fundraising from individuals – a clear indication of grass-root support – as opposed to PACs. Only these types of changes to our campaign finance laws will create a level playing field and place a premium on local participation.

Placing a premium on local participation specifically, and greater participation of Americans in the political process generally, has long been a bipartisan goal. Grassroots activity has furthered this goal in years past, but Congress now has the opportunity to take this pursuit to the next level through campaign finance reform.

It is imperative to encourage local constituent participation. Two provisions will accomplish this goal. The in-state provision in H.R. 1445 would require that not less than 50% of the total contributions accepted by a congressional candidate originate from residents of the state in which the Senate seat or congressional district involved is located. Stressing local money in elections aligns the constituent's interest with the donor's interest. Complementing the in-state provision is the individual provision which requires that not less than 50% of the total contributions accepted by a congressional candidate shall be from individuals. This provision ensures that the local voice is not drowned out by special interests and PACs. Ensuring that the opportunity for local participation is on-level with that of other participants in campaign financing will encourage individuals to participate in the political process who may perceive themselves to be overshadowed by PACs and special interests.

These provisions would level the playing field between candidates, promoting greater competition and reducing the role of PAC and special interest money.

Mr. Chairman, I would also like to suggest that any campaign finance reform proposal that is considered contain a provision which would prohibit a winning federal candidate who loaned his or her campaign money from making any repayment on the loan after the date on which the candidate begins serving in office.

In Buckley v. Valeo the Supreme Court of the United States held that the First Amendment protection of freedom of speech permitted a person to spend unlimited amounts of personal money on their own campaign. That decision became the basis for subsequent campaign finance laws in Congress and state legislatures. Current laws, however, do not address the potential for abuse that occurs when a winning, yet deeply indebted, candidate is put in a position where a portion – if not all – of their future donations are paid directly to the candidate. In those cases, candidates are not so much spending their own money as they are advancing future donations to cover current spending.

Many of the campaign finance reform proposals attempt to deal with this reality by subsidizing non-wealthy candidates in some form. Indeed, I have supported such efforts in the past. However, short of a constitutional amendment, I think there is a way to deal with this problem.

Ensuring that any campaign finance reform legislation contain a provision in regard to the repayment of personal loans after the swearing-in of a candidate would eliminate the opportunity for corruption to occur at a winning candidate's most susceptible time – when fundraising receipts translate directly into the repayment of personal loans to their own campaign.

The electoral process should truly be a contest of ideas -- not simply a test to see who can



spend the most money. This country was founded on the principle that regardless of economic background, a citizen can serve in public office. It is time to level the playing field and ensure that candidates run on their merit rather than their personal fortune.

Balanced, campaign finance reform must be a priority for this Congress and one which I hope will more directly and successfully address this issue than previous Congresses have.

I believe I have presented to you a plan that will enhance our system of financing campaigns and restore the confidence of the American people in the electoral system.

Mr. Chairman, thank you for the opportunity to testify before this Committee today.

The CHAIRMAN. I want to thank the members of the committee. I am sorry. We have run out of time. We have a floor vote. I ask unanimous consent that members have 7 legislative days to insert extraneous material into the record and for those statements and materials to be entered at the appropriate place in the record. Without objection, the material will be entered.

I ask unanimous consent that the staff be authorized to make technical and conforming changes on all matters considered by the committee at today's hearing. Without objection, so ordered.

I would also note we are going to adjourn, vote, and then we will come back for a markup. Having completed our business for today and for the hearing on campaign finance reform, the committee is hereby adjourned.

We will return after the vote and reconvene and begin the markup.

[Recess.]

The CHAIRMAN. I would like to ask unanimous consent to reconvene the hearing for purposes of testimony from Mr. Shaw.

Mr. HOYER. Reserving the right to object, simply to say that I look forward to the testimony of the distinguished gentleman from Florida.

The CHAIRMAN. We will note that. Thank you.

**STATEMENT OF THE HON. CLAY SHAW, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA**

Mr. SHAW. Thank you, Mr. Chairman, and Mr. Hoyer. I appreciate your indulgence. I will be very brief. I have a written statement, which I will ask to make a part of the full record and I would just like to point out two matters which I think are somewhat unique. One of them certainly is.

Having been on the receiving end of a lot of money, the soft money issue that we saw in the last election, I can fully understand those that have been pioneering for campaign finance reform. Unfortunately, but I think probably understandably, everybody wants some type of a leg up on this or an advantage with regard to this.

The approach that I have as to television and radio broadcasting, however, does not favor one party over the other. In its simplest form, it would simply say that any broadcaster, accepting that type of ads, whether issue ads, soft money ads, would have to, by accepting that, give the other side equal time at no cost to that person. That will close that down. It will close that loophole down, and because of the Congress's jurisdiction over broadcasting, I have no question in my mind but that what I am suggesting is perfectly constitutional.

One other point that I would like to make to the committee is that another provision in my bill which provides that half of the money received by a candidate has to come from within that candidate's own State, whether he be a Senator or whether he be a House Member. I am not confining it to the particular districts, because there are districts that are more affluent than others and that would create all kinds of problems, plus a question of some of the jurisdictional lines of the Congressional districts are somewhat confusing, to say the least.

Those are the two points that my testimony makes, and, again, I thank the chairman and the committee for its indulgence in allowing me to testify.

[The statement of Mr. Shaw follows:]

REMARKS OF THE HON. E. CLAY SHAW, JR.  
in the House of Representatives

Regarding H.R. 1516, the Campaign Finance Improvement Act of 2001 introduced by  
Representative E. Clay Shaw, Jr.

THURSDAY, JUNE 28, 2001

MR. SHAW. Mr. Chairman, I appreciate having the chance to speak during this important hearing and I commend the Chairman for holding these hearings to give Members an opportunity to speak about their campaign finance reform legislation.

Although the other body has passed their bill, I encourage your committee to consider alternative proposals that are constitutional, bring integrity back to our system and give control over elections back to the American people.

I believe that bolstering the role of individuals in the funding of campaigns and reducing the influence of money in politics are the reasons we are all here discussing reforming our system right now. The outcome of elections has become too dependent on the candidates who can outspend their opponents during the campaign. The American people believe that elections are for sale to the candidate who can raise the most money. The outrageous cost of campaigns has caused candidates to rely on special interest money instead of being held accountable to the individuals who elect us to office.

I have been actively involved in campaign finance reform legislation and I support reforming our current system. I encourage your committee to seriously consider my proposal as a fair and common sense approach to reforming our current system. I am offering a simple and practical solution to reform our campaign system that no other bill does. My bill is constitutional, creates a level playing field for incumbents and challengers, gives control over elections to individuals -- not interest groups -- and eliminates the influence of soft money on campaigns.

Since the major concern of campaign finance reform is, I would like to focus on where most of the soft money is spent during elections -- broadcasting advertisements. Broadcasters were expected to earn \$1 billion from political ad sales last year. The major reason candidates raise special interest money is to pay for political advertising. Media costs are the single biggest expense to candidates, accounting more than half of spending in competitive races for Congress. As you all may be aware, the unions and other special interest groups spent approximately \$8 million in negative ads and mailings against me last year. If we want to seriously limit soft money's influence on campaigns, and in a way that is fair to all sides, we need to discourage broadcasters from making money off of elections and give individuals a voice again.

To address soft money and broadcasting advertisements, my bill would require that in the event a broadcast station airs a soft money advertisement, it must give free and equal air time to the authorized committee of the candidate who was attacked in the ad, or to the opponent of the candidate who was praised in the ad. My bill discourages broadcasters from accepting any soft money advertisements, helps to eliminate negative advertisements in elections, and gives power

back to the voters. Instead of titling the playing field towards candidates and political parties by requiring broadcasters to provide them the lowest broadcast rates for advertisement, my bill treats all individuals and groups fairly. No other reform legislation does this. My bill offers a simple, practical solution that applies across the board to all soft money. It closes all loopholes. All groups are affected including political parties, unions, corporations, special interest groups and candidates.

In addition to eliminating soft money, we need to limit the influence of special interests – and in return, bolster the role of individuals in the funding of campaigns. My bill will **require candidates running for Congress to raise and accept no less than 50% of the total contributions from within the state they represent**. This provision does not favor Republicans or Democrats. It affects rich and poor districts equally. This provision does, however, lessen the huge advantage Washington insiders have over challengers who do not have access to the out-of-state fundraising circuit.

In the past, some congressional candidates have raised as much as 95% of their campaign funds from out-of-state donors. My bill would require that candidates should be financially supported, at least in part, by the citizens they wish to represent. We should show our constituents that we represent Main Street, not K Street, by bringing the focus of fundraising back to the people we represent. We've all understood that politics is local, we should make financing elections local too.

In the 106<sup>th</sup> Congress, my colleague Representative Ken Calvert and I offered an amendment to the Shays-Meehan bill requiring candidates to raise at least 50% of their contributions from within their state. Our amendment received bipartisan support. Representative Calvert and I have introduced our amendment as a stand alone bill this Congress, H.R. 2122. Mr. Chairman, I urge your committee to adopt this provision in your bill to show the American people we are serious about delivering campaigns back into their hands, and not the powerful, money driven special interest groups and unions.

I am hopeful that the 107<sup>th</sup> Congress will pass sensible and fair campaign finance reform legislation that brings integrity back to our system and gives control over elections back to the American people, and gives no side or group an unfair advantage.

Again, I thank you for the opportunity to be here today and thank you for holding this hearing.

The CHAIRMAN. Any questions? Mr. Linder.

Mr. LINDER. I am just curious to know how this commercial is going to be identified by the broadcasting outlet. Do they make the determination as to whether it is an attack ad? How do you define it?

Mr. SHAW. I define every ad that is on the other side as attacking, but obviously that is not true. We are also somewhat paranoid in that area, but I think that what we have here, if it is an advocacy ad for one candidate or the other or if it attacks that candidate or criticizes that candidate in one way or another. And of course this is in the area of a campaign. We are finding that so many campaigns now are being run from the basements of Washington rather than the Main Street of the Congressional district, and that is the danger that I see and that is the trend that I see. That really concerns me.

I worry about the constitutionality of some of the approaches. Obviously campaign finance reform is something that is necessary in this country, but it is not nearly as important as the preservation of the Bill of rights and those rights that are so dear to this country. We don't want to trample on them. And all of us have taken an oath to uphold the Constitution of the United States, which in my opinion would be if we are seeing that that is unconstitutional, we should oppose it on the floor when it comes to voting for or against it. And I have problems with some of the provisions that I have seen.

I know that there is a lot of work in progress right now, including the work of this committee and of others that will be putting forth various bills for campaign finance reform, but I think it is terribly important that all of us, particularly in the area of the right of free speech, that we tread very carefully upon the rights that we hold so dear that are within the Constitution's Bill of Rights.

Mr. LINDER. Thank you. Thank you, Mr. Chairman.

The CHAIRMAN. Other questions? Again, thank you, gentlemen.

The committee is now adjourned.

[The statement of Mr. Burton follows:]

**Congressman Dan Burton (IN)**  
**Statement before the Committee on House Administration**  
**Hearings on Campaign Finance Reform**  
**H.R. 2252, the "Conduit Contribution Prevention Act of 2001"**  
**June 28, 2001**

I would like to thank Chairman Ney and Ranking Member Hoyer for allowing me to testify in support of my bill, H.R. 2252, the "Conduit Contribution Prevention Act of 2001."

Conduit contributions are a serious and growing problem. The integrity of our campaign finance system rests on public disclosure of contributions. When people attempt to avoid disclosure and legal contribution limits, the integrity of the system starts to break down. The consequences of conduit contributions are very real, and prosecutors universally agree that they don't have the tools they need to deal with the problem.

Under my Chairmanship, the Committee on Government Reform has, over the last two Congresses, investigated a number of abuses that have plagued our campaign finance system. We uncovered millions of dollars in conduit contributions that were channeled into political campaigns by foreign sources.

In the most egregious case, we learned that the head of China's military intelligence agency, General Ji Sheng De, attempted to funnel \$300,000 into U.S. political campaigns through a conduit contributor. We found wealthy families and companies from Indonesia, Hong Kong, South Korea, and Thailand doing exactly the same thing. However, despite the size of some of these abuses, the offenses have rarely been prosecuted. When they were, the offenders received a slap on the wrist in the form of a minimal fine or probation and community service.

Current penalties for making conduit contributions are too lenient. Under present law, this crime is a misdemeanor. My bill would make it a felony. The current penalties are not deterring this corrosive practice, and they are not giving prosecutors the tools they need to crack down on this growing problem. In fact, the Department of Justice had many difficulties dealing with the recent foreign money scandals because the conduit contribution penalty is currently so weak.

H.R. 2252 would give the Department of Justice stronger ammunition to go after those who use conduits to illegally funnel money to political campaigns or parties. The bill would:

- Increase the criminal penalties for knowing and willful violations of the prohibition against making conduit contributions. Violators could face up to two years in jail, stiff fines, or both;
- Increase the civil monetary penalties for knowing and willful violations of the prohibition against making conduit contributions;

- Require the Federal Election Commission to refer conduit contribution cases to the Department of Justice;
- Extend the statute of limitations period for prosecuting conduit contribution cases from three to five years;
- Require the United States Sentencing Commission to develop sentencing guidelines, for courts to follow, that take into consideration the amount of the illegal conduit contribution; and
- Close loopholes that permit foreign nationals to make political contributions to political committees or for independent expenditures.

If we are serious about reforming the campaign finance system, we must begin by enforcing the laws already on the books. Without appropriate penalties, abusers of our campaign finance laws, both foreign and domestic, will be undeterred. Violators of our campaign finance laws must know that there will be consequences for their criminal efforts to defraud the election system. H.R. 2252 is a bipartisan bill that would send a clear message that Congress considers the channeling of illegal contributions into our campaign system a serious offense that must be punished. When the Senate took up the McCain-Feingold campaign finance reform bill this spring, an amendment by Senator Kit Bond that was based on the Conduit Contribution Prevention Act was adopted unanimously. As *The Washington Post* stated in a May 11, 1999, editorial, "it is well past time for a law that directly addresses conduit contributions as a felony offense."

I urge your support for H.R. 2252.



[Recess.]

The CHAIRMAN. The committee is now in order for the purpose of consideration of campaign finance reform legislation, and I wanted to make an opening statement.

This afternoon I introduced H.R. 2360. This bill is designed to enact meaningful campaign finance reform while preserving the important role grassroots political parties have played in our democracy. This bill respects our Constitution and does not seek to punish or discourage those citizens and independent groups who exercise their constitutional rights to participate in our political process.

Let me just summarize the bill for the members. My bill bans the parties from raising or using soft money for Federal election activities, including broadcast issue advocacy. So we have a good solid ban in this bill.

The principal complaint leveled against so-called soft money is that it is unlimited and unregulated. This bill addresses that complaint by limiting it and regulating it. With the passage of this bill, no donor could contribute an amount over \$75,000 to any political committee. Today of course it is an unlimited figure. The use of those funds for Federal election activities would be banned; hence, the parties would not be running issue advocacy ads, which, in discussion with individuals from both sides of the aisle, have always told they don't like the political parties running the advocacy ads. Some will claim that these restrictions are inadequate and that to support a real soft money ban, support of other legislation, such as the Shays-Meehan or McCain-Feingold, would be required to have that true, quote, ban.

Let me state this is clearly and directly as I can. The claim that Shays-Meehan, or for that matter, in fact, McCain-Feingold, would ban soft money in its entirety is simply not true. It is false. The fact is aside from their attempt to restrict broadcast issue advocacy, Shays and McCain do absolutely nothing to restrict how unions and corporations spend soft money. Under current law, unions and corporations can spend unlimited amounts of soft money, communicating with their members, soliciting those members for contributions, and engaging in such political activities as registering voters and getting out the vote.

Now, I don't object to that, but they are arguing that they have made this huge ban. I think unions and corporations have a right to have a voice, as do any entities in this country. Even under Shays-Meehan these groups can use soft money. They can use it to buy broadcast issue ads more than 60 days before the election. So the soft money is clean and okay up to the 60 days, when it is really the intense part of an election and groups want to be out there. Whether it is a union or a corporation or whether it is NOW or Right to Life, they really want to be getting their point of view out, and that is when the ban comes in and it comes in for radio and television only.

Shays and McCain would not stop these groups from using their soft dollars in this way. What Shays and McCain would do is prevent the national parties from using so-called soft dollars in a similar fashion.

I don't think that we should restrict the ability of our parties to educate, register and get voters to the polls, while leaving unions and corporations free to do without restriction. Hamstringing our parties and thereby enhancing the power of others and other personal interest groups does not accomplish the stated goal of some to reduce the power of special interest groups. You have a two-tiered system.

Also I want to make a personal note, and I have stated this before. Twenty-five years ago, I ran against the former chairman of this committee, Congressman Wayne "Al" Hayes, the late Wayne "Al" Hayes, and we have a hotly contested election for the State House after he had left Washington, D.C. Mr. Hayes to this day was a well thought of Congressman in our district who did many, many things for the constituents. As we embarked on this, I soon found out in Columbus, Ohio that when you went to the power to be on my side of the aisle, they said, you are not necessarily our type of Republican, and in fact, we have a little bit of a fear of getting involved in this race. So the party came to my aid 21 years ago and gave me a chance. They didn't give me a litmus test. They gave me a chance. That has happened on the Democrats' side, also.

I argue that if you strip the power of our two political parties and any other party that wants to blossom and grow in this country, then in fact you make the system more of the good old boy country club than it really is today, of those wanting to embark on the political process of having to come and beg at one central point of the incumbent office holders.

My bill would exempt hard dollar contributions to the parties from the annual aggregate limits. The bill also modestly increases the amount individuals and PACs can contribute and allows for prospective indexing of all limits, but it holds to the thousand dollar per limit of candidates, which is the current law. Part of the problem of raising funds flows to the fact that while prices have increased dramatically since 1974, we all know that, the contributions have not. Indexing for the future will make sure that we periodically adjust to account for inflation.

This bill also provides for increased disclosure, for targeted mass communication. The person who pays for the communication would have to disclose their identity within 24 hours of purchase.

I, too, have been the recipient of ads. In 1996 we estimate over a million dollars worth of ads in the district. My beef with that, first of all, is that it wasn't disclosed. It is a free country. You run ads. That is not any complaint. But it wasn't disclosed. How much money was being spent? Groups with names who you didn't know where the money was flowing from. So this bill actually provides, I think, a tremendous step forward in disclosure.

I would note that this disclosure provision is broader than the one contained in Shays-Meehan, because unlike Shays-Meehan, which applies only to broadcast communication, my disclosure provisions would apply to all forms of communication that cost \$50,000 or over, including newspaper ads, phone banks, et cetera.

Having described what is in this bill, I would like to take a moment to describe what is not in this bill and why. Most importantly, this bill does not seek to ban issue advocacy. Twenty-five years of court decisions from the Supreme Court on down have

made it clear that our Constitution does not permit the Federal Government to regulate issue advertising. I find it inconceivable that we would eventually pass a bill such as Shays-Meehan or McCain-Feingold and we would say to legitimate groups who have millions of members that you are not going to have a voice, because your money was tainted, whether it was a union contribution or a corporate contribution, so 60 days before we are going to clamp down on you because your money was tainted, but we can allow one wealthy individual in this country, no matter who it may be, to the right or the left, to form their own group and within minutes of closing of the polls, they can still run an ad.

That is what these bills do. They shift the power into the hands of the exclusively wealthy. I would rather empower and continue to allow freedom of speech for groups, whether it is Gun Control, Incorporated, whether it is NRA, whether it is NOW or whether it is Right to Life. I, like every Member, took an oath to uphold the Constitution. I can't in good conscience support the passage of legislation so clearly unconstitutional as that contained in Shays-Meehan issue ad bans. Our first amendment protects the right of every American to speak out on public concerns. Politicians may want to use the power of government to attempt to silence their critics, but I don't want to participate in that type of endeavor.

This bill does not attempt to expand the definition of coordination. If the coordination language in Shays-Meehan becomes law, citizens will be discouraged from contacting and meeting with their elected representatives. This is not the way to increase participation in our process. We also do not contain criminal penalties. I ran for this office in 1994 and was the State Senator, Chairman of Appropriations of Ohio in the Senate. I knew the system. We had access to accountants, attorneys, knowledge of the election process. I didn't have that access 21 years ago, but you gain it if you are in incumbent.

I am not saying we shouldn't have that, but challengers come forth and they try to put together an organization, and sometimes they make mistakes. I think that the criminal penalties contained in the other bills are absolutely outrageous. Somebody is accidentally going to go to jail. It is going to discourage people for becoming involved in the election process. Penalties are fine, but embarking down this road of the criminal penalty section I think is a very, very dangerous step.

Real campaign finance reform encourages citizen participation. Real campaign finance reform protects our cherished rights to speak freely and associate. Real campaign finance reform reserves the important role of our political parties and our democracy.

One thing I want to say about the process, however, and I think Mr. Shays would tell you this or Mr. Meehan if he was standing here today, we have tried to be as open as humanly possible. These bills are evolving as we speak. They change sometimes hour to hour for various reasons, but we have tried to remain an open process in this, tried to be clear on this issue. But whatever happens, the one thing I want to say is that I am trying to empower people. This is a good, reasonable measure, and what this bill does not do, it does not kill campaign finance reform. In fact, I think it is reasonable step that should appeal to many interests, from many

walks of life, from many groups that may have diverse interests of their issues but should both agree that in fact they want freedom of speech.

So this is not the death penalty for campaign finance reform. This would take it into a conference committee, I believe, on a fair note, that would produce a final product that will go to the desk of the President of the United States, and then we can really address reform in a fair and reasonable manner.

And with that, I will yield to any other members.

Mr. HOYER. Thank you very much, Mr. Chairman. This is a significant day, though clearly not a determinative day. It is significant in that we will move the process forward. I will talk a little bit more about that specifically in just a moment.

Just this past Monday, the United States Supreme Court affirmed the constitutionality of a key pillar of campaign finance law: The right of Congress to enact reasonable limits on campaign money. The Court opinion, as did Valeo, indicated that not only corruption itself but the appearance of corruption was an important objective of this Congress and of the American people.

While the High Court's ruling did not directly address the campaign finance problems that today's markup will very briefly address, it served as a powerful wakeup call, in my opinion, to everyone that the principles of limiting campaign money is in fact constitutional.

The decision was, as Representative Meehan has observed—and I quote, “wind in the sails of the movement to reform our badly broken campaign finance system.” The Court's decision is also a powerful prelude to the consideration of legislation in the House of Representatives.

Last week Chairman Ney said that he would do everything within his power to mark up a campaign finance bill before the House adjourns for the July 4th recess. As he has done consistently in the past, he has kept his word. Not only has he kept his word, but in my opinion, he has offered a bill that is worthy of consideration.

Very frankly, last year, the alternative to campaign finance reform bill, which frankly was a good bill but did not relate to the issue. It was not real. This year, as I say, Chairman Ney has offered a real alternative. I do not support that alternative, but I think it is a credible and worthy offering to be put on the table.

Today's markup brings the House one critical step closer to meaningful campaign finance reform. As I understand it, the committee will be marking up two bills today. Chairman Ney's bill, as well as what has been referred to as the modified Shays-Meehan bill.

Now, I did not receive that bill until 8:30 last night. I received it, I think, as soon as Mr. Ney received it. I do not criticize anybody for that, because as Mr. Ney has observed, this is still a work in progress. I think it is important for the public to understand that and for everybody who has an interest in this bill, which is to say every citizen and every interest before the Congress.

But I can comment on the original Shays-Meehan bill, and I assume that the modified version—and I know the modified version is very close to the original version. First of all, I think it bears repeating that Shays-Meehan in modified forms has passed the

House of Representatives in 1999 by 252 votes with 164 opposed and in 1998 by 252 with 179 opposed.

I believe that reform will accomplish at least three goals. It will end the unregulated and unlimited flow of soft money into the political parties that in recent years has been used mostly for the purposes other than get out the vote, which of course—or registration or voter education, except in the broader sense of voter education.

Secondly, we need to require that political ads that any reasonable viewer would say are designed to flounce a Federal election are paid for with hard undisclosed money.

Thirdly, we need to respect the rights of organizations and associations to communicate with their members about key issues affecting them. I think they have that constitutional right so that we could not really undermine it, but we ought not to put them to the test of testing legislation.

While the chairman's mark attempts to reach some of those goals, it is my opinion that it fall short. Most important, the chairman's mark does not end the parties' dependence on soft money. It is instructive, I think, to note that the notes on both of the bills that will be before us and that will come out of this committee start with these bullets. The Ney bill summary limits soft money, while the Shays-Meehan alternative bans soft money. That adopts the premise that soft money in some form or another ought to either be eliminated or banned.

The limitation of \$75,000 is certainly a step in the right direction. Last year's election reached an all-time high of \$500 million in soft money expenditures. As we learned in 1998 and 1999 and again this year, Shays-Meehan offers a genuine comprehensive end to soft money.

The letter that I received I want to read into the record if I might, Mr. Chairman, because again I think it is instructive as to why this procedure will be as it is today, and that is a relatively limited procedure. This is a letter directed to Chairman Ney and signed by Mr. Shays and Mr. Meehan.

"Dear Mr. Chairman: Following per our agreement is a draft text of the Shays-Meehan bipartisan Campaign Finance Reform Act of 2001. While we have made every effort in good faith to put the bill in final form, we may need to make a minimal change overnight based upon our review of the bill."

Now, that meant from last night to tonight. But here is the operative paragraph that all Americans ought to focus on and every member ought to focus on.

"In addition, we hope you will agree that either of our proposals," referring to Mr. Ney's proposal and to theirs, "should continue to be fine-tuned over the District Work Period. For instance, we are still engaged in dialogue and debate over the impact of 11 amendments and over hard money aggregate limits an would expect the Rules Committee to allow us to make necessary adjustments before going to the floor."

One more paragraph, brief, salutatory, and then signatures.

The reason I read that letter is because we will not on our side be offering amendments at this time. Mr. Ney pointed out that this is a work in progress. We are expecting both bills to move forward,

both bills going to the Rules Committee. And we are expecting the—Mr. Shays believes he has an agreement, I think, with the Speaker, Mr. Chairman, that the bill will be open to perfection on the floor, so that this markup is going to be to some degree unusual, in that at least on our side we will offer no amendments. I don't know about the other side, of course. And that these bills will move forward. And in the next week and a half or 2 weeks, between today and when we come back before the Rules Committee, presumably on the 10th or the 11th—on the 10th, we will then appear before the Rules Committee with such amendments as we may believe on our side are appropriate, and I presume, Mr. Chairman, such amendments as you may believe to be appropriate to perfect or change in some way the legislation you have put in or, for that matter, the Shays-Meehan bill.

But this is a step forward. This is a recognition that we need to deal with soft money. This is a recognition, at least on our side, and Clay Shaw's testimony I think was instructive, that this is not a partisan concern of the attack ads that are unidentified and can in many instances be very misleading and ought to be of concern to each person who wants honest, open, legitimate democratic debate in our campaigns that are instructive to the voters, not to be misconstrued by them because they don't have sufficient information on which to make a reasonable judgment.

Mr. Chairman, again, I appreciate the fact that you have come up with an alternative that is, I think, as I said before, a credible alternative. It is one with which I don't agree, but it is certainly a real alternative, and you have kept your word and we are moving this process ahead.

I expect there to be a vigorous debate on these bills on the floor of the House in mid-July, and I am very hopeful on our side that we will see a bill very close to Shays-Meehan, which as I say has received the very substantial support of the overwhelming majority of the House in 2 years in which it was voted on and passed again, so that we might see this sent to the President, enacted into law and give greater confidence to our citizens that the financing of campaigns is above board, it is not overwhelmingly influenced by those who have interests before this Congress, and that the American public can be confident that their representatives in fact are focused on their interests and their interests exclusively.

I thank you, Mr. Chairman, for the time to give that opening statement.

The CHAIRMAN. I want to thank Mr. Hoyer. Before I move on to other statements, I wanted to point out just a couple of things. The Rules Committee has stated the deadline for amendments would be July the 10th. As far as the need for Mr. Shays and me to continue the amendment process, final decisions, of course, for rules are above my pay grade, but I am sure it is going to be some type of situation to accommodate some process through rules. I mean, I am sure they will have to fine-tune it.

One comment I want to make—and this is not in relationship whatsoever to what Mr. Hoyer said—but in this process as it evolved, when this bill came to the Senate, fists were pounded by Senator McCain to do it in 2 weeks; we have been through this before. It didn't matter we had new elected Members, but we have

been through this before. You have 2 weeks; you can do it. And we said we would just like to have a little time for something called debate. It is something called the House. We are not the rubber stamp of the Senate.

Having said that, the Shays-Meehan camp said, do this by Memorial Day, we are ready, we are ready to go, we have got our product, we are here, we can do it by Memorial Day. I just want to point out the reason their product isn't complete is because things changed, and the wise action of this House to say, catch your breath, hang on, another month is not going to be the end of the world, I think was a wise decision by the House, because it just shows that we weren't ready by Memorial Day. People's attitudes change. People had second thoughts. They started to look over it.

So I just wanted to say for those who said why didn't you pass it in 2 weeks as the good Senator wanted us to or why didn't you pass it by Memorial Day, today proves why we didn't, because it is not even ready today, the product isn't.

The CHAIRMAN. And this is not, again, relating to Mr. Hoyer's comments. It is relating to what I have been hearing since this whole process began in the Senate. I just think that is a very valid point. We did the right thing. We did not succumb to pressure. This product is still not ready. So I just—I am not saying I told you so. I just think sometimes in the emotion of things we need to say, catch your breath and let's give it some time.

Mr. Mica.

Mr. MICA. Thank you, Mr. Chairman. I think there is interest on both sides of the aisle, and I—

The CHAIRMAN. The next agenda item is going to be upgrades of these hearings rooms, so we will do that.

Mr. MICA. Again, I think there is—it is the intent to reform the process, and we want it to work, and we want people's faith in the system to be secure. But I think when people looked at it they saw that it—in fact, Shays-Meehan and whatever version and the McCain-Feingold truly didn't ban soft money.

We found also in the House and in the Congress it is very difficult for two reasons to ban soft money. One is this slight problem with a document called the Constitution and free speech; and that has to be debated and worked through the court process. But it does raise some serious questions.

The other think is just the shear politics of it. And each side feels like they are being put at a disadvantage. I think the chairman has tried to craft something that doesn't put either party at a disadvantage. It does put some limits on so-called soft money through the parties. I think it doesn't put either at a disadvantage, and hopefully people can feel comfortable with that.

The other couple of points I wanted to make are that I think when you—after we debate this and debate this—I have been on the committee, Mr. Hoyer has been on the committee and others; and we hear this over and over again. I think you come to the conclusion that, you know, we are trying to build a rat trap to kill and catch rats. And it is very difficult.

Because you look at the soft money exemption. Under some of these, you could get \$10,000 each to State and local parties for 3,000 counties. You could end up with a \$30 million cap for each

entity, a so-called ban on soft money. And people, I think, if we pass that, would be dismayed. Minorities and others at a disadvantage, first-time folks out would be at a disadvantage. Maybe it would benefit people with money, but that is not what we want to do.

So I think the second-best think is the full disclosure. I, too, have been a victim of the ads. You don't know where they are coming from. Huge amounts of money being spent. The public is dismayed. The people who run for office are dismayed.

I think the disclosure both for broadcast and mass communications are excellent, exactly what we need. This is a free society, and people need to know who is sponsoring those ads, how much they are paying, where they are coming from. And I think that goes a long way.

So I know it is not done. I think it is headed in the right direction with the right intention, and I applaud you and look forward to working with you.

The CHAIRMAN. Any additional statements?

Mr. FATAH. Let me just commend the chairman. I think since his beginning as the Chair of this committee we have made remarkable progress on a whole range of issues. And this is another indication of the fact that really neither side is being stifled. You know, both bills are going to go forward. Those who have been opposed to Shays-Meehan, rather than just being opposed, now have a bill that I think is worth of the debate. It offers a number of innovative approaches to some of the problem related to campaign finances, the Shays-Meehan. And the Senate voted on a version, and now the modified version here in the House that we will be looking at over the District Work Period I think will give the public an opportunity to see the House have a serious debate and then a vote on this issue on campaign finance reform and then for us to be able to move on to other issues.

I think that a lot of us have been mired down in this for a while, and I know that we would like to see some resolution one way or the other. And the discussions about how effective either version would be as law I think has to be informed by court decisions, that none of us can guess exactly how they are going to play out. But I think that we have to put our best effort forward.

At least for the Democratic party, we have I think been fairly clear that we think that there has to be significant changes in the way campaigns are financed. And we are going to have a chance now in the House through these bills to work our will and for the American public to see how the various parties' players, caucuses and the like react to a number of these issues and then to make some judgment about where we stand on the question of reform.

So I want to thank the chairman, I thank the ranking member for their work. I look forward to moving both of these bills forward.

The CHAIRMAN. Thank you.

Mr. Linder.

Mr. LINDER. Thank you, Mr. Chairman.

After three hearings on campaign finance reform it is becoming increasingly clear that the fear of perceived influence is driving this debate. But listen carefully to the statement: the fear of perceived influence. The legislation which would likely compromise the



very principles upon which this Nation was founded and will likely undermine the individual rights secured by the Bill of Rights, not because of corruption or undue influence but because of perceived corruption and perceived undue influence.

This is a sad day indeed. I agree that there has been a decline in public trust for elected officials. That is reflected in the public's participation in voting. Sometimes people don't go to the polls when they are satisfied with the way things are going. When looking for great change, they turn out in huge numbers. 1994 comes to mind. But not for one second do I believe that these ills will be corrected with poorly constructed, over-reaching and in some parts readily unconstitutional campaign finance reform legislation such as we see in Shays-Meehan.

The Shays-Meehan bill would effectively turn our political system over precisely to the very outside interests the bill's sponsors attack. It doesn't eliminate soft money. It eliminates soft money for political parties. It does not have any impact on the millions of dollars of unregulated spending by unions or corporations. For other outside groups such as the Christian Coalition or Right to Life or National Rifle Association, they are left undeterred.

It is to me a vexing thought that adults who have spent more than 2 years in the political process would sit there now and say that 200-plus years of party determination of what ideas should be put forth, what candidate should be selected to put them forth, what do we stand for in terms of a party, are now willing to shut down the parties in terms of their access to money and turn it over to the very outside interests that have very narrowly focused views on what is right for their particular constituencies.

But, I repeat, they are undeterred—no reporting, no limitations on the soft dollars that they will continue to spend.

If we require the political parties to rely solely on hard dollars, we will see an increase in this unrestricted outside interest soft money like we have never seen before. We are concerned about the influence of outside organizations, and yet we are giving these very groups the power to determine what issues will be debated, what candidates will be put forth, and determine elections and public perceptions of those candidates.

The worst aspect of that eventuality is that the money to pay for these campaigns will be taken straight from the paychecks of Americans who have no say in how that money is spent and frequently do not agree with the message purchased with their head-earned dollars.

I urge my colleagues to carefully consider the consequences of this bill. In addition to likely being unconstitutional, in addition to the fact that it provides criminal penalties for people involving themselves in politics, the Shays-Meehan bill rejects the principles upon which our Nation was founded, and it does nothing to address the single biggest source of secret money in politics today, corporate and labor soft money.

Thank you.

The CHAIRMAN. Thank you.

Mr. Davis.

Mr. DAVIS. The events of the last election were a painful reminder that, under our system of government and the principles on

which our Shays-Meehan is based, that the power should belong to the people. And there is no better example of enshrinement of that principal than the right to vote. And I think today we are going to deal with the second part of that equation which has to do with whether the elections really belong to the people and their vote or whether it belongs to somebody else for another reason.

As Mr. Moyer pointed out, even the Supreme Court this week demonstrated that the legal principle that we should guard against, corruption and the perception of corruption, is consistent with the first amendment. That point was made by a majority of the court. It transcended political boundaries, as this issue should.

I think one of the ways to judge our success, whether it is the Chairman's mark or the Shays-Meehan bill, is going to be whether we ought to be focused on our constituents, which will not be easy for us to do. There is an enormous temptation, it is an occupational hazard for us, to focus on ourselves, and incumbents and challengers to focus on who will win under this bill, Democrats or Republicans. The truth of the matter is, we will never be able to predict who wins under these laws. There are too many other forces at work. But we know who loses if we don't pass meaningful campaign finance reform. The people who think their vote counts, the people who we tell their votes counts, they lose if we don't pass meaningful campaign finance reform.

I think one of the problems with the current system is excess, Mr. Chairman, excess in terms of the obscene amount of money that go into races today; and I think one of the best examples of that excess is soft money. That is why I support a severe curtailment of soft money, I always say that these people around here who are giving hundreds of thousands of dollars to each political party aren't doing so for good government, and I see no reason why we should allow that practice to continue.

One of the other most gaping loopholes in our system that fortunately, we are both talking about are these third-party ads. I was glad to hear Mr. Mica's comment that we need to have meaningful disclosure; and I think that should be another standard by which every bill is judged, whether there is, in fact, meaningful disclosure.

I will never forget what these outside groups on both sides, as you point out, Mr. Chairman, said to our freshmen working group in 1997. They said, if you force us to put our names on these ads, we won't run them. And we said, what is the problem with that? If you aren't willing to put your name on the ads, you shouldn't be presenting information that is designed to influence voters and the outcome of elections.

So I think we are making progress, Mr. Chairman. I know you will conduct a very fair process today. I look forward to moving this issue to the floor. Thank you.

The CHAIRMAN. Thank you.

Any other members wish to comment? Mr. Doolittle.

Mr. DOOLITTLE. Thank you, Mr. Chairman.

I think this is a very ill-considered piece of legislation. It purports to reform the system in such a way so as to minimize the influence of special interest when I think history will show this bill

of all others in modern times will prove to be the biggest special interest bill of all.

Why do I say that? Because we have a comprehensive regulatory scheme since 1974 placed into law. This has had a disastrous effect on our campaigns that increasingly, as advertising costs have risen, caused the exploration of new means of campaigning. We now see routinely, I guess I can say based on the last three or four special elections we have had for the House, that you are seeing now instances where the amount of nonfederally regulated money exceeds the money spent for express advocacy by the candidate themselves. We just had it here very recently in Virginia; prior to that, Pennsylvania.

This, of course, won't be able to happen in quite the same fashion under the provisions of Shays-Meehan. But let me tell you what will happen. You will have independent expenditures. You will have even less accountability than we have now. It will be a through independent expenditure, and there will be no accountability for anything.

It has been my observation that the less a campaign's candidate is focused on, the more that it is third-party focused, that the more negative and the more frustrating the campaign are. Since you can't actually say—use the term “vote for” or “vote against,” it makes it more difficult to deliver your message. The messages I believe tend to be more negative, such as the ones we have heard of mentioned here before, the James Byrd ad, for example, maybe the most famous piece of negative campaign material.

This is going to do—this is really going to hurt challengers. Let me tell you.

When I ran as just a citizen in 1980 for the State Senate where soft money was able to be used—we didn't call it soft money, but that is what it would be if we described it here—I don't have nobody. Nobody had ever heard of me. I couldn't have sent out a fund-raising letter and gotten my \$15 contributions from the broad-based support throughout the district. They wouldn't have contributed because my name meant nothing to them.

When you get to be elected and your name is out there, you can send out those letters. You can raise your money that way.

But that is not how a challenger is going to raise his money, by and large. The challenger has to be able to have some way of doing it. It is very difficult for a challenger to go and get, you know, these thousand dollar contributions as well. You may be able to get a handful of those, and from the people who give you \$1,000 you may be able to get many times that amount, but there is only a very limited number of people that will contribute. Broad-based fund-raising is not available.

I would venture to say I never would have won my race, which was an upset race in 1980, if they had to live with the provisions of Shays-Meehan that are before us today.

I guess that is neither here nor there, except I think it is extremely unfortunate that we would put into law provisions that make it even more difficult for challengers to oppose the incumbents. The incumbents have natural advantages just by virtue of their incumbency. This further skews those natural advantages way from the challengers. I don't know why we would want to do

that. I don't know why we would seek to take what is a very, very bad situation brought about precisely because of the amount of Federal regulation we have in effect today, which limits the amount of money that candidates themselves can raise from any given source, and make it worse by now limiting the advocacy that occurs through the use of soft money. It is extremely unfortunate. I think it virtually guarantees that we will be back here in this committee considering yet a more onerous bill.

This whole situation reminds me of a patient being treated by a doctor for an illness, and it turns out that when the illness gets worse then the dosage of the medicine is upped and it is upped again and again. You risk killing off the patient.

In this case, the patient is the average American with God-given and constitutional secured rights of free speech. What could be more explicit? Congress shall make no law abridging the freedom of speech. That is exactly what Shays-Meehan intends to do. They don't call it that, but that is clearly the effect.

I think it is a tragedy that we have so many in the Congress who are willing to do this. Largely they are reacting to perceptions that they perceive to be someplace out there. That are never grounded in reality. Repeated studies have, I think, contradicted rather clearly this thrust.

But we are dealing with a tiny group and a focused group who want this. This is going to take speech really away from everybody else except your big newspaper outlets, which they can write anything they like and be immune from regulation. Because while we are abridging the freedom of speech by this bill we are not abridging the freedom of the press, although the two seem to be closely related in my mind. So any newspaper at any point can write an editorial that, in order to get the equal coverage, you as a candidate would have to spend tens or hundreds of thousands of dollars to counteract. And they are free to do it, and that is okay under this bill. I think that is an atrocity.

They can also, by just simply the power of what they choose to report or focus on, do tremendous damage to a candidate; and the candidate will have his hands tied even further by this bill with his ability to respond.

This bill takes the approach that the patient is getting sicker, but with the same old medicine—we are going to do the same old medicine. We have Federal regulation. This will ratchet it up.

Now we will have penalties. I figured it out. Section 320, under the penalties they have got there, if you spent \$26,000 in violation of that act, you would have a minimum fine of \$78,000. And here is the maximum fine, \$26 million, because the maximum is 1,000 times the amount of the contribution—not 10 times, not a hundred times, 1,000 times. I think that that just shows you how extreme some of the provisions in this bill are.

I appreciate, Mr. Chairman, the work that you are doing; and I thank you for the opportunity to make this statement.

The CHAIRMAN. Thank the gentleman.

Mr. Reynolds.

Mr. REYNOLDS. I think there has been a lot of comments of the same tenor since the beginning of the markup on this legislation. I think we need to commend the Speaker for keeping the House fo-

cused that we will produce a bill before the District Work Period, that we will consider legislation on the floor of the House in July.

And I need to commend both you and the ranking member, Mr. Hoyer, for the tenor that you have demonstrated in the hearings and in the process of having those Members who want to get engaged on campaign finance reform having that opportunity and do it with respect of the opportunity to garner information and for you, Mr. Chairman, to have the difficult task of listening and formulating legislation that you feel brings forward a level playing field that meets constitutional muster and reflects what you have heard among both the Nation and your colleagues.

But in my district, taxes, jobs and education are the message of what my constituents are wondering where I am spending my time and what I am addressing for issues. And there has never been a time—I guess, if I asked, I think certainly all my constituents want honest elections, and they want to know where the money is coming from. But the reality there seems to be a will in the House to begin to address campaign finance reform and the opportunity of both not only in the other body but here as we move forward today in looking at that legislation.

Before we are done, there will certainly be a lot of comments on what is a new version of Shays-Meehan.

What I find is that I am a fan of the 1957 T-Bird. They are a beautiful care to me, and there is only one 1957 T-bird. So when you refer to a T-Bird today you would have to think of which generation it might be. Was it the '60s, the '70s or the '80s? Or now in 2000 they are bringing back a new one in 2002 or 2003.

Shays-Meehan is a name only. It is almost a shell as it continually gets reworked in order to try to assess garnering enough votes to be able to move it forward in this House. So the Shays-Meehan bill of last evening that Mr. Hoyer and Chairman Ney had the opportunity to review for the first time and I today is not the same bill as it was a few years ago or from the day it was introduced. From what I can gather, there is still this flexibility in the desire of the sponsors to continue shaping that in order to try to garner votes. But let us not be finding ourselves assuming that all of what Shays-Meehan was in the past exists today. The continuing changes reflect what it takes to build the ebb and flow of garnering enough support to be a viable bill before this House and as far as consideration of passage.

Again, as I close, I just want to thank you, Mr. Chairman, and you, Mr. Ranking Member, for the hard work you have done in leading this committee and carrying the message across America that we are here to listen and we are looking to develop an opportunity for Members to participate in both the debate and ultimately a vote on this issue.

The CHAIRMAN. Thank you very much.

As we move on, I just want to take just one more second, if I could, just to point out something I think also is important due to the statements that have been made over a series of months. You know, some people I think in the statements—not any member of this committee but some individuals have made statements about people's practices about the way they raise money or who they have been dealing with. And I think some individuals wear their cam-

paign practices like a coat. It gets a little hot, conveniently take it off, put it on when you want. I call that a falseness, and I think it has been out there.

When statements are blanketly made that the political parties of this country, the two major parties or any other party that is blossoming onto the scene, when statements are made that they are nothing more than money-laundering machines—and those statements have been made—that is simply not true of either political party or of any other party that I know of. Those are blanket statements that I think send out maybe a shock wave to try to get a vote, but they are not truthful statements.

Now, nothing is perfect—no organization, no group of people; and bad things can happen and wrong things can happen. But I just want to say in closing on this that we have a lot of good people, and I hope that this rhetoric—not of this committee, because I think all members have just absolutely held their point of view, pushed their point of view but have kept us to the process the way it should be—some of the rhetoric that I have heard over the past series of months has absolutely I think been outrageous.

As far as Mr. Shays and Mr. Meehan personally, I don't for one second question their integrity. I do not for one second think that they are false or insincere. I may disagree with the outcome of what I think their bill will do if it becomes law, but for those individuals I do believe that they have, deep in their heart and truthfully, have attempted to craft something that they think helps the system.

I just think that I, like many Members who are so lucky to be where we are in serving in the U.S. Congress, still have to get that feeling every time they walk onto the floor and they head towards the Capitol—they see that Capitol, and they get the same feeling of the first day they had when they walked onto that floor.

The second feeling is when there is a vote and you look across that floor and you see people from all parts of the country, from every economic income level, and their past histories, from different races, different genders, different philosophies. You look around there, and I am telling you that I may disagree with some of them, I may not personally get along with some of them, but we have—when you look across that floor and see a vote, we have a lot of good, honest people.

So the rhetoric outside of this committee that has come forth I think has been shameful and disgraceful in blanket charges of corruption and some of the blanket statements made upon this institution. I think this committee sets an example where you can debate things but you debate it in a proper way, and that applies to every member of this committee, and I am thankful for that.

With that, the Chair lays before the committee the bill H.R. 2360. The bill is open to amendment. And the Chair offers an amendment in the nature of a substitute that has been provided to the minority in advance.

The clerk will report the amendment.

The CLERK. The amendment in the nature of a substitute to H.R. 2360 offered by Mr. Ney.

Strike all after the enacting clause and insert the following—

The CHAIRMAN. I ask unanimous consent to dispense with the reading of the amendment.

With no objection, so ordered.

Question is on the amendment. Those in favor of the amendment—

Mr. HOYER. Mr. Chairman, just to reiterate what I said earlier, we will not be offering amendments because—again, I want to make it clear to those who are very critically interested not only in the overall issues but the specifics of these bills that we won't be offering perfecting amendments now because we expect to be looking both at your bill and at the Shays-Meehan offering for perfecting amendments between now and the Rules Committee opportunity.

The CHAIRMAN. Thank you, Mr. Hoyer.

The question is on the amendment. Those in favor of the amendment will say aye. Those opposed will say nay.

The ayes have it.

Mr. MICA. Mr. Chairman, I would like to ask for a recorded vote.

The CHAIRMAN. A vote has been requested. The clerk will call the roll.

The CLERK. Mr. Ehlers.

[No response.]

The CLERK. Mr. Mica.

Mr. MICA. Aye.

The CLERK. Mr. Linder.

Mr. LINDER. Aye.

The CLERK. Mr. Doolittle.

Mr. DOOLITTLE. Aye.

The CLERK. Mr. Reynolds.

Mr. Reynolds.

Mr. REYNOLDS. Aye.

The CLERK. Mr. Hoyer.

Mr. HOYER. No.

The CLERK. Mr. Fattah.

Mr. FATTAH. Pass.

The CLERK. Mr. Davis.

Mr. DAVIS. No.

Mr. HOYER. Mr. Chairman, if I can explain my vote, I want to do so in this context. It is my expectation that your bill ought to move forward and will move forward, and that is the agreement that we essentially have. I voted no simply to indicate that I prefer the other alternative, although we haven't fully dealt with the new alternative yet, but not because I don't think it is appropriate for it to move forward. It is my expectation, pursuant to the agreement, that both will move forward.

The CHAIRMAN. Thank you.

Are there any other members who wish to record their vote?

The CLERK. Chairman Ney.

The CHAIRMAN. Aye.

The Clerk will announce the vote.

The CLERK. Five yeases, two nos, one present.

The CHAIRMAN. The amendment is agreed to.

The question is now on the bill as amended. Those in favor will say aye. Those opposed will say nay.

The ayes—that is n-a-y. If you say n-e-y, that is a yes vote. Would Mr. Hoyer like to spell his vote?

The ayes have it.

Mr. MICA. Mr. Chairman I move that H.R.—I think we are going to first ask for a rollcall vote on the previous motion.

The CHAIRMAN. Thank you. Thank you, Mr. Mica. The clerk will call the roll.

Mr. DOOLITTLE. What is the motion?

The CHAIRMAN. This is on the question of the bill as amended.

The CLERK. Mr. Ehlers.

[No response.]

The CLERK. Mr. Mica.

Mr. MICA. Aye.

The CLERK. Mr. Linder.

Mr. LINDER. Aye.

The CLERK. Mr. Doolittle.

Mr. DOOLITTLE. Aye.

The CLERK. Mr. Reynolds.

Mr. REYNOLDS. Aye.

The CLERK. Mr. Hoyer.

Mr. HOYER. No.

The CLERK. Mr. Fattah.

Mr. FATAH. No.

The CLERK. Mr. Davis.

Mr. DAVIS. No.

The CLERK. Mr. Chairman.

The CHAIRMAN. Aye.

The clerk will report the vote.

The CLERK. Five yeases, three nos.

The CHAIRMAN. Five yeases, three nos. The bill is adopted as amended.

The Chair recognizes Mr. Mica for the purpose of offering a motion.

Mr. MICA. Mr. Chairman, I move that H.R. 2360 as amended be reported favorably to the House and also ask for a recorded vote.

The CHAIRMAN. The question is on the motion. Those in favor will say aye. Those opposed will say no.

The clerk will call the roll.

The CLERK. Mr. Ehlers.

[No response.]

The CLERK. Mr. Mica.

Mr. MICA. Aye.

The CLERK. Mr. Linder.

Mr. LINDER. Aye.

The CLERK. Mr. Doolittle.

Mr. DOOLITTLE. Aye.

The CLERK. Mr. Reynolds.

Mr. REYNOLDS. Aye.

The CLERK. Mr. Hoyer.

Mr. HOYER. No.

The CLERK. Mr. Fattah.

Mr. FATAH. No.

The CLERK. Mr. Davis.

Mr. DAVIS. No.



The CLERK. Mr. Ney.

The CHAIRMAN. Aye.

The clerk will report the vote.

The CLERK. Five yeases, three nos.

The CHAIRMAN. The motion is agreed to, and H.R. 2360 as amended is reported favorably to the House.

Mr. HOYER. Mr. Chairman, pursuant to the provisions of clause 2, paragraph 16, rule 11, the minority will seek not less than 2 additional calendar days provided by the rule to prepare minority views to be filed with the report.

The CHAIRMAN. Without objection.

Are there any volunteers to move H.R. 2356?

Mr. HOYER. Mr. Chairman, I thought you were going to move that, but we will move H.R. 2356 for the purposes of reporting that to the floor.

But I want to make it clear because—and as I do so I want to indicate to Mr. Reynolds, who correctly said that I think what Mr. Shays and Mr. Meehan are doing is trying to meet some of the objections that some people have, as he referred to as shopping for votes. Obviously, everybody in the legislative process does that on a regular basis.

The reason I make that point is because there have been some concerns—obviously, Mr. Shays and Mr. Meehan have tried to, as you know, accommodate some of the Senate interests; and I want to make a comment as to why that has occurred.

There is great concern about the conference, and we have been very positive, and I continue to want to be very positive. But one of the reasons for great concern is that it has been articulated that the Speaker, the Majority Leader and certainly Majority Whip are very much opposed to the legislation that is proposed. They have made that pretty open, and that is fine. But, because of that, Mr. Shays and Mr. Meehan and others have been very concerned about going to conference and trying to pass something that was acceptable back to the Senate so that it wouldn't have to be in conference.

I think everybody that has followed this procedure knows that to be the fact. But I think it ought to be articulated because, in moving this bill to go forward, I do not necessarily endorse this version of the bill. But the agreement—and I appreciate the Speaker making this agreement with Mr. Shays, which I have not been involved nor has Mr. Gephardt been involved—was that both bills will come to the floor.

I think that is fair. We appreciate that. The Speaker has been fair on that. Mr. Ney has been fair on that. But I would not want it misconstrued that this is the bill that we are presenting.

But pursuant to the agreement, Mr. Chairman, it is my understanding that this will go forward either with a favorable or unfavorable report. And the reason I say it in that sense, my original reaction would have been to offer Shays-Meehan as introduced, rather than as modified. But I am moving it as modified so that that bill which Mr. Shays and Mr. Meehan want to go forward will go forward in the way that they have presented it to us.

Mr. DOOLITTLE. Mr. Chairman, I understand what the agreement is, and that is fine. Can we have the motion—unfavorably re-

ported? We move it out, but—it gets it out, but I don't want it to be reported as favorable.

The CHAIRMAN. Let me clarify. This—a formal motion I assume will be forthcoming from the ranking member.

Mr. HOYER. I will withdraw my motion if you want to make that motion, and we will simply vote again that motion. That will do it.

Mr. DOOLITTLE. Okay. Then I so move.

The CHAIRMAN. The Chair raises Mr. Doolittle for purpose of the motion.

Mr. DOOLITTLE. Then I move the committee to unfavorably report to the Rules Committee the Shays-Meehan bill, whatever the number is.

The CHAIRMAN. To the House.

Mr. HOYER. 2356.

The CHAIRMAN. 2356.

The motion has been made. All those—the question is on the bill. All those in favor say aye of the unfavorable reporting. All those opposed.

The ayes have it.

Mr. MICA. Mr. Chairman, I would like a roll call vote on that.

The CHAIRMAN. Roll call vote has been requested. The clerk will call the roll.

The CLERK. Mr. Ehlers.

[No response.]

The CLERK. Mr. Mica.

Mr. MICA. Aye.

The CLERK. Mr. Linder.

Mr. LINDER. Aye.

The CLERK. Mr. Doolittle.

Mr. DOOLITTLE. Aye.

The CLERK. Mr. Reynolds.

Mr. REYNOLDS. Aye.

The CLERK. Mr. Hoyer.

Mr. HOYER. No.

The CLERK. Mr. Fattah.

Mr. FATTAH. No.

The CLERK. Mr. Davis.

Mr. DAVIS. No.

The CLERK. Mr. Ney.

The CHAIRMAN. Aye.

The clerk will state the vote.

The CLERK. Five yes, three no.

Mr. FATAH. Mr. Chairman, can I make a parliamentary inquiry?

The CHAIRMAN. Yes.

Mr. FATAH. Would it have been possible to report both bills without a recommendation, unanimously?

The CHAIRMAN. Well, if you could get the votes, but it wouldn't—

Mr. HOYER. If I could help the chairman, I think the answer is if that were a unanimous sentiment it would be possible.

The CHAIRMAN. The gentleman is correct.

Also, I should note for the record Mr. Shays is aware of the way the bill is going to be reported unfavorable. He knew one bill would be unfavorable and one favorable. I asked Chris today which do

you think will make it on the favorable and he kind of knew. So we had a discussion on it, and he is aware of the procedure and very, very comfortable, as Mr. Meehan is, with this.

Mr. FATTAH. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Hoyer.

Mr. HOYER. I announce that, pursuant to clause 2 of rule 11, that the minority will seek not less than 2 additional calendar days provided by the rule for the appropriate minority views to be filed with the committee report.

The CHAIRMAN. Without objection.

Mr. HOYER. You are looking at me to say something further.

I look forward to a substantive, vigorous debate on the floor of the House on this legislation. I think there are serious issues that have been raised on both sides. Obviously, there are differences of opinion on the constitutionality. I think that we had very significant sentiment, frankly, on the other side of the aisle that the Supreme Court was going to rule in the opposite way that the Supreme Court ruled on the Colorado case.

You recall that I questioned the gentleman from the ACLU when we had two very distinguished lawyers who disagreed with his proposition on the constitutionality of some of these issues. They are complicated issues. I think there are people of goodwill that can differ on what the Supreme Court is going to do on some of these issues. But I think there is no question that these are serious issues which will make a significant difference for the American people and for our political system, and to that regard they deserve the best debate that we can possibly give it when we return in July.

The CHAIRMAN. I want to thank all members of this committee for their indulgence and patience on this issue.

I ask unanimous consent that members have 7 legislative days for statements and materials to be entered into the appropriate place in the record. Without objection, the material will be so entered.

I ask unanimous consent that staff be authorized to make technical and conforming changes on all matters considered by the committee at today's meeting. Without objection, so ordered.

The committee is adjourned.

[Whereupon, at 3:38 p.m., the committee was adjourned.]