FEDERAL ELECTION CAMPAIGN ACT
AMENDMENTS OF 1973

The Senate continued with the consideration of the bill (S. 372) to amend the Federal Election Campaign Act of 1974 to relieve broadcasters of the equal time requirement of section 315 with respect to presidential and vice presidential candidates and to amend the Campaign Communications Reform Act to provide further limitation on expenditures in election campaigns for Federal elective office.

Mr. CANNON. Mr. President, I yield myself 1 minute.

Earlier today, in the heat of the debate, I understood that some people were interested in some nongermane amendments in the hopes of not supporting or defeating the campaign reform bill.

Mr. President, I want to make it clear that I was not referring to the distinguished Senator from Alabama who was a sponsor of the amendment then pending because he has been a consistent supporter in the committee, both on this bill and on the bill in 1971, for a campaign reform bill. I want to make the record clear on that point.

I ask unanimous consent that I may yield 2 hours to the Senator from California (Mr. CRANSTON) so that he may participate in a discussion of the question of public financing on the bill.

Mr. STEVENS. Mr. President, I have great respect for the Senator from Alabama. However, I would like to clarify one matter. My amendment does not require a pay increase. My amendment as a substitute for his amendment sets as a maximum for any increase for the judiciary branch, the executive branch, or the congressional branch of the Government, the amount provided by the annual wage guidelines.

It does not mandate an increase. It does not in any way affect the workings of the Commission that is working on salaries for the three branches of the Government. My amendment sets a maximum of whatever they might recommend.

As such, I think we are treating ourselves in the same way that we are willing to have the executive branch treated, and all segments of our economy. And as I have said before, that is fair.

I would not want the record to indicate that it requires any wage increase.

Mr. GRIFFIN. Mr. President, is it understood that during this 2-hour period, there will be no action taken and no votes?

Mr. CRANSTON. The Senator is correct.

Mr. ROBERT C. BYRD. Mr. President, it is my understanding that the distinguished Senator from Wisconsin (Mr. PROXMIRE) will shortly offer an amendment to the pending business and without any time being counted on the amendment tonight.

Mr. COOK. Mr. President, it is also understood that under the unanimous-consent agreement the Senate will proceed to the consideration of the Proxmire amendment at 12:30 tomorrow.

Mr. ROBERT C. BYRD. Mr. President, at no later than 12:30 tomorrow, and possibly earlier.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Nevada? The Chair hears none, and it is so ordered.

Mr. PROXMIRE. Mr. President, I call up my amendment No. 389, not for consideration tonight, but so that it can be made the pending business tomorrow.

I ask unanimous consent that my amendment be made the pending business tomorrow and I ask unanimous consent that no time run against the amendment if it is debated tonight.

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

The clerk will report the amendment. The legislative clerk read as follows:

On page 56, line 19, strike "$5,000" and insert "$100.

On page 57, line 2, strike "$15,000" and insert "$100.

On page 57, line 7, strike "$100,000" and insert "$1,000.

Mr. PROXMIRE. Mr. President, this amendment provides a $100 limitation on any contributions by any one person to any one candidate and $1,000 that any one person can make to all candidates.

Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays are ordered.

Mr. PROXMIRE. Mr. President, I thank the distinguished Senator from California.

PRIVILEGE OF THE FLOOR

Mr. CRANSTON. Mr. President, I ask unanimous consent that throughout the consideration of the matter we are about to discuss, to two members of my staff, Jan Mueller and Roy Greenaway may have the privilege of the floor.

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

Mr. HART. Mr. President, I ask unanimous consent that during the consideration of this matter Burton Widnes may have the privilege of the floor.

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

PUBLIC FINANCING OF POLITICAL CAMPAIGNS

Mr. CRANSTON. Mr. President, before I begin my remarks, I would like to indicate how delighted I am that the distinguished Senator from Wisconsin, Mr. CANNON, has expanded the Senate's consideration of S. 372, to include a general discussion of the general concept of public financing of campaigns.

Last week, I and a group of my colleagues went to the chairman, Senator CANNON, and to Senator PELL, chairman of the Elections and Privileges Subcommittee, to ask that time be set aside for such a discussion and that hearings be scheduled on the various public financing proposals. We were pleased that the chairmen agreed to holding hearings by the Senate Rules Committee in September.

In requesting hearings, the group stated that they felt public financing was the logical next step to take in the area of campaign reform, but agreed that consideration of any public financing plan should not come to the floor of the Senate until after hearings had been completed.

I strongly support this position. The place to design a workable public financing plan is not on the floor of the Senate in the middle of debate on campaign reform amendments. Much as I believe in public financing, I do not intend to support any effort to amend S. 372 with a public financing plan. If such an amendment is proposed for S. 372, I will vote against it.

I would not want a public finance proposal to interfere with or jeopardize the finance reforms in the pending bill and any further reforms which might be in the bill at the time we finish acting on it.

A number of Senators have indicated that they wish to participate in the colloquy. A number of Senators are interested in the concept of public financing.

As we begin, it would be well, I think, to note that problems associated with our present system of financing election campaigns are neither to be ignored, nor will they end there as long as office-seekers must compete for dollars to run campaigns as well as for votes to win elections.

The reforms Congress is likely to approve this year can be important steps forward, but they will not address the question Congress must eventually face: Whether to restructure rather than to reform, whether to prepare a candidate with public funding or to continue encouraging candidates to rely on private contributions to finance an election campaign.

Mr. President, as I am sure we will be reminded in the 2 hours set aside for this discussion, this idea and this concept of public funding of political campaigns is not new, nor is it associated...
with just one of the political parties. It is an idea that was endorsed by former Presidents Theodore Roosevelt and Harry Truman. Neither is the idea without precedent in this country, for Congress approved the concept of an independent checkoff system which permits a taxpayer to designate $1 of his tax return go to funds to be used by candidates in the next Presidential election. It should be no secret to Members of Congress that the confidence in politicians is diminishing and that a political system which would be open and free cannot long exist in a sea of widespread public distrust.

One should view distrust which is one of the principal fund-raisers even before they are elected is the need to raise money. Also, it should be no secret to Members of Congress that many persons of conflicting political views often use the same rheumatism in the political system and the feeling that no one is listening to their pleas. One reason for that feeling is that large contributions do indeed buy access, and access is an important ingredient of power.

Time limits the number of problems a Senator can deal with, the number of people he can see. There are few Senators, and I am not among them, who will not be approached by candidates. Mr. President, will the Senator from Michigan, who has been leading this fight for his whole public career, and my friends who are joining in this colloquy this evening.

The Senator from California (Mr. CASS). Mr. President, I want to say that the Senator from Minnesota.

My entire adult life. And I think that is certain, is the central issue. We can reform the existing system of private funding as we must resort to that demeaning, compromising, and sometimes regrettable system.

Also, it should be no secret to Members of Congress that it is the need to raise money. Also, it should be no secret to Members of Congress that many persons of conflicting political views often use the same rheumatism in the political system and the feeling that no one is listening to their pleas.

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up for sale. They will make a mockery of our principles of free and open representation and accountability to the people.

As a Democrat, I can take no comfort in these disclosures. My own party's record of political fund-raising—while never in the same league as the Republicans'—is certainly a cause for concern. And, of course, the Watergate scandal—has not always been as open and as forthright as I would like it to have been.

This reform, I believe, is necessary. We need a system which forces candidates to rely on excessive contributions if they wish to compete effectively in a modern presidential campaign-

It seems, however, a system which forces candidates to rely on excessive contributions if they wish to compete effectively in a modern presidential campaign—

On the other hand, I support the idea of the $2 contribution which was accepted at the Harris Poll, "How often can you trust the government?" Two-thirds answered, "most of the time." Recently the question was asked again and less than half—only 45 percent—said they could trust their government most of the time.

The same poll indicated that only 27 percent of the people had "a great deal of confidence" in the executive branch of the government—a drop from 41 percent in 1966.

Finally, what is the corrupting influence of money on the political process and restore public trust in our government, we must fundamentally change the system by which we finance our campaigns—especially those presidential campaigns. The only way to do this effectively, in my judgment, is by severely limiting the amount any individual may contribute to a candidate while at the same time providing substantial public funds to help finance the campaigns. Neither of these steps itself will be sufficient; any effective reform must embody them both.

The costs of running campaigns in this country essentially that the effect of those contributions can no longer be put off any longer. It is estimated that last year candidates for all offices spent an estimated total of $400,000,000—an increase of one-third over four years before. In short, the cost of campaigning is rapidly outstripping the ability of most candidates to raise the necessary funds responsibly.

The United States is one of the few western democracies which provide absolutely no public assistance to candidates in its national elections. As a nation of states we deposit, we cannot afford to postpone further this essential measure.

As I have said, any legislation is not enacted in the wake of Watergate, it may never be enacted. That is why Senator Schuetteker and I—together with a bipartisan coalition of the Senate—have been working on this matter, for a very practical reason. And, it is designed to benefit neither Republicans nor Democrats; it is designed to benefit, in my judgment, to benefit all of us. It is designed to benefit all of us. It is designed to benefit all of us. It is designed to benefit all of us.

Mr. BIDEN. Mr. President, will the Senator from Michigan yield at that point?

Mr. HART. I yield.

Mr. BIDEN. I do not think we can stress too the strong need to act now on this matter, for the American public is frustrated. I do not know of any Member of this body, even those who oppose public financing right now, who really would not prefer some sort of public financing, but they feel that somehow, as has been confided to me by some Senators and mentioned flat out in the press by others, the public is not ready for this, that the public will think we are somehow raiding the till, that it is a raid on the Treasury. We are not. Whatever the consequences, government will be enormous.

And yet, the primary period is the most difficult period of the presidential election process for which to provide public financing. We have concluded that the only way to accomplish this is to relax a premium on their ability to raise additional contributions. The combination of the $3,000 limitation on individual contributions and the $1,000 contribution for $100 or less and under forces candidates, in effect, to seek as wide a base as possible in financing their campaigns. The public will have a vote. The entire purpose of the reform will have been effectively undermined.

I ask unanimous consent that a section-by-section of the bill, together with the text of the bill, be reprinted at the conclusion of my remarks.

If public financing legislation is to accomplish its purpose, it is essential that it be comprehensive, and that the legislative period. The general election period; Matching funds must be spent during the period; the pre-nomination period and must not be carried over to the general election period; The existing $1 check-off system is retained and strengthened for the general election; Each dollar checked off is matched by another dollar from the Federal Treasury, and the check-off fund is made self-appropriating; For the general election period there is a spending limit of $40 million. The number will be released in batches as the campaign progresses.

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the public that it is the best growth stock investment it can possibly make in the interests of itself and American democracy. I take it upon myself to make clear that the product we finally present here should have as few imperfections as a good set of hearings could identify.

Mr. MUSKIE. Mr. President, will the Senator consider these long questions that we have a habit of asking each other on the Senate floor?

Mr. HART. Yield.

Mr. MUSKIE. Mr. President, I am pleased to join my colleagues this afternoon in bringing this matter, which goes to the heart of the American political process: campaign reform. For months, our newspapers, our television reports, and our daily conversations have been filled with discussions of the possibilities for corruption in the campaign financing process. We have been confronted again with the painful evidence that money is much too important a factor in politics.

And the conclusion I have reached from this evidence, Mr. President, is that the pernicious influence of money in politics can only be removed by adopting public financing of all campaigns.

Before I expand on my own thoughts, I want to acknowledge a sentiment that goes to the Senator from California, the Senator from Michigan, the Senator from Minnesota, and others who have taken the initiative to bring this question of public financing to the Senate floor this afternoon. I extend to them my appreciation to this issue is to be commended.

It is appropriate, Mr. President, that our discussion of public financing today takes place at the beginning of Senate consideration of S. 372, a bill that makes important campaign reforms. By amending the communications laws, this bill will make available to major candidates for Federal office free television time, thereby providing the American people and additional information about the candidates who they will vote. By limiting campaign expenditures, the bill would prohibit exorbitant spending beyond what is necessary to bring the candidate's views to the voters. By limiting the amounts of direct and indirect contributions, the bill would hopefully go far toward preventing the worst fundraising abuses. And by establishing the Federal Election Commission, the bill would create a mechanism for more efficiently enforcing Federal election laws, including those requiring disclosure of campaign spending and contributions.

During the next few days, the Senate will have the opportunity to pass judgment on the merits of S. 372—and hopefully to improve it.

I have some misgivings about the wisdom of considering this legislation on the Senate floor at this time, for two reasons. First, one of the main committees was charged with the mandate, among others, of recommending measures to reform our campaign practices, including campaign financing. That committee is in the midst of its work. As it produces its report, the public will focus even more sharply upon the need for thorough campaign reform. But I am not sure that at this point in the Watergate hearings public concern has yet focused on this issue to the point where it has generated the kind of support for the bill of which the Senator is capable. So I have some misgivings about the timing.

Second, I am fearful, in the absence of necessary support for public financing of all campaigns, that we may fend off the possibility of complete reform.

We must also adopt, in some form, a mechanism which S. 372 does not include: public campaign financing. Thus, I am worried that the Senate may pass a campaign reform bill that is less thorough than it should be.

But with this exercise having begun on the Senate floor, I think we should make the most of it. So I am gratified that we shall have the opportunity of discussing this subject today.

To put this discussion in perspective, I would like to refer to my own experience. I ran for Governor of my State in 1954, at a time when there was no Democratic Party in Maine, at a time when there never was, and there were no funds to raise money for such a venture. I recall that in that year the Maine Democratic Party supported candidates in five major races—the governorship, the U.S. Senate, and three congressional races. We financed all of these at a total of $18,000. That included television. That included newspaper advertising. That included getting out the vote. That included all the elements of a modern campaign.

We elected the Governor. We ran good races for the other offices. We built the base for later victories by our party in the State, and we did it all for $18,000. The last time I ran for the Senate, in 1970, for my race alone, we spent almost eight times that amount.

Campaign costs have grown and grown and grown. The days are gone when a candidate can present himself in person to most of the voters who will choose between him and his opponent. The mechanics which have been developed to bridge this communication gap—to present the candidate to the bulk of the voters who cannot know him personally—all cost money. And money spent for this purpose is wasteful, since it is spent to allow Americans to make a better choice on election day—through leaflets passed out on the streets, through grassroots organization, through the transportation of the candidate to voters in their hometowns, and through the preparation and purchase of advertisements in the media.

The problem, Mr. President, is not just that money is needed. The worst abuses arise in the process of collecting that money.

In my political experience, I cannot recall that I was ever asked to give a quid pro quo for a campaign contribution. I cannot recall that I have ever been approached. So I can recall to my mind when I came to me and said, "Senator, in return for your support on such and such a proposition, we will contribute." And I doubt that contributors approach other public figures asking for a quid pro quo. But that absence of such instances by no means demurs that our political financing system is not corrupt.

Big contributions from individuals and political groups to these campaigns lead inevitably to questions of private versus public interest. It is not that those contributors are not looking for anything in return for their gifts, but the economic stakes of public policy are high enough to raise clouds of suspicion. We do not have to look beyond the recent Internet scandal to uncover the real dangers in campaign finance. Those who have stakes in public policy choose to give financial support to candidates whose known philosophies and voting records reflect the contributors' views.

This financial support can influence the ability of candidates to mount effective campaigns. When the candidate they support is successful, he represents his contributors' views in politics. Thus, the effect is that those with wealth to contribute may have disproportionate representation in the country's policy decisions—not because he was asked to do so, but because he honestly agrees with their views. The result is that those with wealth to contribute may have disproportionate representation in the councils of national government.

Or, as the Senator from Michigan has pointed out, contributors buy access to a Senator, a Governor, or a Congress­man, taking away his time from consideration of other issues with which he should be concerned.

Money is a factor, too, in the decisions of candidates about how they will spend their campaign time: Fundraising activities distract the candidate from his most important goal of presenting his views to the public.

And regardless of whether a contributor has any influence at all the public is presented with the appearance of corruption. Thankfully, we ultimately end up voting. Or, in some cases, the result has been, however, to intensify the perception of the public that people with money are buying us. The disclosure laws have heightened public cynicism, which removes the members of the public, and the appearance of corruption, it is not enough merely to restrict the amount which individuals or groups can give directly to candidates to $5,000 for each congressional primary and general election, or $15,000 for each Presidential primary and general election, as S. 372 does; or even to some lower figures.

For candidates would still need campaign funds to bring their case before the public. Imposing contribution limits which would permit adequate campaign financing would still preserve the unfair influence of contributing individuals and groups upon public policy. Only public campaign financing can result in a truly representative confidence in the public that our system is responsive to them, that it is honest, and that those elected to public office are men of integrity.

The fact is that the reforms in S. 372 do not result, as commendable as that bill or amendments to it may be. Congress has already made a step toward public financing in creating the...
dollar checkoff, which gives Presidential candidates, once they have won the nomination of their party, the option of accepting public funds or relying on private contributions. But the dollar checkoff has not yet proved to be successful, and we have only hopes that it will help reform campaign financing in the next Presidential election. More comprehensive—and effective—public financing measures are needed.

Mr. President, I hope that our forthcoming consideration of S. 372 will produce legislation that will contribute to campaign reform. But I also hope that Congress will not put aside the question of campaign reform until it has fashioned a workable system of public financing to truly remove the influence of money from politics.

So I commend the Senator from California and the Senator from Michigan for indulging me in this colloquy on public financing. I join them in the expectation that it will lead to serious consideration in committee of public financing proposals—including the thoughtful ones of the Members of this body—so that we can develop sound, thorough, public financing legislation.

Mr. President, in conclusion, let me say to the distinguished Senator from Michigan that he may have lost the thread of my questioning, but perhaps the development of my argument. I thank the Senator for his patience.

Mr. HART. Mr. President, all of us are grateful for the comments made by the Senator from Michigan. Mr. President, I am speaking from a very deep experience. I doubt whether anyone in Maine views any vote he casts as a reaction or a response to any contribution he ever received. I doubt that could be said of many of us. I am sure that there are people in Michigan, generally those who think that every one of my votes is dead wrong, who believe that they are in response to the money I have been given. Each of us likes to think that we are independent, that if one person in Michigan believes that of me, the strength of our society is weakened.

As the Senator says, it is the appearance which we must overcome, and public financing will move us in that direction.

Mr. STEVENSON. Mr. President, I want to be associated with words of the Senator from Maine, and I wish also to commend the Senator from California and the Senator from Michigan for taking this Initiative. The Senator from Michigan was the first Member of this body to introduce public financing reform legislation in this session. Since then, he has been followed by others, including the Senator from Maryland (Mr. Mathias) and myself.

He recognizes, as do we all, that at this late date, money is a curse upon our politics, and money is a curse upon our country. But if so much as $1,000 in campaign contributions. It diminishes us all. It diminishes the offices we hold. It diminishes the public's trust.

The subject has been taken up in the Senate majority caucus, and in that caucus we unanimously supported the principle of public financing of campaigns. By so doing, we recognized that money, the big contribution, is the most corrupting influence in our politics, that there is only one way to eliminate that corruption and that is by providing for an alternative source of financing of our campaigns, public financing.

Mr. President, some might contend that the solution is not yet at hand because hearings on public financing have yet to be held in the 93d Congress, and no public financing bill is yet before this body.

But this colloquy comes too late. Many proposals too late. Many campaign solicitations too late. Many tax evasions too late, many millions of disillusioned Americans too late.

Those who support the principle of public financing in the legislation of the Members of this body—may differ about one or another detail of the public financing system. But we can all agree that big money is endemic in our politics, that we are all worse off because of it, that we are all more or less indifferent to it, and that the only way to do is by adopting a public financing system at the earliest possible date.

I see the sense of urgency expressed by my colleagues here this evening, but realism compels me to state that the floor is not the place to write a public financing bill, at least until the appropriate committees have had a reasonable opportunity to act on the question.

At some moment in the future, the proposal of public financing is a procedural one: How best can we assure that the appropriate committees and the full Senate will have the opportunity to legislate on the public financing question during this session of Congress? I would hope that we could agree on a procedure under which orderly consideration of public financing and all the issues intertwined with public financing— including especially the number and candidate expenditures—could take place this year. In the meantime Congress could act on equal time repeal, the establishment of the Federal Elections Commission, increased penalties for violations of existing law, and perhaps other less controversial, less complex questions.

Mr. President, with less than 8 full working days left before the recess, we areterrible in the brink of a morass. More than 40 complicated amendments to a very complicated bill have already been submitted. More are in preparation. Further expansion of the scope of the debate on S. 372 could push us over the brink. We could find, after days of frenzied activity, that we end up with nothing or something unworkable.

I believe—and I have heard others make similar suggestions this evening—that we ought to take a more comprehensive campaign finance reform, including limits on expenditures, limits on campaign contributions, and public financing by some point early in the fall, some point early enough to give us then a better chance than I suspect we have now to adopt in this session comprehensive reforms of our campaign financing.

Mr. HART. I thank the Senator from Illinois.

I note that in a sense we have had perhaps conflicting expressions of concern: One, that the full effect of Watergate has yet to be had, and that since we commissioned the Ervin committee to make recommendations, time itself has been well advised to delay until we get those recommendations. Two, we have the concern just voiced by the Senator from Illinois and the Senator from Delaware that we attempt to fix the end of this session of Congress as the time to reach for and write public financing.

I think each concern is properly voiced here. It will alert all of us to attempt to resolve what may or may not be a conflict and, hopefully, to take the more prudent of those two paths.

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

Mr. HART. I yield.

Mr. JOHNSTON. Mr. President, I am often asked to speak on behalf of myself and six of my Democratic freshman colleagues. Each of us has just experienced the manner in which our existing electoral system works. We faced that experience as nonincumbents, and we emerged from that experience with the deep belief that substantial improvements in the present system are needed.

As with any other group of seven Senators from as many different States, we have debated the merits of early consideration of the bill before us or on the matter of more comprehensive reform of our electoral system. We do, however, share one fundamental viewpoint: We believe that the time has come for a consideration of the manner in which we have been financing Presidential and congressional elections in the past and the appropriate role, if any, of public financing in the future of the electoral process.

Mr. President, we recognize that there are numerous aspects of our system of financing elections. Public financing, suggested by some as a solution for our financing troubles, raises questions as to its effect on parties, on little-known and nonparty candidates, on major interest groups, on the primary process, and on the Federal Treasury.

But, if anything is clear from the recent history of American political life, it is that our present system of financing elections has significant problems of its own. That system has fostered a widespread belief that politicians are for sale to the highest bidder. It has forced many candidates to spend inordinate amounts of time and effort organizing political fundraising campaigns. It has driven scores of good men away from the political system. And it has placed the good men who remain in a position of guaranteeing that the flow of financial backing comes before Congress.

Mr. President, the point we seek to make is this: The time has arrived for a thorough examination of the financing of Presidential and congressional elec-
tions and the alternatives reasonably available to us. While we may differ both on the role and extent of public financing in that electoral process, we feel strongly and unanimously that Congress must consider carefully and soon the possible role of Federal funds as one alternative in the financing of these elections.

The fact that we are here today considering important campaign reform legislation indicates that this body, and the very able members of the Rules and Commerce Committees, fully recognize the urgency of a reexamination of our present methods of financing Federal elections. We are confident that the legislation we debate today will form a basis for further consideration of the crucially important question of how Presidential and congressional elections should be financed.

For the record, Mr. President, I should like to state that Senators Abourezk, Biden, Clark, Hathonay, Haskell, and Huddleston join me in offering this statement.

I might add one further point, as a personal feeling, not on behalf of these six Senators.

I submit that any Federal financing plan ought to satisfy at least four basic factors.

First, it should reduce or eliminate, if possible, the influence of money on elected officials.

Second, it should restore the confidence of the American people in that confidence is so lacking—lacking even before Watergate, but certainly after Watergate.

Third, it should be neutral in its effect toward parties, philosophies, and candidates.

Fourth, it should preserve the ability of the new face, as the Senator from Maine, as the Senator from Louisiana, the unorganized candidate, the independent candidate, to get out, within the system, and put it together and get elected.

I suspect that the third and fourth alternatives I refer to are going to be the most difficult to achieve—to remain neutral toward candidates, parties, and philosophies, and still inject Federal funds into the campaign.

I know that in my particular State, where the Republican Party has 3½ percent of the registered voters, it would be very difficult to figure a way to get Federal funds into the candidates’ hands in a general election without being nonneutral toward that election. If you said it is based on the number of registered voters, it certainly would not be fair to the Republicans. If you said it is on a 50-50 basis, it would not be fair to the Democrats. If you said it is based on the signatures you get on a petition, it is not fair to the unorganized candidates.

I would particularly that whatever we do is going to be interpreted as favoring the incumbent, and perhaps the best thing that can happen to incumbents is to severely limit political money to shorten political campaigns and to make them as sterile as possible.

We do not have to get out there and do as the Senator from Michigan for yielding to me.

Mr. HART. Mr. President, would the Senator yield to the other?

Mr. HART. I yield.

Mr. JOHNSTON. The thrust of my statement was intended to be the need for reform and not the overriding objectives. I hope the Senator takes it in that light.

Mr. HART. Indeed, yes.

Mr. BIDEN. Mr. President, will the Senator yield for a question?

Mr. HART. I yield.

Mr. BIDEN. I am glad that my freshman colleague, along with myself, raised an issue that I think we do not hear often enough in this Chamber, and that is the political situation of incumbents.

Everyone agrees that one of the things we are trying to achieve here is to regain the confidence of the American people.

One sure way to lose that confidence of the American people and lend further fuel to the fire that we are only after one quarter of our time, our two terms, and some specific reference to the fact that as incumbents we need less money than challengers.

I am sure the Senator from Maine knows that in 1954 remember how hard it was to get that money. This time around they say, “Lots of luck. Come back when you are 40. Maybe we can help you out.”

I hope that what we do restores the confidence of the American people. No one is implying that our colleagues are bought off. I hope we put into whatever form that we work out a recognition of this fact. I see no way to do it unless we either allow more money for the challenger, which I think would be fair, or some degree thereof, or that we give him or her the privilege of the rank, or television or radio time. If we do not I think we would be hypocritical.

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Mr. Pres. 60 years ago Justice Brandeis wrote:

Publicity is justly commended as a remedy for social and industrial disease. Sunlight is said to be the best disinfectant and electrical light the most efficient policeman.

If Mr. Justice Brandeis were alive, I am certain he would give his judicial blessing to our move today in the direction of placing the full glare of publicity upon the campaign-financing structure of American politics.

Being a lawyer myself and one not unaccustomed to law, Mr. Justice Brandeis’ views, I would be willing to suggest that he would support a concept of public financing of election campaigns for Federal office. Certainly, I do. As I cannot match, of course, my colleagues here in this Senate Chamber in terms of wisdom distilled from years of experience. But I have run more recently than anyone else in the Senate in a local election—that for New Castle County, Delaware. And in 1970, I have most recently been a candidate for the Senate seat.

And I am brought to a conclusion that the existing system of campaign financing contains within itself a time bomb that ticks for all of us, regardless of political affiliation, regardless of whether each of us has served less than 1 year in the Senate—as I have—or 30 years, as some of my colleagues have served in the Senate. This campaign financing ensnares Democrats and Republicans, “conservatives” and “liberals,” organizational men and reformers, in a tightening web of conflicting interests and motives.

This is my conclusion based on my experience—the only experience I can lay claim to. I am inclining to a viewpoint that, in politics, private money is funny money—at least in large amounts. Further, I am inclining to a viewpoint that the cases of wrongdoing that come to light from time to time in the aftermath of elections may not be ascribed to the inevitable “bad apple” or two or three. It may be that there are many more bad apples than that, or, perhaps, even the barrel itself is rotten.

Mr. President, I hasten to add that I imply no disrespect to anyone when I say these things.

I would compliment Senators Cannon and Pasko, both doughty warriors in this cause of flushing out the existing system. Their handiwork, which is before us today, is particularly commendable if one contemplates the fact that the cases of wrongdoing that come to light from time to time in the aftermath of elections may not be ascribed to the inevitable “bad apple” or two or three. It may be that there are many more bad apples than that, or, perhaps, even the barrel itself is rotten.

Therefore, I hope I have made it clear that it is with no disrespect that I speak in favor of changing course—a change that may more swiftly lead to the mutually shared goal of all of us—competitive, open elections wherein merit, not wealth, dominates.

In furtherance of this objective, I support the concept of public financing of primary and general election campaigns for Federal office.

Why do I support public financing?

The answer lies not in our stars but in our statistics.

I am impressed by several factors.

First. No candidate has ever been prosecuted for violation of the 1925 Corrupt Practices Act, predecessor of the Federal Campaign Act. Second. No more than 20 corporations and a couple of trade unions have ever
been prosecuted for violating prohibitions contained in this act.

Third. Total costs of all political campaigns in 1972 apparently exceeded $400 million, a 25 percent increase from the 1968 elections.

Fourth. The National Committee for an Effective Congress suggests that more than half of political spending goes unreported and that the expenditure per voter on a Presidential campaign has doubled in 12 years to more than 60 cents.

Fifth. Not unrelated, incumbents since 1954 have won 9 of 10 races in the House and 4 of 5 races in the Senate, according to the New York Times. In 1972, I am pleased to report to myself I was in that fifth race in which a nonincumbent won a Senate seat.

I am pleased I won—so are my campaign contributors, but I do think there is a condition in politics which is best described as a “tyranny of the incumbency.” Without disrespect to incumbents, it is difficult for a challenger to get a fair-shake, as the statistics I have just cited show.

I am now an incumbent myself. Nevertheless, I do not believe the old ways of campaigning financing are sufficient. In fact, they are deficient. The time has come for all good men of both major parties to come to the aid of the system by changing it.

These are sober times. Here in this building—on this very floor—there is an unfolding chapter in the history of American campaigns. There is reason to think that shoddy men, with access to great gobs of unreported money, have savaged our political system. Watergate, like Pearl Harbor, is a name that will go down in history as an event of this century.

I share with Americans a rising sense of dismay about the abuses in the electoral process. The unhappy events of the 1972 presidential campaign reinforce this dismay.

The outrageous cost of getting elected to public office—that is, the influence of money in politics—has been commented on by Republican and Democratic Presidents alike—General Eisenhower, John Kennedy, and Lyndon Johnson, among others.

The 1984 of Presidential elections will come about when there are no candidates available who can raise the trillion dollars to finance the campaigns.

Even now, the rising cost of running for office is disqualifying many others. One candidate is disqualifying many other candidates and to permit candidates of modest means to seek elective office and to assure that opposing candidates and their parties will have more respectable resources.

As a result, we politicians are in deep trouble both in Washington and in theriver cities of America. The political system is in trouble because, as someone has said for us, democracy is less a form of government than a system that assures we shall be governed no better than we deserve.

The hazard is not necessarily that the voters will rise and vote us all out of office within the next few years. A clear and present danger is that the voters may turn away from the ballot box—after all the 1972 Presidential voter turn-out was 58 percent, the lowest in this century.

The real danger, then, is that the dismaying American voter may act like Mark Twain’s cat which sat down on a hot stove lid—the cat never will sit on a hot stove lid again, but also the cat will never sit down again.

The winds of change are already blowing through the Congress. Various steps have been taken within the last couple of years in both the Senate and the House to open the legislative process itself to public scrutiny.

But these improvements in my judgment are largely quarantined by the scandalous grip of money on politics. The rapid increase in the cost of campaigning is the most important element in degrading both our politics and our politicians.

The high cost of running, places even the most innocent candidate in the position of being in the pocket of such contributors—or assumed to be by the contributor, and more importantly by the public.

Slowly I have become convinced that efforts to place ceilings on overall campaign expenditures, to prohibit certain groups from contributing funds, to restrict the size of campaign contributions to the Secretary of State, are largely quarantined by the scandalous grip of money on politics. The high cost of running, places even the most innocent candidate in the position of being in the pocket of such contributors—or assumed to be by the contributor, and more importantly by the public.

I suggest an additional benefit may accrue from adoption of public-subsidy campaign financing. I believe it would hasten the day when we in the Congress enact tax reform for the American people. Revision of the Federal Tax Code as to make it fairer is made more difficult, if not impossible, by the fact that the wealthy who benefit by existing tax shelters also make large campaign contributions.

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I realize there are going to be a number of difficult problems which will have to be resolved if we go the public financing route:

First, how does one qualify as a contender; second, when is one a “serious candidate”; third, what proportion of public funds should go into primaries; and, fourth, a number of other complicated questions which should first be answered.

But I submit that it is a good deal easier to resolve these cumbersome and complicated issues than it is to try to legislate morality into the existing system whereby we, as elected public officials, are required to seek our funds from private sources.

In my opinion, almost implicit in such a campaign on a particular issue, it will mean a campaign contribution for us, some of us, at least, would be tempted to say, “Yes, I’ll support SST.”

Would I have supported the SST had
I been in Congress last time around. If I knew that that organization had asked the people to give $5,000 to those whom they endorse? I am not particularly stupid, and it is fairly easy for us to determine what answers the people asking us the questions want to hear.

I am not suggesting that anyone in the Senate now, or running for the Presidency, is taking any money under the table, or is being told:

We will give you money if you will change your vote this way on this bill or support this pa-

cip if you take such and such a position.

But there is temptation for a candidate who sees he or she is a point behind in the polls of realizing a lifetime ambition of being a U.S. Senator or Congressman, or President—it is difficult to ask of a man or woman in that position to not be at least considering prostituting their intellect, at least.

And I think, as long as we have the major portion—or quite possibly any portion—of our campaign funding for Federal elections coming from the private sector, we are not going to be able to get at that particular problem. And until we get at that particular problem, in my opinion, we are not going to be able to restore the faith and confidence of the American people in their public institutions and in their elected public officials. We are not going to do that until we have men and women in public office who are totally unfettered, or, at least, the American people have any impression of their elected officials being significantly unfettered by particular interest groups.

And I do not mean to imply that any-

one here is in that position, necessarily. I am just saying the temptation is very great.

My wife, who was less of a politician than I, used to have an expression she used. She said:

You should not burden your elected public officials with too much responsibility. I think she is a true Jeffersonian. I happen to agree with her. I think that when we ask men and women to go out and raise the hundreds of thousands of dollars that is necessary to run for public office in this Nation, we are putting them in a position of being exposed to great temptation. Not personal financial gain, but great temptation to maybe not say what they think all the time, maybe not take the positions they support all the time, and maybe feel this way because I am weaker than the Senators here, maybe I felt that pressure because I do not have the strength of character that many of the men had who have gone before me.

All these things contributed to that pressure, and I am one young fellow at 30 years of age who may not only be the youngest Senator but the youngest 1-term Senator here. But the fact remains I know I have to face it, and I think that it is in the public interest to see to it that we who are running for public office can get about the business of telling the people what we think and not have to worry that if we take a position that is in opposition to any major interest group, whether it be labor or big business, that we are going to have campaign funds cut off that we need to get our case before the public.

I think if there is nothing else that I am able to do in one term—if there is nothing else I do to make some little impact on moving us toward the public financing of campaigns—I do not see how I can consider my service in the Senate a success.

My constituents probably would not feel as I do—and maybe my colleagues would not either—but I would feel it is the most important issue to come before this body in a long, long time.

In summary, Mr. Chairman, I support public subsidy but I discredit no other method.

I simply assert my judgment as an individual Senator that adoption of public subsidy is the swiftest and surest way to purge our election system of the corruption that, whatever the safeguards, money inevitably brings.

In an essay of Thomas Carlyle is found a statement:

"Our grand business is not to see what lies dimly in the distance but to do what clearly lies at hand."

It is the grand business of all good men and women, Republicans and Democrats alike, to come to the aid of their party.

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

Mr. HART. Yield.

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

Mr. HART. I yield.

Mr. LONG. I am glad the Senator has raised this subject and made this colloquy available for the Record.

The Senator, of course, is well aware of the fact that the senior Senator from Louisiana took an interest in this matter many years ago. It seems many years now. I know that the Senator from Louisiana is one of those who suffered many wounds during this struggle that went on during those years.

As I recall, in 1953 or 1956 the Senator from Louisiana introduced an amendment to a revenue measure that would have provided for the checkoff system to furnish campaign financing for the President and Congress. He ran into rather severe opposition, as matters went along. The following year, Congress suspended or made inoperative that proposal. We had a long fight and this Senator was unwilling to yield. We had seven votes on the proposal. First one side would win and then the other side would win. We took turns winning, depending on who had the most troops in town. The issue was closely defeated.

Subsequently, President Johnson took the leadership in trying to bring some of us together, particularly Democrats, and we conducted hearings and worked out a bill which we reported from the Committee on Finance, that did more than just seek to finance the Presidential campaign.

If Senators would like to see how they could finance congressional elections they would see in that bill and committee report that would be made available in each State depending on the number of people in the State and various other factors that could be considered. That measure was not enacted but it did make clear one or two points which I am sure will be before the committee. One point which became clear is that it is that in a general election there is no choice but to make available an equal amount of money to each of the major party candidates. Any procedure other than that cannot be justified. The measure did not get much more than one sees how it would work.

The Senator from Delaware suggested providing more money for the challenger than for the incumbent. The fact is that under the existing system the challenger is usually better financed than the challenger, in any event, so that when an equal amount of funds is provided generally the challenger is given more help than he would ordinarily have available in trying to unseat an incumbent.

However, it does free both candidates from the need of going hat in hand to seek contributions, and in doing that it tends to protect the confidence of the public in the public officials and to re-
duce the pressure to respond to the enter-
treaties that are made to elect officials by those who contribute to the campaigns.

I am convinced at the moment that the best we can do is to improve on the check-
off system we have enacted. If we try to do that and make it work in the next Presidential election, I am satisfied that the public will approve of it and under-
stand it. In addition, it will serve as a minimum action at best for extending the same principle into the primary that leads up to the general election. If that is accepted, it may very well create a public acceptance of the idea and result in financing of senatorial and con-
gressional campaigns. I doubt very much the public would understand it at this point.

Mr. HART. Mr. President, I state for the Record that it was the senior Senator from Louisiana who years ago gave leadership, perhaps more than any of us is aware, in this matter.

Even though he cannot foresee as a prompt a turn to public financing as the Senate has offered, he may be the chairman of one of those committees because of his understanding of the matter.

Mr. LONG. In the last analysis the checkoff proposal is public financing.

Mr. HART. Indeed, yes.

Mr. LONG. And it is in the area where the greatest stake is involved, the Presi-
dency of the United States. So the type things the Senator favors, I believe, will be with respect not to the Presidency of the United States, in the checkoff measure we have voted into law.

I am extremely pleased that in this Congress we have been able to amend the checkoff proposal to make it do what we intended—at least more nearly what we intended—by a margin of 2 to 1, and we were fortunate enough to have Republican help this time. It was a tremendous headway to obtain an almost unanimous Democratic vote as well as substantial help from the Republican side of the aisle. So the thought that that is the direction in which we ought to move definitely has picked up a lot of steam and a lot of acceptance.

It is my belief, particularly in the
President's race, the public will become convinced that that is the way it ought to be done, and it may very well lead to others.

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

Mr. HART. I yield.

Mr. SCHWEIKER. Mr. President, I would like to commend the Senator from Louisiana. I was in the House when his proposal first came up in 1966. We had a whining-ding debate in the House over this concept. I was one of the Republican Members of Congress who wanted to tax. We have come a long way since then. I think the Senator from Louisiana deserves a great deal of credit for his leadership.

I think the significant thing in the bill I have sponsored with the Senator from Minnesota (Mr. MONDALE)—and there are other bills—is that it builds on this base. I do not think we are going to have sentiment for change beyond what we have now if we do not use the concept of the Senator from Louisiana. It is the Senator from Louisiana that the Senator from Louisiana fathered.

I think the Senator is quite right when he says that his concept would have succeeded this last time if it had been given its rightful place in the income tax return and if it had been made a matter of a simple plus or minus item like every other item in the income tax return, without having to leaf through and fill it out on another paper. So I do not think there was enough good faith in regard to the prospects.

I just want to say that the bill the Senator from Minnesota (Mr. MONDALE) and I are cosponsoring is also supported by common cause. It really builds on the foundation that the Senator laid, and extends it to the concept of supplying some of this money for Presidential primaries and really doing the job. We go further in limiting contributions to $3,000 for each person, encouraging $100 deductions and $25 carryovers and also picking up the foundation.

I think it is very important to bear in mind that, no matter which bill we adopt—and I might say there are many others here today that I am sure will not see this target in mind—that we run on the course of the foundation the Senator has laid.

I think we should recognize how far we have gone, because I can remember in 1966 when this concept was considered a pretty far-out idea, and the House was rather hostile to the concept at that time. It took a lot of political battling to get it through. It took a long time, but it has finally come of age.

I would commend the Senator from California for his interest in getting this discussion going, because I think it shows both sides of the aisle have a strong desire for change. Watergate has brought this about. It has brought about a climate for change, an atmosphere for enlarging the advances we have made.

I think with all of us working together, and also with volunteer groups working together, it will result in taking the initial concept of campaigns so we can get away with special interest financing and special interests independently controlling too many of the funds of campaigning.

I would just like to associate myself with the remarks of my colleagues on both sides of the aisle and join in this effort today and say I am delighted to see so much interest on everyone's part in picking up a good idea and carrying it to its ultimate conclusion.

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

Mr. HART. I yield.

Mr. CLARK. Mr. President, I join in commending the distinguished Senator from Michigan for his years of leadership, and to acknowledge what the last speaker, the distinguished Senator from Minnesota (Mr. MONDALE), said about the assistance given by the Senator from Louisiana (Mr. LONG) with regard to leadership in connection with the checkoff system. I certainly wish to thank the Senator from California (Mr. CRANSTON) for his work in providing this discussion.

Mr. President, this is turning out to be quite a week.

As the Senate Select Committee on Presidential Campaign Activities continues its investigation of the most tragic and devastating political scandal in the Nation's history, the Senate itself has taken up new Federal campaign legislation. The opportunity for reform is unprecedented. And so is the need.

In the next few days, we will be talking about S. 372, the Federal Election Campaign Act of 1973. There will be controversy and debate over many of its aspects. The discussions will be in political terms—campaign spending limits, reporting requirements, individual contribution ceilings.

All of this is very important, but we cannot simply pass legislation and expect reform to come. The next scandal along the real issue before us today is not spending limits or the equal time provision, the real issue is the quality of government in this country—what it is now, and what it should be. At stake is nothing less than the future of the democratic political process.

Just 2 days ago, an even more telling point was made that offers an even more compelling common sense back into the political process. It came during testimony before the Ervin committee, and although the statement did not get the attention that the President's statement did, we cannot afford to ignore it. Senator Montoya was questioning Gordon Strachan, a young man who used to be the assistant to the President's chief of staff. In the wake of that has happened, Senator Mitchell was asking advice that Strachan might have for other young men, like himself, considering a career in Government. Strachan answered:

Well it may sound—it may not be the type of advice that you could look back and want to give, but for other young men would be to stay away.

I am terribly afraid that unless we move decisively, more and more young people are going to take that advice. If they do stay away, if they do decide that the political process is simply not worth their effort, what is this country going to be like 50 years from now? We can never be a substitute for public financing. With all that has happened in the last 12 months, that sentiment is not very surprising.

In the last 15 months, people have seen politics at its worst. It's not a pleasant sight, but that sight alone makes a convincing case for public financing of political campaigns.

Watergate happened in part because a small group of unprincipled men had money to burn, money in safes and suitcases; unlimited money and secrecy, especially in government, and in that regard at least Watergate was only a symptom of the disease, not the disease itself.

If absolute power corrupts absolutely, uncontrolled money corrupts uncontrollably. The higher the office, the more it costs to win. And the more it costs to lose.
In the last election, candidates across the country spent about $400 million altogether. The top 10 contributors to just one campaign, the President's, gave $4 million. There was hardly a single Federal campaign that did not rely to some extent on "big" contributors. Most conformed with the letter of the law. But we have also been told that some of those people who wrote out checks for $10,000 and $20,000 dollars at a time and more were doing it solely to improve the quality of government.

Money and politics need not be inseparable. Presidential elections and campaigns would go a long way toward ending the dominance of the private dollar in public affairs. The democratic process is too precious to allow it to be influenced by a relatively small number of people with a large number of dollars. The process belongs to all of us, and I think all of us ought to be willing to make a small contribution toward keeping it.

Public financing certainly is not a new or challenged concept.

Four Presidents have endorsed the idea. One included the proposal in his state of the Union message—Theodore Roosevelt in 1907. His statement neatly summarized the argument for comprehensive public financing of political campaigns:

'It is well to provide that corporation shall not contribute to Presidential or National campaigns, and furthermore to provide for the publication of both contributions and expenditures. There is, however, always danger in a system which is based on the very nature of difficulty of enforcement; the danger being lest they be obeyed only by the honest, and disobeyed by the unscrupulous, so as to defeat the very end it is aimed at. Moreover, no such law would hamper an unscrupulous man of unlimited means from buying his own way into office. . . . The need for collecting large campaign funds would vanish if Congress provided an appropriation for the proper and legitimate expenditures. There is, however, always danger in a system which is based on the very nature of difficulty of enforcement; the danger being lest they be obeyed only by the honest, and disobeyed by the unscrupulous, so as to defeat the very end it is aimed at. Moreover, no such law would hamper an unscrupulous man of unlimited means from buying his own way into office. . . . The need for collecting large campaign funds would vanish if Congress provided an appropriation for the proper and legitimate expenditures. There is, however, always danger in a system which is based on the very nature of difficulty of enforcement; the danger being lest they be obeyed only by the honest, and disobeyed by the unscrupulous, so as to defeat the very end it is aimed at. Moreover, no such law would hamper an unscrupulous man of unlimited means from buying his own way into office. . . . The need for collecting large campaign funds would vanish if Congress provided an appropriation for the proper and legitimate expenditures. There is, however, always danger in a system which is based on the very nature of difficulty of enforcement; the danger being lest they be obeyed only by the honest, and disobeyed by the unscrupulous, so as to defeat the very end it is aimed at. Moreover, no such law would hamper an unscrupulous man of unlimited means from buying his own way into office. . . . The need for collecting large campaign funds would vanish if Congress provided an appropriation for the proper and legitimate expenditures. There is, however, always danger in a system which is based on the very nature of difficulty of enforcement; the danger being lest they be obeyed only by the honest, and disobeyed by the unscrupulous, so as to defeat the very end it is aimed at. Moreover, no such law would hamper an unscrupulous man of unlimited means from buying his own way into office. . . . The need for collecting large campaign funds would vanish if Congress provided an appropriation for the proper and legitimate expenditures. There is, however, always danger in a system which is based on the very nature of difficulty of enforcement; the danger being lest they be obeyed only by the honest, and disobeyed by the unscrupulous, so as to defeat the very end it is aimed at. Moreover, no such law would hamper an unscrupulous man of unlimited means from buying his own way into office. . . . The need for collecting large campaign funds would vanish if Congress provided an appropriation for the proper and legitimate expenditures. There is, however, always danger in a system which is based on the very nature of difficulty of enforcement; the danger being lest they be obeyed only by the honest, and disobeyed by the unscrupulous, so as to defeat the very end it is aimed at. Moreover, no such law would hamper an unscrupulous man of unlimited means from buying his own way into office. . . . The need for collecting large campaign funds would vanish if Congress provided an appropriation for the proper and legitimate expenditures. There is, however, always danger in a system which is based on the very nature of difficulty of enforcement; the danger being lest they be obeyed only by the honest, and disobeyed by the unscrupulous, so as to defeat the very end it is aimed at. Moreover, no such law would hamper an unscrupulous man of unlimited means from buying his own way into office. . . . The need for collecting large campaign funds would vanish if Congress provided an appropriation for the proper and legitimate expenditures. There is, however, always danger in a system which is based on the very nature of difficulty of enforcement; the danger being lest they be obeyed only by the honest, and disobed -

The concept of public financing is not untied. It has worked and worked well by any standard, the return on the investment is large. In the last election, candidates for Federal office spent about $300 million altogether. Split that up among the Nation's taxpayers, and it comes to a few dollars apiece. That averages a dollar a citizen. That is a small price for us to pay to recover the political process.

Should there be an independent election commission? Once again, the debate is about the commission itself but over the powers it is to have. Anything less than total investigatory authority would cripple the impact of the legislation. However its constituted, the commission must be to the President's satisfaction and political motivation to manipulate the law to advantage of one or another party or candidate.

What can be done about "frivolous" candidates who want access to public funds?

Requiring a security deposit is one suggestion. Without this kind of requirement, there no doubt would be "frivolous" candidates bent more on exposure than election.

Any such deposit would have to be raised by public contributions, again limited in individual amounts, that would demonstrate some public support for the candidate.

Beyond the discussion of public financing of political campaigns, the Senate will have to struggle with these questions and many more. Should straight cash contributions be restricted or should they be prohibited entirely? How will candidates have to account for the use of public funds? Even with public financing, should media expenditures be limited?

It will take time and study to answer these critical questions on the aspects of public financing proposal. That is why Senator Pell's hearings are so important. But, on one point at least, there should be no dispute: Any public financing plan must be thorough, complete, and comprehensive. We have passed the time for halfway solutions.
a man who spent years exposing it, talked about the problem in his autobiography. He was at a meeting in Los Angeles and the bishop asked him, "Who founded politics?"

Steffens recalled one conversation with an Episcopal bishop there. The bishop asked him, "Who founded this system, who started it, not only in San Francisco and Los Angeles, in this or the last generation, but back, way back in the beginning?"

Steffens described his reply to the minister:

"Oh, I think I see," I said, "You want to fix the system. You talk about the very start of things. Maybe we can, Bishop. Most people, you know, say it was Adam. But Adam, you remember, he said that it was Eve, and that she gave him the apple. And so it was Adam, no, it wasn't she, it was the serpent. And that's where you clergy have stuck ever since. You blame that serpent, Satan. Now I come and I am trying to get the money, to get elected."

Steffens was talking about the system of campaign finance, which has stuck ever since. You blame that serpent, Satan. Now I come and I am trying to show you that it was, it is, the apple."

It is not the men and women who run for public office. It is not even the money alone, because money always will be necessary for political campaigns. It is the apple—the process which forces candidates to ask, not themselves, to get the money, to get elected. I think we can replace the apple with something a bit more appetizing—public financing. The next Presidential election is in less than two years. It may be that it just may be the first truly honest election for the Presidency and all of the other Federal offices that this country has had in years.

Mr. President, I ask unanimous consent that I reserve the remainder of the time for the Recone a selection of articles on the public financing of political campaigns.

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

[From the Washington Post, July 20, 1973]

DELAYING CAMPAIGN REFORM

(On Bylon Fitchey)

In the light of Watergate's sordid revelations about the degradation of the electoral process that Congress would have made swift and radical reform of campaign financing its first order of business this year. Unfortunately, that's not the way it worked out.

Here it is, well into July, and nothing of this nature has yet reached the floor of the House or Senate. Moreover, the Senate bill that will finally come to the floor in a week or two is a pale reflection of the kind of legislation that members were talking so bravely about earlier in the year.

Some good men in both parties have tried to arouse their colleagues. Sen. Edward Kennedy (D-Mass.) told the Senate Rules and Administration Committee that "of all the lessons of Watergate perhaps the one that is most obvious today is the lesson that money is a vastly corrosive power in American politics."

The same committee was told by Maryland's respected Republican senator, Charles Mathias, and Sen. Adlai Stevenson III (D-Ill.) that the only sure way of purifying the U.S. electoral system is the public financing of political campaigns. They have since introduced legislation to that effect.

Mr. Nixon, however, suggested something that seems more palatable. He urged Congress to create a study commission to review campaign finance laws. And this, Helsinki said, would establish an independent body to prosecute campaign law violations and centralize financial accounting.

While some of these proposals are better than nothing, they are no substitute for public financing of presidential and congressional campaigns, which would establish a new political control to the people and take it away from big business and big labor and from the super-rich and countless pressure groups who exert so much influence over public officials.

"The distinction between a campaign contribution and a bribe is not always a simple one," said Sen. Russell Long (D-La.), chairman of the Senate Finance Committee. Such contributions, he adds, "can be viewed as monetary bread cast upon the waters to be returned a thousand fold."

Sen. Philip Hart (D-Mich.), one of the most respected men in Congress says, "Wouldn't it be great if you didn't have to take a single dime from any human being?" And wouldn't it be even greater if the public could vote on who owed their first allegiance to their constituents? The politicians pretend to worry about the expense of public financing, but it is trifling.

The annual cost of subsidizing all federal elections, including the run for the Presidency, would be about 25 cents per person. Every major political party of Americans would gladly bear this infinitesimal burden.

Why the foot-dragging, the stalling, the passive resistance which has defeated every effort to get public financing? Largely, it can be traced to the incumbents, especially the entrenched members of the House and Senate who simply cannot tolerate the idea of the government "encouraging" opposition to them through public campaign support.

If it isn't the worst, it is certainly the most of not most, of the powerful committee chairmen who dominate Congress come from one-party states or districts. Once in office, some have had a free ride for the rest of their long lives. Until recently, some have not even had serious opposition in the primaries, let alone the general election. Under the present law, it would be very hard to change this situation.

At the presidential level, campaign financing at the taxpayers' expense would seem to be a nonpartisan problem. In practice, however, with the political system as it is, it could easily raise many more millions than the Democrats. Thus, even with Watergate, it is not of the huge sums that establish public campaign financing unless the people of the United States put the heat on their senators and representatives.

[From the New York Times, June 22, 1973]

MONEY, YES, ETHICS NO

(By Tom Wicker)

In this space on June 8, a favorable report appeared on a bill to finance Federal elections partially from public funds. That modest note from Senator Charles Mathias, Republican of Maryland, to whom authorship of the bill was attributed, stated that Senator Adlai Stevenson III (D-Ill.) is the Senate's chief sponsor of public financing; he is fact primarily responsible for developing the measure, of which Mr. Mathias is a co-sponsor.

But who ever wrote the bill, it or something like it is the first and most obvious need arising from the Watergate disclosures. And Watergate is not Watergate activities in 1972, and regardless of who was or was not responsible, it seems quite clear that they were possible only because of large sums contributed by businessmen and others apparently fearful that a McGovern victory would have deposed some needed and non-crooked friends in those pockets besides Gordon Liddy's might have been lined.

In fact, it now begins to appear that there is considerable cause for investigation of the biggest possible misuse of campaign funds in more traditional ways than paying off and hiring lawyers for, the Watergate burglars; no wonder, when it has come to light that the FBI, being a special assistant to John Mitchell, rented to his apartment to a businessman for whom
July 25, 1973

PUBLIC FINANCING OF CAMPAIGNS: A DETERMINATION

By Clayton Frtchey

Now is the time for all good men, Democrats and Republicans alike, to come to the aid of their parties—by enacting a campaign financing plan that will make it impossible for there ever to be another Watergate case.

Now, while the scandal of Mr. Nixon's multimillion dollar slush fund is fresh and vivid in the public mind, there is this ingredient for the reformers in Congress to move forward: Who, at this point, would dare to vote against a trillion-dollar presidential campaign financing? Not even Mr. Nixon would vote on it.

Several seemingly worthwhile steps were taken last year by Congress to establish stronger criminal penalties. The General Accounting Office has performed its effective date to 1976. Since then, Mr. Nixon and his friends have made Watergate a growth stock investment for everyone.

The lesson of the great expose now going on is that the special pleading simply doesn't work in practice, even though a special agency was created to implement it. This agency and the General Accounting Office have performed cost-benefit analyses.

They have uncovered numerous serious violations, and referred them to the Justice Department for prosecution. But what good is this? If Justice, being Mr. Nixon's constant nemesis, refuses, as it has, to prosecute vigorously? All it has done so far is accuse the Nixon finance committee of a few derelictions, and make the separation of power more difficult.

The administration has made a travesty of its own reforms. Although the statute was supposed to make everything aboveboard, the Nixon team succeeded in creating a record secret slush fund of more than $100 billion, by illegally failing to report it and by using the hidden cash to finance Watergate and other criminal actions.

As the police can now see, the end of this path is the utter degradation of their government. There is only one certain way to end it, and that is for the taxpayers, through the congressional appropriations, to take over the privilege (the word is used advisedly) of financing all candidates for all federal, state, and house. In the process, private contributions should be outlawed.

The cost to the public would be about 50 cents per person. Surely the country can afford that. Every public opinion poll shows how much Americans are concerned over the present way of financing political campaigns. In the final analysis, what is the difference between a campaign contribution and a bribe? Even the courts have trouble defining the concept.

Year after year, Congress holds hearings on campaign reforms, but in the end it always shrinks from the ultimate step of putting the responsibility squarely on the tax-}

waters, where it belongs. Last year, it experimented with what looked like a promising alternate plan, the checkoff plan—but too, like the new antitrust law, has been a disappointment. There is no more realistic politician on Capitol Hill than Sen. Russell Long of Louisiana. And with good reason: the Senate Finance Committee. FOSSING THE loopholes in the 1971 reform act, he proposed public financing of last year's presidential race by letting Americans check off $1 on their income taxes to be used for campaign expenses. It was estimated that this would provide $20 million each for the major presidential candidates, and substantial sums for minority ones.

This was not acceptable to Mr. Nixon, who rightly regarded it as spending two more times that amount from his wealthy backers.

The bill was finally passed only by post-posting its effective date to 1976. Since then, Mr. Nixon and his friends have made Watergate a growth stock investment for everyone.

The first hurdle, then, to any form of meaningful public financing is to convince the public that this is not merely a new raid on the Treasury by greedy officeholders but is, in fact, about as wise an investment as the taxes we all pay to the electorate in a democracy can make.

Congress annually disseizes a Federal budget in the hundreds of billions of dollars and takes action with tremendous impact on the trillion-dollar economy, not to mention the impact of our actions on the incalculable values of health, safety, and liberty. Surely in that context, public campaign subsidies would be a growth stock investment for everyone.

An equally fundamental question, whether in a democracy the ability to raise money should be a prerequisite for running for public office.

Does the ability to raise money really reflect how well a candidate will perform his public duties?

Should the public's choice of candidates be limited to those who can secure private financial backing?

The answer to both questions must be: No.

It is time we recognized that when a politician's success depends on a combination of dollars and votes, the Nation is less democratic than if victory depended on an electorate's votes alone.

For these reasons then, I introduced in March a bill to provide adequate public financing of Senate and House election campaigns.

Admittedly, it is much easier to embrace this concept with rhetoric than to reduce it to legislative language.

There are many difficult problems to be answered—how to screen out frivolous candidates who seek only free publicity, whether to allow any private giving at all, whether to for federal elections or for general elections, and what to do about minor parties.

In drawing up my bill I introduced, S. 1103, several policy choices were made. Whether others would agree with my resolution of these issues they require careful study and deliberation before we can for public finance bill which would best serve the interests of the electorate.

First, my bill accepts the premise that unless public financing is available for both primary and general elections, it will not be possible fully to free candidates from the need to raise large sums of money. I would be hard pressed to explain to a constituent why I was voting millions of dollars of public moneys for campaign subsidies—on the ground that this would prevent undue influence on politicians—if the plan only extended to the general election. Other politicians would still be faced with the prospect of significant obligation to big contributors in order to win their party's nomination in the first place.

Second, Once the decision is reached to cover primaries, then one must wrestle with the admittedly complex problem of screening out frivolous candidates without making it unduly difficult for a legitimate candidate to qualify for public funds. Under my proposal candidates must file a security deposit and if they fail to receive a certain percentage of the vote it is forfeited. Others have offered proposals for alternative screening mechanisms. All of these approaches should be carefully weighed.

Third, Candidates may not wish to gamble on receiving the required number of votes. Under my bill they are free to run a campaign financed entirely by private funds. Under my proposal candidates must file a security deposit and if they fail to receive a certain percentage of the vote it is forfeited. Others have offered proposals for alternative screening mechanisms. All of these approaches should be carefully weighed.

Fourth, My bill is designed to provide a subsidy adequate to run a campaign
without any private financing at all. But in order to permit some play for private participation in the campaign finance process, it would allow subsidized candidates if they choose to raise a supplemental fund from private contributors in carefully controlled amounts.

There are some proponents of public finance who would offer only a floor subsidy, with the intent that it not necessarily be adequate in itself to run an effective campaign.

On the other side, some would prohibit a subsidized major party candidate from raising any private funds—except for a marginal amount to pay for startup costs—and qualify for the subsidy. They would permit minor party candidates to raise private funds in order to offset the large subsidy received by major party candidates. This is another major issue which should be explored thoroughly in hearings.

Fifth, my proposal covers only congressional elections. Others have introduced proposals dealing with the Presidential race, and some have offered comprehensive proposals dealing with both.

In light of the public concern about abuses of private financing in connection with the 1972 Presidential contest, it may well be desirable to report a comprehensive bill, rather than dealing first only with Congress.

Mr. President, since I introduced S. 1103, several groups have begun a wide-ranging effort to make public financing of Federal elections a reality. Common Cause has contributed importantly in many ways—both through public education and through legislative analysis and communication to Members of Congress by their own experts.

I am pleased to report the organization of a new group, the Center for Public Financing of Elections, dedicated specifically to the goal of public financing of campaign expenditures.

I am also pleased to note a number of my colleagues who have joined me as co-sponsors of S. 1103 and ask that they be added to the bill at its next printing. The co-sponsors are:

The Senator from South Dakota (Mr. ABUNEK), the Senator from Indiana (Mr. HAMAY), the Senator from Delaware (Mr. Brine), the Senator from Iowa (Mr. CLARK), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HUMPHREY), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Montana (Mr. MANSFIELD), the Senator from Maryland (Mr. MATHEWS), the Senator from South Dakota (Mr. McCaIN), the Senator from Minnesota (Mr. MONDALE), the Senator from Wisconsin (Mr. NELSON), and the Senator from California (Mr. TUNNEY).

For a full explanation of the bill, I ask unanimous consent that a summary of the proposal be printed at this point in the RECORD as if read.

I also ask unanimous consent that an excellent analysis of some of the constitutional questions raised by limitations on expenditures and contributions in Federal election campaigns be printed in the RECORD at this point. It was prepared by the campaign reform staff at Common Cause.

In addition, Prof. Albert Rosenthal, of Columbia Law School, one of the country's leading scholars on the constitutional issues of campaign finance reform, has examined and endorsed S. 1103—at least in its basic approach and operation. I ask consent that his letter be printed also.

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

**Exhibit 2**

CONGRESSIONAL ELECTION FINANCE ACT OF 1972—SUMMARY OF THE ACT

I. BASIC APPROACH

The major purpose is to permit "serious" candidates for Senator or Representative to run without reliance on private contributions, if they so desire. It is also hoped that, over time, the very fact of financing a campaign with public money while his opponents is running on large private contributions will itself become a campaign issue. There should be gradually increasing pressure for candidates to take the public-funding route.

A secondary goal is to show that campaign expenditures have spiraled out of hand; to demonstrate that informative, effective campaigns can be run for less than is often spent today.

Also, while the subsidy is intended to be adequate for a thrifty campaign, some play is given to controlled private financing. For major party candidates this would amount to only one-fifth of their total allowable expenditures. The size of the contributions would be strictly limited. This "hybrid" approach leaves room for the positive political involvement of fund raising. It also eases the problem of giving minor party candidates smaller subsidies. The minor party candidate can be permitted to offset this difference by raising more private funds in such amounts that both types of candidates would be given equal opportunity. Here, the Act demonstrates a way of eliminating the danger or appearance of undue influence without reducing the amount of individual contributions.

II. OPERATION

The Act would operate as follows:

1. A separate fund is established in the Treasury and Board is created to administer the Act and to distribute subsidies. It would be a seven-member, bipartisan one, with staggered terms.

2. The Board is given general powers to develop the Act and to implement the Act with more detailed regulations. To the greatest extent possible, the Board is to utilize the reporting, filing and accounting procedures and the information required by the Act in order to eliminate duplication and minimize paper work.

3. The Board has subpoena power, can conduct investigations of possible violations and can seek court injunctive relief. A candidate aggrieved by Board action can seek a prompt hearing and Court review.

4. Candidates "qualify" for subsidies by filing a sworn undertaking to comply with the Act and to pay a penalty if they fail to win 10% of the vote in the election for which the subsidy is received—that is, 10% of all the primary, house, and Senate votes for a primary subsidy, and 10% of the vote for all candidates, if they receive a subsidy for the general election. If they fail to win even 1% of the major party candidates, they lose their subsidy. These two provisions would deter frivolous or crank candidates without substantial support.

5. Once "qualified," they file a security deposit which is forfeitable for the payment of the penalty. This security deposit is in the amount of one-fifth of the subsidy they are eligible to receive, with a minimum of $2,000 (see § 8 for limitations on how this deposit can be raised). However, a successful primary winner may use his deposit to cover his security in the general election without increasing the amount, even though the general election subsidy is somewhat larger. This, they submit, they have qualified for the ballot under state law.

Fourth, they supply information on contributions and expenditures in connection with their candidacy made prior to that date.

Expenditures made in the 18-month period preceding the date of the general election, or beginning with the first report of any goods or services used in that period, and contributions allocable to such expenditures are covered. This provides a cut-off for determining how far a candidate may go in raising private funds. Private expenditures and contributions will be counted in applying the contribution limits and included in his overall spending limits.

1. The Board may permit a number of eligible candidates. It deposits subsidy installments monthly in a separate account which candidates must set up. The Board may pay the money in uneven amounts upon a reasonable showing by the candidate for such payments.

6. The candidate must open a single Campaign Account for the deposit of the subsidy and of all private monies raised. The Board is given periodic reports on all deposits and withdrawals including the source and amount of each contribution. Withdrawals can only be made by the candidate or any of up to three Individuals he designates, who are immediately responsible for compliance with all provisions of the Act.

7. For calculating subsidies, the Act recognizes three categories of candidates: "major party," "minor party" and all others.

D. House races. The subsidy would be 1¢ per capita in the primary and 2¢ per capita in the general election. The Board may raise privately 2¢ per capita for the primary and 2¢ for the general election.

In Michigan, that primary subsidy would amount to $857,500; total primary expenditure would be limited to $705,000. In the general election the subsidy would be $860,000; the total expenditure permitted would be $1,050,250.

For House races, the subsidy would be 1¢ per capita in the primary and 2¢ per capita in the general election. In addition, candidates could raise $3 per capita for the primary and 5¢ per capita for the general election.

In a "typical" District with 300,000 voting age population this would be a subsidy of 92¢ in the primary with total expenditure of $51,000. In the general election, the subsidy would be 60¢; and the total expenditure permitted would be $75,600.

D. Any candidate who qualifies to run in the primary of a major party is entitled to these levels of subsidy in the primary.

Footnotes at end of article.
8. The statute makes explicit that the total expenditure of the candidate is an aggregate that includes that expenditure with any political committee other than the candidate's, which is a general election candidate. An expenditure is limited to $2,500 for the security deposit.

9. The following limitations are placed on the amount of any individual contribution or independent expenditure. To influence the outcome of an election:

A. "A person" includes any individual, corporation, partnership, or association, etc. Its definitions of individual contributions are:

B. "Contribution" is broadly defined to include any gift, loan or guarantee of money or anything of value, (2) payment of compensation for services rendered to the candidate or payment for goods used by the candidate, (3) furnishing goods or services which are usual and customary for payment at less than the usual rate, or (4) expenditures made in any other activity undertaken independently of the candidate's campaign to promote his candidacy or oppose another candidate. The definition of "contribution does not include: (1) personal services provided without compensation by individual volunteer. (2) an expenditure by an organization solely to its membership and their families, (3) communications to the general public that are not specifically intended to promote, his candidacy or oppose other candidates, and (4) normal compensation for services rendered in the ordinary course of business.

10. There is an anti-pooling provision, so that contributions and expenditures made in any other activity undertaken independently of the candidate's campaign to promote his candidacy or oppose another candidate are not counted. The definition of "contribution does not include: (1) personal services provided without compensation by individual volunteer. (2) an expenditure by an organization solely to its membership and their families, (3) communications to the general public that are not specifically intended to promote, his candidacy or oppose other candidates, and (4) normal compensation for services rendered in the ordinary course of business.

11. A "major party" candidate is one whose party won 25% of the vote in a "determining election" (as defined by the Act for the party's track record). A "minor party" candidate is one whose party won 10% of the vote in a "determining election" (as defined by the Act for the party's track record).

12. A minor party is one which won between 10% and 25% of the vote in any "determining election" (as defined by the Act for the party's track record). "A major party" candidate is entitled to a minimum subsidy of one-fourth the subsidy given a major party candidate. He can receive a greater subsidy based on the ratio of the votes his party received in the last general election for that office to the votes received by the major party candidate with the lowest vote in that general election.

13. Any candidate not qualifying as either a major or a minor party candidate would receive a minimum subsidy equal to 1/10th the subsidy given to a major party candidate. He too could receive a greater amount based on the ratio of his party's vote in the last general election for that office to the votes received by the major party candidate with the lowest vote in that general election.

14. However, the difference in the subsidy given to major party candidates and other candidates is mitigated by three provisions:

First, minor party candidates may raise proportionately more private funds, as indicated above, so that the total resources each may expend remains equal.

Second, if the minor party candidate's showing in the election in question is of special presidential or national importance they may raise from any source $250. Either that vote whenever he is entitled to a post-election supplement increasing his subsidy after-the-fact to the extent he has outstanding campaign debts.

Third, the candidate can invoke any one of several "determining elections" to establish major party status. A House candidate can have the election that best shows his ability to represent the district. A Senate candidate can have the election that best shows among the last House race in that District, or the statewide vote in the senatorial campaign that the candidate participated in, or the statewide vote in that in the senatorial campaign. A Senate candidate could use either of the last two.

14. Participation is all or nothing. If someone receives subsidies in a primary, he must remain under the Act and is limited in the amount of private funds he can use in the general election. For that purpose, he is treated as a candidate in his most recently completed election. The Act does not apply to the House candidate until the first week of the session in which he is elected. A Senate candidate could use either of the last two.
May Be Reasonably Regulated Under the Power of the Federal Government. The proposition that "only speech" and "not action" is protected by the First Amendment is now discredited, and it is clear that the Amendment covers communicative conduct more than mere verbal communication. See e.g., West Virginia Board of Education v. Barnette, 319 U.S. 536 (1943) (right to refuse to salute flag); Stromberg v. California, 283 U.S. 359 (1931) (right to display a red flag); NAACP v. Button, 371 U.S. 415 (1963) (right to solicit legal business). It is still true, however, that the permissible regulation of First Amendment rights varies with their mode of expression, and that usually at least the nonverbal exercise of such rights, particularly when joined with acts which are not necessarily communicative, is more susceptible to regulation than pure speech. Giving money does not constitute acts of verbal communication. In the words of Professor Freeman: "We are dealing here not with the exercise of a right of personal expression or even association, but with dollars and decibels. And just as the volume of sound may be limited by law, so the volume of dollars may be limited without violating the First Amendment." 1

For First Amendment purposes, giving and spending money is communicative activity with a potential for disrupting normal political processes; in this respect, it is analogous to picketing or demonstrating. In Coz v. Louisiana, 325 U.S. 649 (1945), the Supreme Court, "in rejecting the notion that the First Amendment afforded the same kind of freedom to those who organize means of gaining others to contribute money as to those who personally solicit contributions," evidently rejected the notion that earning money is distinct from speech. The Court held that draft card burning was not "symbolic speech" protected by the First Amendment: "We cannot accept the view that an apparently limitless variety of conduct can be labeled 'speech' whenever the person engaging in conduct intends thereby to express an idea. "Sponsored speech" or "government-subsidized speech," it might be argued, is less likely to range wide than自发 speech. Without severe limitations, the government-subsidized speech might so outbid private speech as effectively to suppress it." 388 U.S. 68, 87 (1967). And in California Cabinets v. Heyman, 390 U.S. 458 (1968), the Court recently held that a state's prohibition of "any form of explicit sexual entertainment by live performers in establishment selling alcoholic beverages" did not violate the First Amendment: "First Amendment protection is not limited to the printed page to the commission of public offenses.

1 Every candidate would be eligible to receive a minimum of $25,000 in the primary and $150,000 in the general election, as subsidy if there would be in the general election. Thus, regardless of the facts on the chart above each candidate would have at least $100,000 to spend in the primary and $500,000 to spend in the general election, whatever the size of his State.

Exhibit 4 AMOUNTS AVAILABLE TO SENATE CANDIDATES UNDER CFE 1

<table>
<thead>
<tr>
<th>State</th>
<th>Primary subsidy (10 cents)</th>
<th>General election subsidy (10 cents)</th>
<th>Total general expenditures (18 cents)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alabama</td>
<td>227,000</td>
<td>273,000</td>
<td>400,000</td>
</tr>
<tr>
<td>Alaska</td>
<td>20,000</td>
<td>24,000</td>
<td>48,000</td>
</tr>
<tr>
<td>Arizona</td>
<td>148,000</td>
<td>180,000</td>
<td>328,000</td>
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<tr>
<td>Arkansas</td>
<td>131,000</td>
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<tr>
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<td>250,000</td>
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<td>156,000</td>
<td>190,000</td>
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<tr>
<td>Connecticut</td>
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<td>Delaware</td>
<td>51,000</td>
<td>60,000</td>
<td>111,000</td>
</tr>
<tr>
<td>District of Columbia</td>
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<tr>
<td>Florida</td>
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</tr>
<tr>
<td>Georgia</td>
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<td>682,000</td>
</tr>
<tr>
<td>Hawaii</td>
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<td>Idaho</td>
<td>48,000</td>
<td>56,000</td>
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<tr>
<td>Illinois</td>
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<td>421,000</td>
<td>781,000</td>
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<tr>
<td>Iowa</td>
<td>199,000</td>
<td>229,000</td>
<td>428,000</td>
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<tr>
<td>Kansas</td>
<td>154,000</td>
<td>185,000</td>
<td>339,000</td>
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<tr>
<td>Kentucky</td>
<td>221,000</td>
<td>256,000</td>
<td>477,000</td>
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<tr>
<td>Louisiana</td>
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<td>Maine</td>
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<td>Maryland</td>
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<td>Massachusetts</td>
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<td>Michigan</td>
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<td>168,000</td>
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</tr>
<tr>
<td>Missouri</td>
<td>327,000</td>
<td>392,000</td>
<td>719,000</td>
</tr>
</tbody>
</table>

1 State v. Kohler, 320 Wis. 518, 228 N.W. 885 (1930), in which the Wisconsin Supreme Court held against constitutional attack a statute limiting the amount of money a person may contribute to a political campaign in the State of Wisconsin. The Court held that draft card burning was not "symbolic speech" protected by the First Amendment: "We cannot accept the view that an apparently limitless variety of conduct can be labeled 'speech' whenever the person engaging in conduct intends thereby to express an idea. "Sponsored speech" or "government-subsidized speech," it might be argued, is less likely to range wide than自发 speech. Without severe limitations, the government-subsidized speech might so outbid private speech as effectively to suppress it." 388 U.S. 68, 87 (1967). And in California Cabinets v. Heyman, 390 U.S. 458 (1968), the Court recently held that a state's prohibition of "any form of explicit sexual entertainment by live performers in establishment selling alcoholic beverages" did not violate the First Amendment: "First Amendment protection is not limited to the printed page to the commission of public offenses.

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<th>General election subsidy (10 cents)</th>
<th>Total general expenditures (18 cents)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Montana</td>
<td>46,000</td>
<td>55,000</td>
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<tr>
<td>Nebraska</td>
<td>102,000</td>
<td>123,000</td>
<td>225,000</td>
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<td>New Hampshire</td>
<td>52,000</td>
<td>63,000</td>
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<tr>
<td>New Mexico</td>
<td>63,000</td>
<td>74,000</td>
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<td>New York</td>
<td>64,000</td>
<td>76,000</td>
<td>140,000</td>
</tr>
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<td>North Carolina</td>
<td>1,286,000</td>
<td>1,596,000</td>
<td>3,882,000</td>
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<tr>
<td>Ohio</td>
<td>281,000</td>
<td>344,000</td>
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<tr>
<td>Oklahoma</td>
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<tr>
<td>Oregon</td>
<td>150,000</td>
<td>178,000</td>
<td>328,000</td>
</tr>
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<td>Rhode Island</td>
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<td>South Carolina</td>
<td>31,000</td>
<td>37,000</td>
<td>68,000</td>
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<td>Vermont</td>
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<td>43,000</td>
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<tr>
<td>Wyoming</td>
<td>296,000</td>
<td>355,000</td>
<td>651,000</td>
</tr>
</tbody>
</table>

Footnotes at end of article.
regulations significantly increases. States may sometimes proscribe expression which is offensive to others, and it is possible that the State has declared to be illegal when such expression consists, in part, of 'conduct' or 'action' (cf. California v. LaRue, 41 U.S.C. 381). Many kinds of "communications," such as deceptive advertising, certain kinds of libels, the false activeation of a burlar alarm, and short waves, which are known when they are not, are proscribed by the State. (cf. Schenck v. United States, 249 U.S. 54, 51 (1919) (Holmes J.)) may be criminalized by the First Amendment because it cause they create only orители but them­ selves evils which the government is au­ thorized to prevent. That a reasonable limita­tion on conduct and communications is not barred by the First Amendment is indicated by the constitutionality of the federal anti-bribery law, 18 U.S.C. § 201 (et. cf. United States v. Breastrep, 400 U.S. 561 (1972) (upholding the constitutionality of the indictment of a Senator for soliciting and receiving a bribe). A Tribe is certainly a form of direct and unequivocal "communication," but no one has seriously suggested that the First Amendment protects it. Anti­ bribery statutes are constitutional because they are aimed at action which, though com­ municative, violates notions of public policy. Campaign contributions are all too often a simple bribe, a means for the candidate or the officeholder to obtain the flow of money communicates to the candidate the information that the donor seeks either a direct personal favor that can be granted by the candidate (usually by an administrative agency) or, more usually, an indirect form of influence (such as access or consultation when certain decisions are pending).

II. There Is No Constitutional Right To Make Unlimited Contributions to a Political Candidate.

In order to foster "[e]licite advocacy of both public and private entities, trade associations, and especially controversial ones," NAACP v. Alabama, 357 U.S. 449, 460 (1958), the Supreme Court has recognized an independent constitution­ ally protected right of association, see, e.g., Louisiana ex rel. Gremilion v. NAACP, 386 U.S. 293 (1966). In order to avoid the constitutional rights/ contribu­ tions/expenditures is unconstitutional because it infringes this right of association or violates the right to freedom of speech. See New York Times v. United States, 363 U.S. 233 and 259 (1960) (per curiam). These cases have demonstrated that the constitutional protection of political campaign contributions and expenditures as he wishes. A number of Supreme Court holdings establish the power of Congress to limit financial support, the associ­ ational rights and the ability to participate in the political process of certain individuals and organizations.

Where the governmental interest is com­ pelling, the Court has upheld registration statutes which require the disclosure of iden­ tity of contributors to political action commit­ tees and organizations of membership in certain organizations even though such disclosure will limit and impair the political advocacy and organizations to exercise their political and civil rights. See e.g., Communist Party of the United States v. Subversive Activities Control Board, 367 U.S. 1 (1961) (registration of Communist Party officials and members); Viereck v. United States, 318 U.S. 228 (1943); Roberts v. United States Jaycees, 468 U.S. 609 (1984) (registration of foreign agents and activities engaged in on behalf of a foreign principal); New York ex rel. Bryant v. Zimmerman­ man, 360 U.S. 432 (1959) (permission of Klux Kian members). Cases striking down state attempts at compelling disclosure of NAACP membership lists (e.g., NAACP v. Alabama, 357 U.S. 499 (1958); Louisiana ex rel. Fortier v. City of Little Rock, 361 U.S. 516 (1961); United States v. Rumely, 345 U.S. 41 (1953). Therefore, the Court has consistently supported the constitutional validity of the proposed contribution/expenditure limitations because they arise out of a concern with the individual and associational rights which could be contributed and spent. This legislation would thus be far less drastic than the flat prohibition against a union or corporation making any campaign contributions or expenditures contained in 18 U.S.C. § 610. [(A)lthough the right of free speech and political association is fundamental, it is not in their nature absolute," Whitney v. California, 274 U.S. 357, 373 (1927) (Brandes, J. concur­ ring), The Supreme Court has frequently held that the right of association and the associ­ natorial rights protected by the First Amendment are fundamental, they are not in another way, and in the exercise of other rights. See e.g., First National Bank v. Bell, 347 U.S. 367, 392 (1969). Finally, the regulations of the manner in which First Amendment Rights May Be Exercised.

The proposed contribution/expenditure limitations on contributions and expenditures would not prohibit the making of political contributions and expenditures but would instead simply impose limitations on amounts of money which could be contributed and spent. This legislation would thus be far less drastic than the flat prohibition against a union or corporation making any campaign contributions or expenditures contained in 18 U.S.C. § 610. [(A)lthough the right of free speech and political association is fundamental, it is not in their nature absolute," Whitney v. California, 274 U.S. 357, 373 (1927) (Brandes, J. concur­ ring), The Supreme Court has frequently held that the right of association and the associ­ natorial rights protected by the First Amendment are fundamental, they are not in another way, and in the exercise of other rights. See e.g., First National Bank v. Bell, 347 U.S. 367, 392 (1969). Finally, the regulations of the manner in which First Amendment Rights May Be Exercised.

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Federal Communication, supra, at 386; Joseph Burstyn, Inc. v. Wilson, 343 U.S. 497, 503 (1952); and NAACP v. Button, supra, at 430, 431. The exercise of expression is money, and for large contributors, the medium is, indeed, the message. The proposed ceilings on campaign expenditures resemble the municipal ordinances regulating sound trucks upheld in Kovacs v. Cooper, 335 U.S. 77, 90 (1948). In Florida State Investigating Oomm., supra, at 41 U.S.L.W. 4039, 4042, 4 (1972). Although there was no majority opinion in Kovacs, the case was approved and explained by Justice Frankfurter in his concurring opinion. See also Associated Press v. United States, 326 U.S. 1, 20 (1945).

IV. Argument Upon the Exercise of First Amendment Rights Imposed by Limitations Upon Campaign Contributions and Expenditures is Justified by the Overriding Governmental Interest in Preserving the Integrity of the Electoral Process and in Preventing the Improper Influence of Money on the Decision-Making of Public Officials.

The First Amendment freedoms of speech, association, press, religion, assembly, and petition are not subject to complete official protection because they are the indispensable preconditions for the exercise and protection of all other rights and freedoms. See supra, at 361 U.S. 550, 551 (1956). The First Amendment rights of speech, petition, and of the press are the fundamental rights that the First Amendment was designed to protect.
pa\ng contributions and expenditures have been defende\n\ns negatively, in the sense that the evils at which such legislation is aimed have been demonstrated to justify the inc\ncements. First, the First Amendment rights of contribu\ntors or candidates who wanted to give or spend more than the cell\na\nA\n


differing resources and been demonstrated to justify the incl\ncations involved here also have an important positive impact on the exercise of the First Amendment rights of many citizens who are not prevented from effectively participating in the political process. Many lack financial resources and this handicap both the candidates and the public who wish to communicate their views to their elected representatives on an equal basis with those providing large contributions. The contributions and expenditures issues impede the democratic self-government by opening the political process to all citizens, regardless of their personal wealth. As John Stuart Mill wrote: "We need not suppose that when power resides in an exclusive class, that class will knowingly and deliberately sacrifice the other classes to themselves; it suffices that, in the absence of its natural defenders, the interest of the public is not sufficiently over-looked; and, when looked at is seen with different eyes from those of the person whom it directly concerns."

The proposed campaign finance legislation fosters and protects the exercise of First Amendment freedoms in three ways: (1) it protects the rights of the less affluent to express themselves by running for office; (2) it protects the many from being dominated out of the political process by well financed candidates and interest groups; and (3) it ensures the right of every citizen to be a candidate by limiting the influence on candidates of the large contributor.

As the costs of campaigning have skyrocketed, Congress has an important role to play in assuring an equal opportunity for all Americans to participate in the electoral process. As the Supreme Court declared in Kramer v. Union School District, 343 U.S. 109 (1952), "Any unjustified discrimination in determining who may participate in political affairs undermines the legitimacy of representa\ntion, and the interest in protecting the openness of the political process against racial discrimination is well within the special privileges and immunities Clause of the Constitution."

As the costs of campaigning have skyrocketed, it is particularly important to protect the First Amendment rights of all candidates and parties, whether moneyed or not, to ensure that the government does not improperly favor the wealthy or exclude others from meaningful participation in the political process. Spending ceilings help insure a balanced flow of differing points of view to the public; by keeping any person or group from flooding the media with material advocating a single viewpoint, the ceilings help prevent one candidate from destroying, by sheer volume instead of reason, the effectiveness of the other. In order to protect the information flow to the public, the Government is authorized to act affirmatively to insure that the First Amendment rights of less wealthy candidates or special viewpoints are respected. In a medium of technological scarcity, such as radio or tele\n


Freedom to publish means freedom for all ideas and not for some. Freedom to publish is essential to the welfare of the public, that the candidate with the lesser amount of money will not be able to present his case or "no right is more precarious in a free country than that of having voice in the election of those who make the laws under which, as good citizens, we must live. Other rights, even the most basic, are illusory if the right to vote is undermined.

Neither the Constitution nor state statute sanctions the status of incumbency in this country, and incumbents have no inherent legal right to a specially protected position in any system of financing campaigns. In denying the Small Business Committee of the House of Representatives and other minorities the use of television, the Court declared: "The practical effect of that prohibition is to discriminate against the minority, and the discrimination is overt, not merely invidious, but is the result of an intentional choice of the one party to minimize competition and to deny the other party the effective use of the medium.

The absence of such voices would be a system of grave illness in our society." Any ceiling on contributions and expenditures must be absolutely neutral vis-a-vis incumbents and nonincumbents. This does not mean that ceilings on contributions and expenditures cannot be constitutional, but it does mean that ceilings must be drafted so as not to contribute to the "inherently unequal ratio of special obstacles in the path of incumbents who seek to displace the incumbents of the moment.

The principles of government neutrality are illustrated by two recent Supreme Court cases, Williams v. Rhodes, 393 U.S. 23 (1969), in which state laws regulating political party nominations were found to be unconstitutional, and Anonymous v. Fortson, 403 U.S. 431 (1971), in which they were upheld. In Williams v. Rhodes, supra, the Court held that the political party's state central committee, which was empowered to declare the programs of its candidates as noncompliant with the party's principles, could not be used to suppress minority views. The Court noted that "neither the Constitution nor state statute discriminated against the minority, but it did mean that ceilings must be drafted so as not to contribute to the inherently unequal ratio of special obstacles in the path of incumbents who seek to displace the incumbents of the moment.

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tions on minority parties unconstitutionally denied Equal Protection of the laws to persons who wanted to organize them. Minor parties and persons who wished to vote for minority party candidates, because the Ohio laws made it "virtually impossible" for them to do so, for a party to be recognized by the state as a political party, even though it might have hundreds of thousands of members, to get its candidates placed on the Presidential ballot. The Court in Jenness v. Fortson, supra, held that the Ohio state law, which did not give the two old, established parties a significant modicum of support before printing the name of a political organization's candidate on the ballot—the interest, if it exists, in preventing confusion, deception, and even frustration of the democratic process at the general election." 403 U.S. at 441-445.

Ceilings on contributions and expenditures do not in themselves discriminate invidiously against minority party, independent, or nonincumbent candidates. The reasonable balance must be made between imposing ceilings which will reduce the corrupting influence of money and allowing the differences between the incumbent, on the one hand, and a new or small political organization on the other. Georgia has not been guilty of invidious discrimination in recognizing these differences and providing different routes to the printed ballot. Sometimes the grossest discrimination is in the things that are different as though they were exactly alike.

There is surely an important state interest—indeed, a compelling state interest—in prohibiting a significant modicum of support before printing the name of a political organization's candidate on the ballot—the interest, if it exists, in preventing confusion, deception, and even frustration of the democratic process at the general election." 403 U.S. at 441-445.

**Footnotes**


2. The Wisconsin court declared: "It is a matter of common knowledge that men of limited financial resources aspire to public office. It is equally well known that success in the campaign is largely dependent upon being able to place oneself among the list of candidates. The operation of such a system of financing is such that the chances of a minor party candidate to be successful is largely dependent upon the nature and extent of the financial base on which he is able to campaign. The system of financing in the act is to free the candidates from the temptation to accept support on such terms that such support as may voluntarily be contributed financial support. The candidates placed on the ballot at the last general election for the office in question. The Court unanimously upheld the Georgia statute, distinguishing that statute from the Ohio statute. Unlike Ohio, Georgia does not fix a reasonable amount of support for a candidate who is successful, these obligations may be carried over so that they color and sometimes determine the ability of the candidate's political party to compete in the general election.

3. There is surely an important state interest—indeed, a compelling state interest—in prohibiting a significant modicum of support before printing the name of a political organization's candidate on the ballot—the interest, if it exists, in preventing confusion, deception, and even frustration of the democratic process at the general election." 403 U.S. at 441-445.

4. The Court has held that "purely commercial advertising" subject to much greater regulations than political advertising, which is inspired by a profit motive, Valente v. Chrielsen, 316 U.S. 52, 54 (1942); Breard v. City of Alexandria, 341 U.S. 622, 624, 643 (1951), although the fact that the dissemination of a communication takes place under commercial auspices does not remove it from First Amendment protection. Smith v. California, 361 U.S. 147, 150 (1958); New York Times Co. v. Sullivan, 376 U.S. 256-258 (1964). The power of the FCC to ban cigarette advertising from television has been upheld, Bandhej v. FCC, 405 F. 2d 1082 (CA DC 1968), cert. denied, 396 U.S. 931 (1970). The Board of Broadcast Regulation in each state must now decide whether particular radio and television ads are (like commercial advertising) intended simply to condition rather than influence an audience and likely to be somewhat deceptive because they convey a simplistic "image" of a candidate.
campaigns and furthermore to provide for
the publication of both contributions and
expenditures. There is however, always dan­
ger in laws of this kind, which from their
very nature are difficult of enforcement; The
sanctions by the honest, and disobeyed by the unscrupul­
ous, so as to act only as a penalty upon honest
men, which they believe would, I believe, work a substantial improve­
ment in our system of conducting a cam­
paign.

The proposed "radical measure" is pub­
lic financing of the major political par­
ties. The decision of President Roosevelt delivering his state of the Union address in 1907.

Like President Roosevelt I have sup­
ported the public disclosure of contribu­
tions and expenditures in election camp­
paigns. I was a sponsor of the bill which became the Federal Elections Campaign
Act of 1971, requiring such disclosure for campaigns for Federal office.

But also like President Roosevelt, I have become concerned that such public financing has many potential effec­
tives, and that the only way to truly reform our system of election campaigns is to provide for public financing of them, coupled with strict limits on the amount of total contributions made in each campaign and on the amount of individual and group contributions.

I believe the public has two interests at stake to which the issue of public financing relates. First, the public has an interest in a clean, honest system of Federal elections. In this regard we would want to remove the corrosive effect of big money from our campaigns, thus making our elected officials less depend­ent on special interest groups and more able to respond to the needs and desires of all of the people they represent. Fur­ther, we would want to control the incredibl growth in campaign expendi­tures, to ensure that elections cannot be purchased by the candidate who amasses the largest war chest.

Second, the public has an interest in promoting vigorous, open electoral con­tests in which all sides have adequate re­sources at their disposal, and all ideas and views could receive a fair hearing in the marketplace.

Mr. HART. Mr. President, I am grate­ful to the Senator from Iowa for re­
ferred to the previous discussion. The wishes of the people and enact a sys­

defined choice among the alternatives presented.

It might be possible to satisfy one of these two interests by means other than public financing. It is my view, however, that public financing is the only way to accomo date both of these interests concurrently.

I would probably be able to control the influence of big money and the aggreg­ate amounts of campaign expendi­tures by enacting a system of contribu­tion and expenditure limits. Indeed, such a system is proposed in S. 372, the bill be­fore us now. If, however, the contribu­tion limits are set low enough to be meaningful—and, I believe, they should be lower than proposed in the bill—there is the very real danger that they may turn out to be an "incumbent protection system". Not only will candidates for office. Certainly the views of these individuals and groups are more likely to receive a hearing by the government than those of people who can con­tribute or vote. Furthermore, the rich have more votes than the poor, and equality of access to politics and government is restricted.

Mr. CRANSTON. Mr. President, I thank the Senator from Michigan for his very generous remarks.

Mr. President, I yield now to the Sena­tor from Maryland (Mr. Mathias) who has also done a great deal of work in this field.

Mr. MATHIAS. Mr. President, I thank the Senator from California.

Mr. President, novelty is usually con­
disregarded by the candidate and the conjunction of reporting requirements and a criminal san­
tion.

The foregoing, of course, are extremely general observations, and there may be some specific matters that will still prove troublesome. In general, however, I believe that Senator Hart and his staff should be con­gratulated on having produced what appears to me to be far and away the most successful and comprehensive proposals for financing elections while minimizing the likelihood of serious Constitutional difficul­ties.

As matters proceed, if there should be any further thoughts that you would like to have from me, or questions on which I might be able to be of assistance to you, please do not hesitate to call upon me.

Sincerely yours,

ALBERT J. ROSENTHAL,
Professor of Law.

July 25, 1973

CONGRESSIONAL RECORD—SENATE

Mr. HART. Mr. President, I am grate­ful to the Senator from Iowa for re­
ferred to the previous discussion. The wishes of the people and enact a sys­

It seems to me also that section 18(c) of the bill adequately disposes of any self­
incrimination problems that might have otherwise arisen out of the conjunction of reporting requirements and a criminal san­
tion.

The foregoing, of course, are extremely general observations, and there may be some specific matters that will still prove troublesome. In general, however, I believe that Senator Hart and his staff should be con­gratulated on having produced what appears to me to be far and away the most successful and comprehensive proposals for financing elections while minimizing the likelihood of serious Constitutional difficul­ties.

As matters proceed, if there should be any further thoughts that you would like to have from me, or questions on which I might be able to be of assistance to you, please do not hesitate to call upon me.

Sincerely yours,

ALBERT J. ROSENTHAL,
Professor of Law.
This is an idea whose time has come. Mr. CRANSTON. Mr. President, a recurring problem in our society is the need to scrap and replace historical institutions and practices which have become outdated. And one of the best examples of an American way whose time has passed is our method of paying for political campaigns.

It may have been all right in the free-swinging, underpopulated, largely agrarian democracy of the 19th century to have our political candidates raise campaign money as they saw fit. At least, you found that the rich got richer and the poor got poorer and the consequences of corruption did not touch the soul of the American people.

But we are living in a totally different world in this the final third of the 20th century. Social and economic power has mushroomed prodigiously. We have the ability to destroy the world again and again. An incontinent American dictator could find if our Government right now the tools for surveillance, for manipulation, for control, and for retribution, which exceed even George Orwell's predictions. We have developed corporate conglomerates whose assets are portrayed to the public as a wealth of weighty millions. The Government has grown into an unwieldy behemoth—a power unto itself with no certainty that anyone is really in charge.

In the struggle to control these vast power resources, our institutions for governing ourselves—our elected officials—become major targets for those who seek to dominate the system. If we are going to be successful in keeping our elected officials responsive to the people, we must begin with the understanding that gaining control of power and not petty thiev- ery is what political corruption means in the 1970's. And if there was any question about this before the ruthless misuse of money in California's recent campaign funds are daily testifying to, there should be none now.

The Watergate affair was a gross perversion of our democracy. But it was not an improbable consequence of the way campaign funds are raised and spent. In both instances we have seen in recent campaigns inevitably corrupt the political environment.

When we discuss public financing of campaigns, we must begin with the central and absolute necessity that we end the pervasively insidious influence big money has on the conduct of government. That is one thing. And other concerns like convenience, cost, and enforcement of various reform proposals are of secondary importance. If the role of the big contribution continues to escalate in politics, Watergate will be only the first chapter in the deterioration of democratic government in the United States.

So when a California taxpayer writes to me about public financing of campaigns saying, "Senator Cranston, is it not enough that my taxes go to pay your salary? Why should I have to pay for your election, too?" I respond by saying, "It is not my election, it is your election. If you want to control it, if you want the man you elect to be responsive to you and your problems, you will not mind paying the couple of dollars a year public financing will cost you.

But if you do not care, if you want to contribute to the process over to the highest bidder, of allowing some fat cat to carve out his piece of your Senator or Congressman, then you have got to suffer the consequences, like higher taxes because the big contributors are getting preferential tax treatment, higher prices because corporate manipulation of the economy is administratively overlooked or legislatively exempted from laws which are supposed to protect the consumer. The laws which are supposed to protect the consumer are anachronisms and anachronisms are still big money. The average man with his $12,000 average income can not make a $5,000 contribution. Even with the present law, even as it may be amended, the big contributor will surely still have a substantial advantage over the man in the street.

The effect of such contributions on the victorious incumbent is sometimes blinding but usually subtle.

He knows his victory was won in part by the generosity of those individuals who made large donations. He knows who they are. He remembers their names and the way in which they contributed.

If he is an honest man, the incumbent will not let big contributors determine how he is going to vote—one way or another.

But even the honest man finds that he must give something of himself—his time and attention to the big giver's concerns, his sympathetic ear, his willingness to intervene when he can do so legitimately.

The officeholder recognizes that while small givers contribute solely for the sake of good government and belief in the candidate and his principles, they are in the minority. He knows that the majority of the big givers expect their contributions to give them access to and influence over the officeholder before he acts on an issue.

A busy office holder can only see a limited, finite number of people in any day. He will always do his very best to fit into his schedule someone who was a major contributor to his campaign. This may squeeze out someone who has a much—perhaps more—to say, but who was not a big contributor. Thus the contributor has a better chance to have access than the non-contributor. I submit that this is inevitable—but utterly unfair.

It seems to me that public financing of campaigns is the only workable alternative which will permit a low-enough limit on private contributions to assure equity for the average American. I will shortly discuss one approach to public financing which I believe can achieve the objectives of campaign finance reform.

But before I do, I would like to make a general comment on Congress responsibility in this area.

I believe that as elected Members of Congress, we all have a moral responsibility to tell the American people that the present system of campaign finance impairs the health of our democratic institutions. We are clearly in the best position to know the effects of big money in politics. We should have the courage to tell the American people how big money affects us.

If we agree that public financing is necessary, we have a responsibility to make that argument to the American people. We should explain why public support must include the primary as well
as the general election. We should explain that if private contributions are adequately limited, the only alternatives to public finance must inevitably include restrictions on the candidate's freedom to make his case before the voters.

I, therefore, believe that most people are in the mood for honesty. I know they will accept change in our method of financing elections if we, who are the producers of elections, talk to them honestly about the problem.

I would now like to turn to the discussion of my proposal for public financing, stressing as I do so that the proposal is not intended to be an amendment to S. 372. My discussion is only to comment on the feasibility of such a financing system.

I propose a public financing program which combines limited private contributions with a system of Federal matching funds. Under this program, an individual's tax checks for all campaign expenditures for Federal office would be limited to $250.

In order to participate in the Federal matching program, a candidate would have to be a legally announced candidate. Subsequently, he would have to raise the initial fund of $10,000 and $2,500 respectively. Presidential candidates would have to raise a substantially larger fund of $100,000.

Honeymaking these requirements, a candidate would be eligible for the Federal matching subsidy where each contribution of $50 or less would be matched by Federal funds.

I propose that all private contributions as well as the Federal funds under this system be deposited in a trust account in a State or National bank. Administration of the account, which would also include issuance of checks for all campaign expenditures, would rest with a trust officer appointed by some element of the Federal judiciary.

The problem with any public financing plan is assuring total accountability of all public service contributions. One way to do this is by using an impartial trust officer—chosen not by the candidate or by some official in the executive branch which can be politically motivated as we have seen in Watergate, but chosen by the judicial branch.

The matching program would work as follows:

The trust officer would submit information about each contribution and its contributor to the Federal Elections Commission for certification. The commission would withhold certification of the contribution if the total contribution by the individual in a single year to the candidate exceeds $50. If the contribution is certified, funds would be matched in the ratio of 2 to 1 for the primary, or 4 to 1 for the general and special elections, would be sent to the candidate's trust account. That is, for each $50 contribution, the Federal government would provide $100 in matching funds for a primary contest, or $200 for a general election.

Each candidate would be limited in the amount of Federal subsidy he could obtain. Presidential and senatorial candidates could expend up to 10 cents per person of voting age per State in a primary and 15 cents per person of voting age in the general election.

Federal matching funds would thus be limited to 6½ cents per person of voting age per State in a primary and 15 cents per person of voting age in the general election.

Under the matching program, candidates could accept some private contributions; those in excess of $50 but less than $500 would not qualify for the matching program. However, such contributions would be severely limited to a total of $5,000 for a congressional candidate, $30,000 for a senatorial candidate, and $200,000 for a Presidential candidate.

With such tight limits on nonmatching private contributions added to the incentives of matching funds, a candidate is encouraged to seek out the small contributor, the average workingman, for Federal funds.

Previously, candidates were no such vast sums for campaigning. It will require the $2 million contribution of Gulf or American Airlines, which we have recently been reading about. It will no longer will require the $2 million contribution of a Clement Stone. The American working man and woman will be put on a par with the executives of the largest corporations, because their $50 contribution bolstered by the Federal matching funds become just as important as what the executive can give.

Unlike other public financing proposals, my matching program makes no distinction between the subsidies which major and minor party candidates receive.

The artificial limits which are imposed by other proposals severely hamper the ability of minor party candidates. Those proposals fail to recognize that in some States or districts a minor party may be the only party, or that some candidates are able to run successfully as independents with widespread support. With artificial limits, these candidates would find it impossible to run a winning campaign.

My proposal places no restrictions on the minor party or independent candidate. He can participate in the matching program as fully as he has a base of support.

Mr. President, we incumbents have a totally understandable desire to protect ourselves. We would be less than human if we did not.

But we also know that equal opportunity is the very essence of democracy—and that the protection of equal opportunity for all Americans supersedes the importance of protecting ourselves as successful incumbents.

I say this to my fellow incumbents: We have an advantage already, quite apart from the matter of money. Some of these advantages—as the name recognition that comes from public service—cannot be affected by any form of legislation. But if we insist upon maintaining—or expanding and strengthening—the money-raising advantages we already possess, we will, in the light of the overwhelming and obvious need for reform, betray our trust.

And, actually, I am convinced we would only be postposing the inevitable—for reform will come in response to what the American people and the protection of equal opportunity for all Americans supersedes the importance of protecting ourselves as successful incumbents.

I say this from personal experience. It is far more difficult for the challenger to raise money for a campaign and publishing clearly removes this disadvantage, and then makes the election fairer.

Mr. BIDEN. Mr. President, on behalf of the distinguished Senator from South Dakota (Mr. AURENZE), who is absent on official business, I ask unanimous con-
sent that a statement by him relating to campaign spending limitations be printed in the Record.

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

Statement by Senator Agnew.

I regret very much that I am unable to take part personally in the colloquy on a subject which I feel is as important as any facing this Congress, and I appreciate very much Senator Biden's courtesy in introducing this statement into the Record on my behalf.

Rather than repeating all of the points which I know will be discussed thoroughly by the distinguished Senator from Pennsylvania, if I were to look briefly at the question of overall campaign spending ceilings and they relate to the public financing of Federal elections.

As Senators know S. 372, which is before the Senate today, proposes an overall ceiling on campaign expenditures. This question of supposedly excessive campaign spending, and the limitation of such spending, has become almost the keystone of reform minded consideration of the campaign financing problem.

I feel very strongly that excessive spending is not the heart of the problem. Myopic concern with the amounts that a candidate puts up is a false illusion of reform. Simple enactment of a ceiling is not an adequate response to the problems we face. In fact, be a step backwards if not coupled with other important reforms.

In order to see why a spending ceiling alone cannot do the job, we have only to keep our eye on the real problem with our present system of campaign financing. That problem is that the ability to raise needed campaign money is an inherent advantage of incumbents and on the other hand is possessed by candidates, individuals, and interest groups in no rational relation to their ability, or to their number.

Because incumbents are better able to raise funds than nonincumbents, because wealthy individuals are better able to give money than poor individuals, and because rich or tightly organized groups are better able to raise and direct contributions than are political candidates, contributions become a serious distorting factor working against the one man one vote model on which our system rests.

In addition to the distortion of influence, the present system creates the certain appearance, and too frequent reality, that big contributions are buying influence with their contributors.

By clamping a ceiling on campaign spending we may limit somewhat the amounts of money that a candidate must raise. But this limitation will do nothing to change the fact that what money is raised must come from the same private sources that have always contributed. It will do nothing to change the fact that incumbents are far better able to raise money from these sources than are political candidates. The political parties, by raising a ceiling on the amount of money that candidates can raise will only keep our eye on the real problem with our present system of campaign financing.

Mr. KENNEDY. Mr. President, I am pleased to join in this colloquy on public financing. Senator Hugh Scott and I have offered an amendment to the pending legislation to provide public financing for Senate and House elections, and to prohibit private financing for major party candidates in all Federal elections, presidential as well as congressional.

Under terms of the amendment, public funds will be available to candidates of major parties in Senate and House elections, based on a formula which allocates 20 cents for each voter in the jurisdiction in which the election is to be held, in accord with the spending ceiling provisions of S. 372. Candidates of minor parties will be entitled to public funds under two approaches—either in proportion to the party's showing in the past election, or retroactively, on the basis of its showing in current elections.

The provision prohibiting private financing by major party candidates allows minor party candidates to use private funds to reach the level of spending of the major party candidates. In addition, the amendment applies only to general and special elections, not to primaries and runoffs, which will continue to be financed by private funds.

Under existing law, future Presidents can be elected by public funds through the so-called "dollar checkoff," by which taxpayers indicate on their tax forms that $1 of their tax liability, or $2 on a joint return, is to go into general fund for financing Presidential campaigns. The amendment I have introduced with the distinguished Senator from Pennsylvania does not involve the tax form, but in other respects, our proposal for Senate and House elections bears some resemblance to this law already applicable to Presidential elections.

Mr. President, the most obvious lesson of Watergate is the corrosive power of private funds in politics. At a single stroke, by enacting a program for Federal elections, we can shut off the underground rivers of private money that pollute politics at every level of the Federal Government. If Watergate has taught us anything, it is that disclosure is not enough, that sunlight is not an adequate disinfectant for the infectious power of money in political campaigns.

As everyone knows, the United States has the best political system that money can buy and it is the principles on which our Republic stands. Congress has already gone part way. Already, public funds will be available under existing law to finance the Presidential election campaign in 1976. The time has come to take the next great step toward open and honest government.

The time is now—indeed overripe—to eliminate private financing in Federal elections. The lesson of Watergate is clear, simple principle of public financing to all Federal elections. Only in that manner can we drive the money changers from the temple of Federal politics. I am honored and delighted to work with Senator Hugh Scott in a bipartisan effort to reach this goal. The Senator from Pennsylvania has been an outstanding leader of legislation in many areas of election reform. I am pleased to have him join me in major political candidates from the temple of Federal politics.

Mr. President, I ask unanimous consent that a detailed summary of our amendment may be printed in the Record.

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

**PUBLIC FINANCING FOR FEDERAL ELECTIONS, PRINCIPAL PROVISIONS**

1. The amendment adds a new title, the "Congressional Election Campaign Fund Act," to the Federal Election Code. The new Act...
provides public financing for Senate and House elections, and is modeled closely on Senator Russell Long's Presidential Election Campaign Fund Act, passed by Congress in 1973, which provided public financing for Presidential elections under existing law.*

2. The Presidential Election Campaign Fund Act of 1971, as amended, provides public funds for general and special elections for the Senate and House, but not for primaries or run-off elections.

3. It makes public financing mandatory for Senate and House elections. The act also bars the option of private financing by major candidates. However, a candidate of a major party may use private funds to make up a deficit if the public funds available to a minor party or a new party may use private funds only to reach the level of entitlements to private candidates.

4. It also bars the option of private financing for Presidential elections. This is the only change made by the amendment in the operation of the check-off in existing law, which offers public financing as an alternative to private financing for Presidential elections.

5. Constitutional and parliamentary considerations indicate that specific amendments to the Internal Revenue Code may not be made by Congress on Senate-originated bills without the consent of the Senate, as S. 372. Therefore, the amendment simply applies the basic principles of the provisions of the check-off to Senate and House elections. Except as provided by the amendment, the provisions of the amendment for Congressional elections are essentially identical to the provisions of the check-off applicable to Presidential elections.

6. The amendment establishes a Congressional Election Campaign Fund on the books of the Department of the Treasury, from which public funds will be made available to eligible candidates.

7. Unlike the dollar check-off, the fund for Congressional elections does not involve the tax form. However, amendments to the check-off on the Debt Ceiling Act of July 1, 1973, have now eliminated the so-called "special" accounts, and have left only a "general" account to be allocated by formula among Presidential candidates. As a result, the Presidential Election Campaign Fund in present law is now closely similar to the Congressional Election Campaign Fund to be established by the amendment.

8. The amendment follows the basic formula of the dollar check-off for allocating public funds among candidates of major and minor parties, but changes the entitlement to 20¢ per voter, in accord with the spending ceilings mandated by S. 372.

9. A candidate of a "major party"—a party that received 25% or more of the total number of popular votes received by all candidates for the office in the preceding election—is entitled to receive public funds in the amount of 20¢ per eligible voter.

10. A candidate of a "minor party"—a party that received more than 5% but less than 25% of the popular vote in the preceding election—is entitled to receive public funds in proportion to his share of the popular vote in the current election, if he receives more than 5% of the vote in the election.

11. A candidate of a "new party"—a party that is not a major party or a minor party—is entitled to public funds in proportion to his share of the popular vote in the current election, if he receives more than 5% of the vote in the election.


**The program will go into effect for the 1976 Congressional elections.

**Mr. CRANSTON. Mr. President, I will end our colloquy on this matter at this time. I yield back whatever time I have remaining that was yielded to me for this purpose.

**The PRESIDING OFFICER. The clerk will call the roll.

**The legislative clerk proceeded to call the roll.

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

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

**AMENDMENT OF SMALL BUSINESS ACT

**Mr. CRANSTON. Mr. President, I ask the Chair to lay before the House a message from the House of Representatives on S. 1672.

**The PRESIDING OFFICER (Mr. HUMBLESTON) laid before the Senate the amendment of the House of Representatives to the bill (S. 1672) to amend the Small Business Act which was to strike out all after the enacting clause, and insert:

**AUTHORIZATION

**SECTION 1. Paragraph (4) of section 4(c) of the Small Business Act is amended—

**(1) by striking out "$4,300,000,000" and inserting in lieu thereof "$6,600,000,000"; and

**(2) by striking out "$500,000,000" where it appears in clause (B) and inserting in lieu thereof "$750,000,000".

**SECTION 2. (a) Section 7(b) of the Small Business Act is amended to read as follows:

**(a) (1) To make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administration determines to be necessary or appropriate to assist any small business concern in effecting additions to or improvements in its plant, facilities, or methods of operation to meet requirements imposed on such concern pursuant to any Federal law, if the Administration determines that such loans are consistent with, or any regulation or order of a duly authorized Federal, State, regional, or local agency issued in conformity with such Federal law, and if the Administration determines that such concern is likely to suffer substantial economic injury without assistance under this paragraph: Provided, That the maximum loan made to any small business concern under this paragraph shall not exceed the maximum loan which, under rules or regulations prescribed by the Administration, may be made to any business enterprise under paragraph (1) of this subsection; and

**(b) (1) Section 7(b) (6) of the Small Business Act is repealed.

**(2) Paragraph (7) of such section (b) is redesignated as paragraph (6).

**AMENDMENTS TECHNICAL AMENDMENTS

**Sec. 3. (a) Subsection (g) of section 7 of the Small Business Act, as added by section 3(b) of the Small Business Investment Act of 1972, is redesignated as subsection (b).

**(b) Subparagraph (c) of section 4 of the Small Business Act is amended by striking out "(g)" each place it appears in paragraphs (1) (B), (2), and (4) and inserting in lieu thereof "(h)".

**DISASTER LOANS

**Sec. 4. (a) The second paragraph following the number mentioned in section 7(b) of the Small Business Act is amended by striking out "July 1, 1973," the first time it appears and inserting in lieu thereof "July 1, 1976."

**(b) Subparagraph (D) of the second paragraph following the numbered paragraphs of section 7(b) of the Small Business Act is amended by striking out clauses (i) and (ii) and inserting in lieu thereof the following: "with respect to a loan made in connection with a disaster occurring on or after April 20, 1973, but prior to July 1, 1975, and notwithstanding section 9 of Public Law 93-24, the Administration, at the option of the borrower, either cancel $2,500 of the loan and make the balance of such loan at an interest rate of 3 per cent per annum, or make the entire loan at an interest rate of 1 per cent per annum. In the event of the refinancing of a home or a business, the monthly payments after the refinancing shall in no case be lower than such payments prior to the disaster.

**LIVESTOCK LOANS

**Sec. 5. Section 7(b) (4) of the Small Business Act is amended by inserting before the sentence at the end thereof the following: "Provided, That loans under this paragraph include loans to persons who are engaged in the raising of livestock (including but not limited to cattle, hogs, and poultry), and who suffer substantial economic injury as a result of animal disease."

**EROSION ASSISTANCE

**Sec. 6. Section 7(b) (1) of the Small Business Act is amended by inserting after paragraph (6) the following new paragraph: "(b) To make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administration may determine to be necessary or appropriate to assist any small business concern in effecting additions to or improvements in its plant, facilities, or methods of operation to meet requirements imposed on such concern pursuant to any Federal law, if the Administration determines that such loans are consistent with, or any regulation or order of a duly authorized Federal, State, regional, or local agency issued in conformity with such Federal law, and if the Administration determines that such concern is likely to suffer substantial economic injury without assistance under this paragraph: Provided, That the maximum loan made to any small business concern under this paragraph shall not exceed the maximum loan which, under rules or regulations prescribed by the Administration, may be made to any business enterprise under paragraph (1) of this subsection; and"

**Sec. 7. Section 7(b) (1) of the Small Business Act is amended by adding after paragraph (6) the following new paragraph: "(c) To make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administration may determine to be necessary or appropriate to assist any small business concern in continuing in business or in restoring its business, in purchasing a new business, or in establishing a new business if the Administration determines that such concern has suffered or will suffer substantial economic injury as the result of the closing by the Federal Government of a major military installation under the jurisdiction of the Department of Defense, or as a result of a severe reduction in the scope and size of operations at a major military installation."