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I am happy to respond to the invitation of Senator McConnell dated March 16, 2000, to testify.

THE PRESIDENTIAL SELECTION PROCESS

The criticisms directed at the presidential selection process may be summed up in the complaints that the process is too long, too expensive, and too exhausting for candidates and voters alike. I do not agree. However, improvements can and should be made.

The process is not necessarily too long. Looked at in perspective, a presidential election is the greatest educational event in the history of the country every four years. Agendas are set for the next term and various candidates get exposure, seeking nomination by achieving front-runner status, seeking to break out of the pack of second runners, seeking to win election in November. The nomination phase is essentially a screening process, giving candidates opportunity to audition, to show their stuff. While some candidates announce twelve to twenty-four months earlier, most are eliminated as serious candidates after the Iowa caucuses and the New Hampshire primary.

Critics often maintain that the presidential selection process as presently constituted rewards those proficient in the skills of getting nominated or elected rather than those adept at the art of governing. I believe the process should be structured to emphasize the qualities needed to formulate and get enacted public policies that deal effectively with national problems. Ironically, this requires qualities many voters do not like. It requires a solid grounding in party politics, which many of our citizens despise. But to be president does require political leaders with a thorough knowledge of the workings of the political system, and an ability to establish alliances and build coalitions with other political leaders and with supportive groups.

I strongly believe both in strengthening the political parties and in party autonomy. Any attempt by the Congress to impose a standardized nominating procedure on the individual states, by requiring national, regional or time-zone primaries, would represent a

federalization of an area that traditionally has belonged to the party committees and the state legislatures. Supreme Court decisions have made clear that the national parties can be masters of their delegate selection and nominating procedures. Accordingly, I oppose S.1789 because it would federalize the presidential prenomination process. However, the major parties should be assertive in setting their own goals and standards, and in rationalizing the present system into a more meaningful, coherent way to choose a president.

I think the national parties should mandate only essential standards, such as the setting of initial and closing dates in a spaced primary plan; action plans to elect more women and minority delegates; and the requirement that only registered party voters be permitted to vote for delegates in state primaries; and then the process should be deregulated to permit states to decide dates (within a designated period of time), thresholds, and delegate allocations. Thus the Congress should not impose standards, and the national party should impose only essential standards, with the state parties playing key roles. My sense is that there should be great flexibility to permit state parties to do within limits what suits their purposes, to do whatever local party building they perceive will help to win in the November election.

There is no single best way. One has to weigh the various tradeoffs according to one's values. In subscribing to shortening the window by limiting the inclusive time for primaries and caucuses, I suggest the period between the first Tuesday in March and the first Tuesday in June. States would have freedom of choice, selecting any dates within the window, and deciding whether to hold a primary, caucus, or state convention. Perhaps some rotation system could be used, such as is now being proposed by the National Association of Secretaries of State. This system would eliminate the undue influence of Iowa and New Hampshire, two states that are unrepresentative, without significant big cities, urban areas or minority populations. With a three-month interval, the initial Tuesday would offer more diversity, including some small, medium, and large size states, and would test candidates in more diverse states, giving voters or caucus or state convention participants more choices. It will also cost more because of the front-loading that would occur.

I recognize the value of the present incremental process, which permits candidates to concentrate on two small states, spending lesser amounts of money, with good showings triggering new fund raising, enabling a candidate to build a campaign on a step-by-step basis. Yet the unrepresentativeness of the present sequence is too great a price to pay. The psychological effect of winning in two small states, or of the media declaring winners or surprise second-runners, is so great that all attention is focused on these states to the detriment of wider choices that could be made in six or eight or ten states on the initial Super Tuesday. No single candidate would win in all the states, so a healthy competition would likely result.

Restructuring the system into a three-month period would raise the costs for initial

activities, but this could be rectified by increasing the amount of the tax checkoff to $5 and introducing a different kind of matching program.

Though there is no consensus about what, if any, changes should be made in the presidential selection process, there is substantial agreement that the process should make clear that presidential prenomination and general election campaigns are not ends in themselves but means to the goal of electing an effective government. The process should encourage the candidates to articulate the direction in which they think the nation should be going to solve its problems and build its future. Finally, the process should equip victors with the alliances and coalitions they will need to function effectively in the presidency.

THE COSTS OF CAMPAIGNING

In recent years, there has been much hand-wringing about the high cost of politics. The 1996 elections cost more than any other previously, yet produced the lowest voter turnout since 1924. According to my calculations in a chapter in *Financing the 1996 Election,* (Armonk, NY: M.E. Sharpe, 1999), during the 1995-96 election cycle, political candidates, committees, and other organizations and individuals spent a total of $4.2 billion on political campaigns. This spending covered not only campaigns for nomination and election to federal offices—the presidency and seats in Congress—but also nomination and election campaigns for state and local offices; campaigns for and against ballot propositions; efforts by political parties and numerous independent organizations to register and turn out voters, and engage in issue advertising; and the costs of administering national, state, and local political party organizations and numerous political committees sponsored by interest and ideological groups. Undoubtedly, this election cycle, 1999-2000, will cost in excess of $5 billion.

The $4.2 billion represents an increase of 32 percent over the 1991-92 election cycle. This increase far exceeded the 11.8 percent rise in the Consumer Price Index (CPI) during the period from 1992 to 1996. This increase was more than enough to stoke the fires of criticism of political campaigns costs, compounded by the revelations of high "soft money" spending and other questionable and contentious fund raising and spending practices.

Critics maintain that high campaign costs force candidates to devote an inordinate amount of time to raising money. They also hold that special interest groups seeking to exercise influence by satisfying candidates' needs for campaign funds threaten the integrity of the election and governmental processes. Compared with some other categories of spending, however, the amounts expended for political campaigns are low. The amount spent in 1995-96 is less than the sum that the nation's two leading commercial advertisers—Procter and Gamble and General Motors—spent in 1996 to proclaim the quality of their products. It represents a mere fraction of 1 percent of the $2.4 trillion spent in 1996 by federal, state, county and local governments.

There is no universally accepted criterion by which to determine when political spending becomes excessive. It is well to remember the old adage: to a candidate or a political party, the most expensive election is a lost election. No candidate or party wants to lose for having spent too little. During recent decades, political campaigning at most levels has become a highly professionalized undertaking, involving pollsters, media specialists, computer specialists, fund-raising consultants, and a host of other experts whose services are expensive and, in the estimation of many candidates and committees, essential. The costs of items and services many campaigns must purchase, including staff, travel, and broadcast time, have risen dramatically. In addition, federal and state laws enacted to compel disclosure of campaign finances and, in some cases, to impose limits on political contributions and expenditures and to provide public funding, have required candidates to hire election attorneys and accountants to ensure compliance. Candidates and political committees must compete for attention not only with each other but also with commercial advertisers that have access to large budgets and are able to advertise regularly—in the electronic and print media—and not just during the campaign season.

One answer I suggest is to produce an Index of Campaign Costs. Current reliance on the Consumer Price Index (CPI) gives biased estimates because the CPI is not designed to cover such expensive campaign items as broadcast costs or fund-raising expenses or getting-out-the-vote costs. At least we should properly diagnose the problem and know its true dimensions.

CONTRIBUTION LIMITS

In setting contribution limits, a balance must be struck between the need to reduce public perceptions of excessive campaign funds and the need for candidates and parties to raise adequate funds to communicate with voters. Setting contribution limits too low can have the effect of turning public officials and candidates into nonstop political fund raisers, seeking to collect sufficient money to enable them to convey their qualifications, records, and programs to the potential electorate. And low contribution limits may not produce enough money to fund challengers adequately. The federal limits on individual, PAC, and party contributions have not been raised since their adoption in 1974. But the value of the dollar has eroded by about two-thirds when the amounts are considered in constant dollars. Not only should the contribution limits be raised substantially, but they should be indexed with inflation in campaign costs and rounded to the next hundred dollars, for the future.

For these reasons, I endorse the Hagel, Kerry, Landrieu bill, S.1816.

SOFT MONEY

The enactment of S.1816 would raise hard money contribution limits to reasonable levels,

at the same time capping soft money contributions. These complementary actions would seek to convert some soft money into hard money, and would be of especial help to the political parties, enabling them to achieve some needed balance as between hard and soft money. Hard money is more desirable and more accountable through disclosure than is soft money. But the parties need to be weaned away from soft money slowly. It is worth remembering that soft money was enacted by the Congress in the 1979 Amendments at the urging of the two major parties because under the Federal Election Campaign Act (FECA) of 1971and the 1974 and 1976 Amendments, the parties had such a diminished role in the 1976 presidential campaigns.

The concept of soft money was designed to provide financial support to political parties to carry on party-building activities, including the essential functions of registration and get-out-the-vote drives. It was designed to be used at the state and local levels by party committees, but regulated by state law, and that is why—in the interests of party federalism—it was permitted to be money beyond the scope of the FECA. That some of it is now being used for "issue advertising" should not be an excuse to cut off party funding for these important activities. Complementarily, there is a crucial reason why the contribution limits to parties in hard money should be increased substantially at the same time.

I believe the parties can live with generous caps on soft money, but repealing it entirely and all at once would not be the right direction so long as hard money limits apply, even if those hard money limits are increased, as S.1816 would achieve.

REPEALING PARTY COORDINATED SPENDING LIMITS

The focus of campaign finance reform should be directed to meaningful steps that would permit the political parties to assist candidates in ways that would help remedy two acute and persistent campaign problems: (1) the increasing incidence of wealthy candidates spending excessively, exacerbated by both major parties which are seeking out wealthy candidates, in order to relieve the party organizations of helping to fund expensive campaigns; and (2) last-minute campaign blitzes triggered by wealthy candidates and outside interest groups in the form of usually negative independent expenditures and issue advertising.

For ideal campaign balance, both require costly response, and the latter particularly distorts the campaign process and threatens opposing candidates and parties with loss of control of their own campaigns by the introduction of issues—for example, term limits or right to life or labor union issues—the candidate or party may not wish to emphasize. Pragmatic answers to these problems were contained in a House bill offered by a bipartisan group of freshmen legislators in 1997, and reintroduced in the current Congress by Representative Asa Hutchinson as H.R.1867. It has two innovative provisions meriting serious consideration. One is to convert certain levels of soft money

to hard money by raising the contribution limits for gifts to party committees, and then elevating them to a special status to be described shortly. A second is to repeal present coordinated spending limits, thus permitting unlimited party assistance to candidates confronted by either a wealthy candidate willing to maintain a barrage of advertising, or a last-minute attack put on by a better-funded opponent, or by an outside group spending money as a third force in a campaign.

The bipartisan freshmen bill put a $25,000 party limit on a different track, separating that limit from the $25,000 annual contribution limit for gifts for federal candidates and political action committees, thus enabling individuals to give a larger share of their contributions to national and state party committees, and accordingly paving the way to increase minimally the funding of the political parties in hard money.

But another needed provision would be to repeal the present limit on party coordinated spending on behalf of candidates. Abolishing these Sec. 441a(d) limits would permit the parties to assist beleagured candidates on their tickets trying to raise money to fight back against the targeted campaign barrage of negative advertising sponsored by opposing candidates or interest groups. The remedy is to free up the parties by enabling them to respond in hard money by assisting their targeted candidates or those in marginal party districts.

This proposed focus on enabling the parties to better assist candidates on the ticket has found favor in a Colorado federal district court. In *Federal Election Commission v. Colorado Republican Federal Campaign Committee,* the court found that the current limits on party coordinated expenditures were unconstitutional. This finding develops the view that political parties cannot corrupt candidates or legislators, since parties, candidates and incumbents have the same goals of winning elections; hence limits on what monies party committees can provide to candidates serve no legitimate purpose in ensuring "clean" elections. Accordingly, spending limits for parties are not narrowly tailored to remedy a problem and hence are unconstitutional. This concept places parties in proper perspective, and supports the view that parties' unlimited assistance to candidates is justified. While this case is on appeal, it clearly points the way to enabling parties to play a greater role in supplying funding. The obvious conclusion is that parties need increased hard money, thus justifying substantial raising of hard money contribution limits to enable them to carry out these proposed functions.

These two steps would help to refocus campaign finance reform to the needs of candidates, by acknowledging that the parties can offer key solutions to some campaign finance problems. These two steps would recognize the vital role the political parties can play in a reformed system.

PUBLIC FUNDING AND SPENDING LIMITS

Nurtured by the U.S. Supreme Court decision in *Buckley v. Valeo*, public funding in

presidential campaigns is tied to spending limits. There is ample empirical evidence, since their inception in 1976, that spending limits do not work. Take the public financing of presidential campaigns as an example. In 1996, but also in other ways, spending limits did not work by any pragmatic test in the presidential prenomination campaigns, at the national nominating conventions, or in the general election period.

Bob Dole's 1995-96 experience is instructive. Faced with early competition from Phil Gramm and Pat Buchanan, Dole spent more than expected in 1995. When the independently wealthy Steve Forbes later joined the fray, he upped the ante, forcing Dole to spend even more to remain competitive. Forbes was not subject to state or overall limits because he refused to accept public money, preferring to spend his own. In several states, Forbes widely outspent Dole, partly because state spending limits restricted Dole's outlays, while in other states Dole had to respond to Forbes' high spending, particularly on television advertising.

Dole, who thus rubbed against the overall $37 million limit in March 1996, was forced to control his spending and had to depend on the Republican Party to engage in "generic" issue advertising, paid for by soft money, in which the words, "vote for…" could not appear. In those circumstances, Dole could not present his messages directly to voters and was curtailed by a legal inability to spend money in his own way until he was nominated in August, when he switched to general election spending.

It is sad and a serious thing for a major-party presidential candidate to confront a virtual communications blackout for important months in the election year. For party issue advertising to disappear in presidential elections, as the McCain-Feingold bill, S.1593, would require, could seriously hurt some or all major party candidates. Advocates of reform—and their media and editorial supporters—were mostly silent about this inability under the law of Bob Dole to speak and amplify his message, and instead complained that soft money was being used to pay for party issue advertising on his behalf. It is outrageous that media people who raise the banner of "freedom of the press" at the dropping of a syllable, do not recognize the right of candidates to have ample funding for their campaigns.

Expenditure limits in 1996 did not control spending in the national nominating conventions or the general election period either. The major parties each spent more than $30 million for their conventions in 1996, while the public funding and spending limit was set at $12.4 million. And in the general election period, from the conventions through Election Day, the $73 million limit for the presidential tickets (including party coordinated expenditures) was supplemented by soft money spending on their behalf. The spending limits have failed completely to level the playing field, which is widely heralded as a reform goal, in all three phases of the presidential selection process.

Public financing is not a panacea—after all, there is public financing of presidential campaigns and yet there are money problems evident in the current withdrawal from

campaigning in 1999 by John Kasish, Lamar Alexander, Dan Quayle and Elizabeth Dole. Public funding in prenomination campaigns is much more difficult to design equitably than it is in general election campaigns. But it would be fairer to permit some drawing of matching funds during the pre-election year. The length of the prenomination period of time, and the shortness of the public funding payouts, creates imbalances that call for correction.

CONCLUSIONS

Campaign reform is much in the news lately. The Congress should be wary of proposals that seek to take more and more private money out of the political arena by retaining low contribution limits, take out political parties by removing soft money and depriving them of a meaningful and needed role, and take politics out of public policy development, leaving mainly self-proclaimed citizens' lobbies and newspaper editorial writers to seek to influence elected officials. But these should not be the goals of campaign reform in a democratic society. What is left out of the equation is concern about there being sufficient money for candidates to tell their stories, to give their records and qualifications, and for parties to spell out their themes. Too few point out that elections are improved by political actors able to wage competitive, even if expensive, campaigns, not by stifling political dialogue.