

Page 2

1 Deposition of OLYMPIA J. SNOWE, called for
2 examination pursuant to agreement of counsel, on
3 Monday, September 30, 2002, in Washington, D.C., at
4 the United States House Senate, Russell Senate
5 Office Building, at 9:30 a.m., before BRENDA
6 SMONSKY, a Notary Public within and for the
7 District of Columbia, when were present on behalf of
8 the respective parties:
9
10 DAVID H. THOMPSON, ESQ.
11 Cooper & Kirk
12 1500 K Street, Northwest
13 Washington, D.C. 20005
14 On behalf of Plaintiff National
15 Rifle Association
16
17 -- continued --
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19
20
21
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Page 4

1 PROCEEDINGS
2 Whereupon,
3 OLYMPIA J. SNOWE
4 was called as a witness and, having first been duly
5 sworn, was examined and testified as follows:
6 MS. BREGMAN: Before we start, can we
7 treat this deposition in the same way? We will take
8 the 10 days to designate under the protective order,
9 with the understanding it will be treated as if it
10 were protected in the interim?
11 MR. THOMPSON: That's fine.
12 EXAMINATION
13 BY MR. THOMPSON:
14 Q Senator, please state your name for the
15 record.
16 A Olympia Snowe.
17 Q Good morning.
18 A Good morning.
19 Q My name is David Thompson. I represent
20 the NRA in this matter. I'm with the law firm of
21 Cooper & Kirk.
22 Have you been deposed before?

Page 3

1 APPEARANCES (CONTINUED):
2
3 MICHAEL CARVIN, ESQ.
4 JACK CHANEY, ESQ.
5 Jones, Day, Reavis & Pogue
6 51 Louisiana Avenue, Northwest
7 Washington, D.C. 20001
8 On behalf of Plaintiff Republican
9 National Committee
10
11 LYNN BREGMAN, ESQ.
12 STACY BECK, ESQ.
13 Wilmer, Cutler & Pickering
14 2445 M Street, Northwest
15 Washington, D.C. 20037
16 On behalf of Intervenor
17
18 ALSO PRESENT: Morgan J. Frankel, Esq.;
19 Grant Vinik, Esq.; Derek Langhauser, Esq.
20
21
22

Page 5

1 A No, I have not.
2 Q Have you been involved in a deposition
3 before as a participant or witness?
4 A No, I have not.
5 Q Let me go over a few of the ground rules,
6 if I may. This is a question and answer format. So
7 we should try to speak one at a time so that the
8 court reporter can accurately transcribe the record.
9 I will try not to interrupt you. If I do for some
10 reason, please let me know.
11 A Okay.
12 Q I want you to give your full and complete
13 testimony today. If you do the same for me so I can
14 get my questions out --
15 A Okay.
16 Q -- that would be great.
17 You are permitted to take a break at any
18 time. If there is a question pending, I would ask
19 that you go ahead and answer it. We have time
20 limitations on today's deposition. It is seven
21 hours of questioning.
22 Our position is that any breaks we take

Page 6

1 don't count against the time and any extended
2 colloquies about speech and debate we won't count in
3 our calculation of the seven hours of time.
4 If I ask you a question and you don't
5 understand it, please let me know. I will try to
6 clarify it, if I can. If you go ahead and answer
7 it, I will assume that you understood the question.
8 Mr. Frankel from the Senate Legal
9 Counsel's office has handed me a document that's
10 called Senate Resolution 323. I would like to have
11 this marked for the sake of the record as Snowe
12 Exhibit 1.
13 (Snowe Exhibit 1 identified.)
14 BY MR. THOMPSON:
15 Q Have you seen this document before,
16 Senator?
17 A Yes.
18 Q This is a resolution pertaining to the
19 legal counsel's right to file an amicus brief in
20 this case?
21 A That's correct.
22 MR. THOMPSON: I would like to mark as

Page 7

1 Snowe Exhibit 2 a document entitled "Declaration of
2 Senator Olympia Snowe in Support of Motion to
3 Intervene."
4 (Snowe Exhibit 2 identified.)
5 BY MR. THOMPSON:
6 Q Senator, is that your signature on page 2
7 of this document?
8 A That's correct, it is.
9 Q Is this a copy of the declaration that you
10 provided in connection with your motion to intervene
11 in this case?
12 A Yes, it is.
13 Q Paragraph 4 of this declaration reads, "If
14 any of the campaign finance reforms embodied in the
15 Act is struck down, I will be forced once again to
16 raise money, campaign, and attempt to discharge my
17 important public responsibilities in a system that
18 is widely perceived to be, and I believe in many
19 respects is, significantly corrupted by the
20 influence of special interest money."
21 I wanted to ask you just some questions
22 about terminology so that today we are on the same

Page 8

1 page. What do you mean by the term "corrupted"?
2 A It is the appearance of corruption, and
3 obviously that was the driving motivation, at least
4 as far as I'm concerned, about the need to reform
5 the campaign finance system, that even the
6 appearance of corruption is significant enough to
7 undermine the public's confidence.
8 Q And I understand that, Senator. We will
9 talk at some length about the appearance of
10 corruption. I understand here you referred to
11 widely perceived to be corrupted, and I take it the
12 perception, that's where you're referencing the
13 appearance of corruption when you say "widely
14 perceived to be"?
15 A That's correct.
16 Q I want to ask what is there a perception
17 of? What does the term "corrupted" mean, leaving
18 aside the appearance of it, because the declaration
19 says "in many respects is corrupted."
20 So I want to talk about actual corruption,
21 and then we will talk about the appearance of
22 corruption. My question is when you stated that the

Page 9

1 system is in many respects corrupted, what did you
2 mean by the term "corruption"?
3 A Well, again, it gets back to my original
4 statement. I happen to think that the appearance of
5 corruption is as significant, that it undermines the
6 public's confidence in the integrity of the process.
7 The Court has upheld that, that if the
8 public deems the fact that special interests
9 dominate in some way because of the massive infusion
10 of dollars in an unregulated fashion, that does have
11 a corrosive influence on the public's view on the
12 integrity of the campaign finance system.
13 Q Let me try to ask it this way. When you
14 say "appearance of corruption," what is it an
15 appearance of? What do you mean by "corruption"
16 when you talk about an appearance of corruption?
17 MS. BREGMAN: Asked and answered.
18 BY MR. THOMPSON:
19 Q Please go ahead. Your attorney can
20 object. Unless she instructs you not to answer a
21 question, you should go ahead.
22 A Again, it gets back to the question of the

1 way in which our system is financed and the reason
2 for this legislation, and the fact of the matter is
3 there are millions and millions and millions of
4 dollars that are being channeled through various
5 political entities that are unregulated, unlimited
6 and in many instances undisclosed. So that does
7 have the appearance of corruption.

8 The perception, as you know, is as
9 important in the political process and how people
10 view their officeholders and the integrity of the
11 process by which they get elected and by which they
12 cast their votes. So we individually and
13 collectively have that responsibility.

14 Q Do you think that the current system is in
15 fact in many respects corrupted?

16 A Again, it gets back to the appearance. I
17 don't think you necessarily have to have tangential
18 evidence of specific acts of corruption to be
19 concerned about the existing system and the way in
20 which it is financed.

21 I happen to be concerned with the
22 perception by my constituents. I come from a state

1 BY MR. THOMPSON:

2 Q In other words, the system could either be
3 corrupt in fact or it could be perceived to be
4 corrupt, or both. And there's a distinction between
5 actually being corrupt and being perceived to be
6 corrupt.

7 What I'm asking now is about instances or
8 whether it is your opinion that the system is in
9 fact corrupt, as opposed to being perceived to be
10 corrupt.

11 MS. BREGMAN: I make the same objection.

12 MR. THOMPSON: That's fine.

13 MS. BREGMAN: If you want to try one more
14 time. If you have an understanding that will allow
15 you to give a different answer, you can.

16 THE WITNESS: Again, my deep and abiding
17 concern is the appearance of corruption. And the
18 Court has held that that is a significant concern to
19 the public interest, that if people -- in the
20 Buckley-Valeo case, the Court upheld the appearance
21 of corruption, where people were deemed to have
22 legitimate opportunities for abuse within the

1 that now has a clean election law. In 1989, we had
2 a referendum to publicly finance the gubernatorial
3 candidate, and it was soundly defeated by 56-44. In
4 1996, the reverse occurred. We now have clean
5 election laws that was approved by the people of
6 Maine 56-44.

7 In that same year, the Portland Press
8 Herald published a survey indicating more than 70
9 percent of people in the state felt that special
10 interests had a disproportionate voice in their
11 government in legislative activities.

12 So that is sort of the basis for my
13 impetus for getting involved in this legislation.

14 Q And again, we will talk about the
15 appearance of corruption and the perceptions. But I
16 want to ask if it is your belief that the system is
17 in fact corrupted.

18 MS. BREGMAN: Objection. I think she has
19 answered that question now two or three or perhaps
20 four times by equating the two. I'm not sure you
21 can go much further with it.

22 MR. THOMPSON: I don't think so.

1 system, that that is a concern.

2 It should be of concern and it should
3 certainly be of governmental interest in how to
4 reform the system so that we can prevent any
5 appearance, because that can be just as important as
6 the actual examples or concrete evidence of
7 corruption.

8 BY MR. THOMPSON:

9 Q Are you aware --

10 A I'm not compelled to change legislation
11 based on specific examples. I'm doing it based on
12 the appearance.

13 Q Just to clarify that last remark, are you
14 aware of any specific instances of corruption that
15 arose out of the prevalence of soft money in the
16 current system?

17 MS. BREGMAN: Objection. Why don't you
18 tell us what you mean by "corruption" so that she
19 can answer that question, since she is not
20 distinguishing the two?

21 MR. THOMPSON: Her declaration quite
22 clearly does draw a distinction between perceived to

Page 14

1 be corrupted and is corrupted.

2 BY MR. THOMPSON:

3 Q So I'm asking a question, are you aware of
4 any instances in which the system is corrupted in
5 fact because of the prevalence of soft money?

6 MS. BREGMAN: Asked and answered.

7 THE WITNESS: I don't believe you need to
8 be compelled to change the system based on actual
9 instances of corruption to see a need to change the
10 system.

11 When you are talking about millions and
12 millions of dollars being infused and channeled in
13 ways in which the public has no idea where, who is
14 the source of that money, who is spending that
15 money, where that money is coming from.

16 So I think that that does have a corrosive
17 influence on the public's view of the campaign
18 finance system. That in and of itself should be
19 sufficient to warrant change in the existing laws
20 that have not been changed for more than 25 years.

21 BY MR. THOMPSON:

22 Q And you have been very clear about that,

Page 16

1 system?

2 A As I have indicated earlier, I don't have
3 any knowledge of any specific instances of
4 corruption. But that shouldn't preclude Congress
5 from taking actions on egregious abuses that exist
6 within the campaign system as we know it today,
7 which is the millions of dollars that are coming in
8 through circuitous routes that are undisclosed,
9 unlimited and unregulated. That should suffice as a
10 basis for legislative action.

11 Q And is it the same answer for actual
12 corruption attributable to -- strike that.

13 Are you familiar with the term
14 "electioneering communications"?

15 A I certainly am.

16 Q What is your understanding, Senator, of
17 that term?

18 A That would be an ad that is designed to
19 influence the outcome of a federal election.

20 Q And for the purposes of today's
21 deposition, I'm going to use that term to refer to
22 political ads run in the 60 days prior to a general

Page 15

1 and I appreciate that. But I'm asking a different
2 question, not whether as a matter of law you need to
3 have examples of actual corruption, but whether in
4 fact you are aware of any examples of actual
5 corruption.

6 I take it that you are not, because I have
7 asked the question several times and you haven't
8 provided me with any examples of actual corruption.

9 MS. BREGMAN: Objection. Her answer will
10 be reflected in the written record. Her answer is
11 what the answer is, despite your recharacterization,
12 and the question has been asked and answered several
13 times. Do we want to keep going and --

14 MR. THOMPSON: I would like to get an
15 answer. It has been asked several times. The
16 Senator has been very eloquent about the appearance
17 of corruption and that that should be sufficient.

18 BY MR. THOMPSON:

19 Q I really have a separate question, which
20 emanates from your declaration. Are you aware of
21 any specific actual examples of corruption
22 attributable to soft money in the current political

Page 17

1 election that refer to a specifically identifiable
2 candidate and that are paid for out of corporate
3 general treasuries or union treasuries or similar
4 ads that are run 30 days prior to a primary. So
5 that's how I will use the term "electioneering
6 communication," if that's acceptable to you.

7 A It is.

8 Q And are you aware of any instances of
9 actual corruption attributable to electioneering
10 communications, or is it the same answer that you
11 gave for soft money?

12 MS. BREGMAN: Objection for the same
13 reasons as stated before and because you are not
14 providing any definition of the word "corruption" as
15 you are using it, when the witness herself has
16 equated corruption with the appearance of
17 corruption.

18 THE WITNESS: And that is significant.
19 That is significant in terms of public perception.

20 BY MR. THOMPSON:

21 Q I totally understand that, Senator. We
22 will talk at some length this morning about the

5 (Pages 14 to 17)

<p style="text-align: right;">Page 18</p> <p>1 appearance of corruption and the importance of that 2 issue. 3 You answered the question with respect to 4 soft money, and now I want to ask you with respect 5 to electioneering communications. Are you aware of 6 any specific instances of actual corruption 7 attributable to electioneering communications? 8 MS. BREGMAN: Let me just assert a 9 different objection, which is: that there haven't 10 been any electioneering communications at this 11 point. The Act is not yet functioning, and your 12 definition would equate any such ads with those that 13 would be covered by the Act which isn't yet in 14 effect. 15 MR. THOMPSON: With all respect, these 16 objections are really not going to the form of the 17 question. They are quite disruptive of the 18 conversation that the Senator and I are trying to 19 have. 20 We have seven hours today. We certainly 21 want to get the Senator out of here as quickly as 22 possible. I really object to these speaking</p>	<p style="text-align: right;">Page 20</p> <p>1 not just within the 60-day time frame that we are 2 speaking to in the statute. 3 Q Right, but there have been ads in prior 4 cycles that have met the definition of 5 electioneering communications that I have provided; 6 is that right? 7 A There may well be. They run continuously. 8 We are now defining in this statute specific 9 criteria by which one would identify an 10 electioneering ad, that it comes within the time 11 frame designed to influence the outcome of the 12 federal election. 13 Q Right. What I'm asking you is within the 14 universe of ads that would have fallen within 15 electioneering communications and that meet the 16 criteria that I have specified, are you aware of any 17 instances in which there was actual corruption 18 because of the airing of those ads? 19 MS. BREGMAN: I'm just going to have to 20 interject myself. Are you asking in her personal 21 capacity whether she is aware of something apart 22 from the legislative record, in her own personal</p>
<p style="text-align: right;">Page 19</p> <p>1 objections. 2 My definition was not prospective only in 3 nature. I never intended it to be. I'm defined 4 electioneering communications as any ad run at any 5 time, whether in past cycles or future cycles, that 6 meet the criteria I specified, 60 days prior to a 7 general election or 30 days prior to a primary, 8 referring to a specifically identifiable candidate 9 paid for out of general corporate treasury funds. 10 So let me try this again. 11 BY MR. THOMPSON: 12 Q The question is are you aware of any 13 specific instances of actual corruption attributable 14 to electioneering communications that have been run 15 in the past? 16 A The statute hasn't taken effect, and the 17 statute is what defines what will constitute an 18 electioneering ad. 19 Q Right, but there have been electioneering 20 ads in the past, right, ads that meet these 21 criterion that I have set forth? 22 A There are ads that can run continuously,</p>	<p style="text-align: right;">Page 21</p> <p>1 as-a-human-being capacity? 2 MR. THOMPSON: Yes. 3 THE WITNESS: I don't have any knowledge 4 of any specific instances. But, again, it gets back 5 to the appearance of corruption. 6 BY MR. THOMPSON: 7 Q Right. 8 A And the significant influence of that in 9 terms of the amount of money that is being expended 10 and by whom and in what way to influence a federal 11 election. 12 Q You referred in one of your prior answers 13 to egregious abuses in the current system. What 14 egregious abuses were you referring to? 15 A Well, you referred to soft money. Again, 16 the original law never intended, in my opinion, to 17 raise millions and millions of dollars through 18 political entities that require virtually no 19 disclosure, no regulation, no limitation, that are 20 the equivalent of what candidates are required to 21 abide by under the current federal election law. 22 So it is those millions of dollars that</p>

1 the public has no idea who is the source of those
2 funding the types of advertisements that they are
3 seeing during the course of an election,
4 specifically in that targeted period of time.

5 Q Now, both in your declaration and in your
6 testimony this morning you have used the term
7 "special interest money." What do you mean by
8 special interest money?

9 A Organizations that sponsor the
10 advertisements, different groups that have a
11 specific interest.

12 Q If a wealthy individual wants to run a
13 million dollars worth of ads on the environment,
14 would you say that that individual and the money he
15 spends promoting those such ads in his own name, is
16 that special interest money?

17 A Well, it would be interesting that you
18 raise that, since I'm not sure that anybody would
19 know who that individual was. That's the problem.

20 Q Leave aside the problem of disclosure.
21 Let's say that the individual says "paid for by
22 David H. Thompson" and runs these ads that are.

1 BY MR. THOMPSON:

2 Q Right, which I am permitted to ask today,
3 and your counsel won't tell you otherwise.

4 A That's correct.

5 Q It is a hypothetical question, but the
6 hypothetical is I think clear. And my question is
7 is that an example of special interest money?

8 A I think it is immaterial whether it is an
9 example of special interest money. What is
10 important is disclosure. That is critical. It is
11 disclosure and knowing the source, and people then
12 can determine whether or not they view it to be
13 special interest money.

14 But our aim is for full disclosure and
15 also developing the equivalent restrictions on those
16 types of ads during the course of an election within
17 a very specific, targeted period of time designed to
18 influence the outcome of a federal election.

19 I happen to think disclosure is very
20 important. Then the public can determine whether or
21 not it is a special interest, does it have
22 legitimacy in its beliefs. That's not for me to

1 pro-environment, protect the environment. Would
2 that be an example of special interest money?

3 A Well, again, first of all, disclosure is
4 important. It is significant to shed light on those
5 who do sponsor those types of advertisements.

6 You rarely do get disclosure with respect
7 to those types of ads during the course of a
8 campaign. They are not required to disclose who is
9 sponsoring those ads and how much money they are
10 spending on those ads. So the public really doesn't
11 have the ability to know who is financing it.

12 Q I'm asking you a hypothetical question in
13 which the sponsor of the ad is an individual, spends
14 a million dollars on the ad, fully discloses who he
15 is. And my question is, the money he spends, in
16 your opinion, does that meet your definition of
17 special interest money?

18 MS. BREGMAN: Objection; hypothetical.
19 How would she know that without knowing an awful lot
20 more stuff?

21 THE WITNESS: Again, it is a hypothetical
22 question.

1 determine; it's for the public to determine.

2 Right now they don't have that opportunity
3 to determine it because they have no way of knowing
4 in most instances who is sponsoring those ads, what
5 is the source of the funding.

6 Q I'm trying to figure out what you meant by
7 this term "special interest money" in your
8 declaration. Do you mean to say undisclosed money?
9 Is it synonymous with the term "special interest
10 money" as you are using it in your declaration?

11 MS. BREGMAN: Objection, because before
12 she did provide you a very clear definition of
13 special interest, as the record will reflect.

14 Do you want to repeat the question?

15 MR. THOMPSON: I guess it will be
16 necessary now. Please read the question back.

17 (The reporter read the record as requested.)

18 THE WITNESS: Again, it gets back to the
19 question of anyone who is spending money for the
20 purposes of influencing the outcome of a federal
21 election, most of which is not disclosed. So that
22 is important.

<p style="text-align: right;">Page 26</p> <p>1 So it doesn't matter whether it is 2 disclosed or undisclosed in terms of what is defined 3 as special interest. All should be treated with the 4 equivalent requirements as any candidate. 5 BY MR. THOMPSON: 6 Q I would like to turn to the appearance of 7 corruption, as your declaration refers to, a 8 perception of corruption. 9 Do Members of Congress, in your opinion, 10 believe the system is corrupt? Do they think there 11 is corruption in the system? 12 MS. BREGMAN: Objection; speech or debate. 13 What other Members of Congress think and have 14 communicated to this witness in connection with the 15 enactment of the legislation is within the speech or 16 debate clause. 17 I will allow limited questioning if you 18 are willing to provide it, without waiver and 19 subject to the objection. 20 Do you wish to answer the question, 21 because I will not instruct you not to if you wish 22 to answer the question?</p>	<p style="text-align: right;">Page 28</p> <p>1 with the current financing system that compelled 2 them to support public financing. 3 So obviously it was a reversal of their 4 original position, because they had been severely 5 affected by the way in which so much money has been 6 in the system. 7 Q Are you aware of any polls that reflect 8 the appearance of corruption among the general 9 public that you have referred to? 10 MS. BREGMAN: Asked and answered -- well, 11 answered. 12 THE WITNESS: As I mentioned earlier, in 13 1996, the Portland Press Herald published a poll 14 that indicated that 70 percent of the people in 15 Maine perceived that special interests had a greater 16 voice than their own voices in the campaign finance 17 process. 18 BY MR. THOMPSON: 19 Q And is that what you mean by the term 20 "corruption," "appearance of corruption"? 21 A Correct. 22 MS. BREGMAN: Objection; asked and</p>
<p style="text-align: right;">Page 27</p> <p>1 THE WITNESS: Again, can you repeat the 2 question? 3 BY MR. THOMPSON: 4 Q The question is this perception of 5 corruption, does it exist among Members of Congress? 6 A I can't speak for all Members of Congress, 7 but I can speak to the fact that we passed 8 legislation to reform the campaign financing system 9 for the first time in more than 25 years, since 1971 10 and 1974, the amendments. 11 Q Do members of the public think that the 12 current campaign finance system is corrupt? 13 A Definitely they perceive it to be. So 14 that is as important because it does undermine the 15 public's confidence in the integrity of the system 16 and the manner in which we are elected. So it 17 affects us individually and collectively. 18 As I referred to earlier, the referendum 19 that was passed in Maine, which was a reversal of 20 the people of Maine's position from an earlier 21 referendum in 1989, they did an about-face because 22 they were disenchanted, disappointed and disaffected</p>	<p style="text-align: right;">Page 29</p> <p>1 answered. 2 BY MR. THOMPSON: 3 Q Are you aware of any other polls that 4 reflect this appearance of corruption that you have 5 identified? 6 A I can't think of any specifically right 7 offhand beyond that one. But I have seen 8 indications in the past, yes. I have seen various 9 polls. I can't cite any specific other than the 10 Portland Press Herald, because that was one that I 11 used in my debate back in 1996, when we initiated 12 this legislation. 13 Q What does the legislation in Maine do? 14 How does it reform the system? And in particular, 15 I'm interested about electioneering communications. 16 Does it have any impact on those? 17 A No. Just the finances. If candidates 18 choose to go the clean election route, they will get 19 public dollars. 20 Q Does it place any restrictions on any 21 outside groups who want to run ads on the election? 22 A No, it does not.</p>

1 Q Do you base your statement in your
2 declaration and today about the appearance of
3 corruption by the public in part upon conversations
4 you have had with constituents?

5 A Obviously that is important, absolutely.
6 And also I should just indicate again it is the way
7 in which I think the public regards the campaign
8 finance system as it has evolved over the last few
9 decades. It has dramatically changed.

10 Q Do your constituents complain to you about
11 the number of political ads that bombard them during
12 the last 60 days of a campaign?

13 MS. BREGMAN: Objection; speech or debate.
14 Again, with the understanding that there is no
15 waiver, and with your permission, you can answer the
16 question.

17 THE WITNESS: I have had people indicate
18 that to me. In fact, this past August, when I was
19 doing street tours, I had people indicate to me that
20 they very much are concerned by some of the
21 advertisements.

22 BY MR. THOMPSON:

1 accountability. You really don't know the source of
2 the funding and the type of money that is involved
3 and paid for for these types of advertisements.

4 So it is a very different approach than I
5 think anybody would have ever conceived of or even
6 anticipated would evolve in the campaign finance
7 system.

8 Q Let's say you had a series of ads paid for
9 by the NRA PAC and that it collected its money
10 exclusively from members who gave less than \$200.
11 So they didn't have to disclose who those
12 individuals were. And it ran similar ads out of its
13 general corporate treasuries and, again, didn't
14 disclose who the donors were to fund those ads.

15 A They did?

16 Q Did not disclose either the PAC
17 contributors, because it raised the money
18 exclusively from those who gave less than \$200, or
19 the source of the general corporate treasury funds.

20 Do you think the general public draws a
21 distinction between these two types of ads?

22 MS. BREGMAN: Objection; speculation.

1 Q Does the general public draw a distinction
2 between ads paid for by PACs and ads paid for by
3 general corporate treasuries?

4 MS. BREGMAN: If you know.

5 THE WITNESS: Would you repeat that
6 question?

7 BY MR. THOMPSON:

8 Q Does the general public draw a distinction
9 between political ads paid for by PACs and political
10 ads paid for by general corporate treasuries?

11 A That's an interesting question, because I
12 think it gets to the heart of one dimension of the
13 problem with our current system, and that's
14 accountability and disclosure. That is absent in
15 our current system.

16 With the political action committee, you
17 are presuming, for example, that there is some
18 accountability. There is identification certainly
19 with a candidate-paid ad.

20 Many of the other types of ads that we are
21 witnessing during the course of these campaigns,
22 especially in recent times, really don't have any

1 Go ahead.

2 THE WITNESS: The question is what we know
3 and don't know. And as far as political action
4 committee sponsored advertisements, those are the
5 types of restrictions that were developed and
6 grounded in law. Those are the restrictions that
7 candidates live by and political action committees
8 live by, have to abide by, and the public knows how
9 much is contributed. The restrictions on those
10 donations and the donors have to be disclosed over
11 \$200.

12 So those are the restrictions and
13 requirements that candidates live by and political
14 action committees live by.

15 A very different story when it comes to
16 the other types of advertisements that do have a
17 significant influence on the outcome of a federal
18 election within a specific period of time. Those
19 donors are not disclosed, they use different types
20 of funds, unregulated, unlimited. So that's a very
21 different type of advertisement, and it may be that
22 the public understands that they are getting

<p style="text-align: right;">Page 34</p> <p>1 bombarded by advertisements for which there is no 2 accountability. 3 So I draw a huge distinction, because one 4 is accountable and disclosable and regulated and 5 limited and, on the other hand, the other 6 advertisement is not. So I think it goes to the 7 heart of the integrity of the process, making sure 8 that everybody is abiding by the same rules and 9 requirements in that specific, targeted period of 10 time, when it is obvious the objective is to 11 influence the outcome of a federal election. 12 BY MR. THOMPSON: 13 Q In your conversations with constituents, 14 have they drawn a distinction between ads paid for 15 by PACs and ads paid for by general corporate 16 treasuries? 17 A I can't cite any specific instance where 18 anybody has drawn a distinction. I don't think it 19 is necessary to draw a distinction. It is what we 20 know. 21 Frankly, I was astonished back in 1996, 22 when it was the first time I was not participating</p>	<p style="text-align: right;">Page 36</p> <p>1 Q Now, is it your hope and expectation that 2 BCRA will mitigate the effects of this bombardment 3 of negative political ads in the last 60 days of an 4 election? 5 MS. BREGMAN: Objection; speech or debate. 6 You can answer this question consistent with what we 7 have been doing. 8 THE WITNESS: It may well, it may well. 9 But what it certainly will do is develop an 10 equivalency of rules that everybody gets to live by 11 that will enhance the integrity of the process. And 12 that should be important to all of us. 13 BY MR. THOMPSON: 14 Q Do you think the rules pertaining to -- 15 actually, strike that. 16 Have your constituents complained to you 17 about the negative tone of political ads in the last 18 few years? 19 A Yes. 20 Q Do you share those concerns? 21 A Yes. 22 Q Do you think that the rules pertaining to</p>
<p style="text-align: right;">Page 35</p> <p>1 in an election because I had been elected to the 2 Senate in 1994 and the first time I had not 3 participated in an election in every other year 4 since 1973. So I had the first opportunity to see 5 what everybody else was witnessing on television, 6 incessant bombardment of advertisements for which 7 there was no accountability. That's what people are 8 exposed to. 9 So it is what we know and what we know the 10 public sees, and that's why the public becomes 11 disenchanted with the system. It creates cynicism 12 and skepticism, and that is a concern for all of us 13 collectively as an institution and individually as 14 officeholders. 15 So it is what we know. And we are the 16 only ones that can change it. We are in a position 17 to change the system to make it more accountable, 18 more responsive, more open. 19 Q When you say it is what we know, does the 20 "we" refer to yourself and other Members of 21 Congress? 22 A Correct.</p>	<p style="text-align: right;">Page 37</p> <p>1 electioneering communications will help change the 2 negative tone of political ads? 3 A Obviously we can't control content. 4 That's not the point. I think the point is making 5 sure that we develop a system that is consistent 6 with accountability and disclosure and, again, 7 making sure that everyone who is participating in 8 the process that is designed to influence the 9 outcome of a federal campaign lives by the same 10 rules. That's the point and objective here. 11 As we know, some of these ads and many of 12 these ads that are sponsored in a very specific 13 period of time -- it is no coincidence that they are 14 sponsored during that period of time -- come under 15 the guise of issue ads, but in fact they are 16 electioneering ads. 17 Q Do your constituents think that you are 18 corrupt? 19 MS. BREGMAN: Objection; hypothetical and 20 speculative. 21 But you can answer. 22 THE WITNESS: No, but they see that I'm a</p>

1 part of the system that has systemic failures. And
2 that's the problem. So that's what concerns me.
3 I feel an obligation to be responsive to
4 that concern, recognizing that there are serious
5 flaws within the system that need to be addressed,
6 and they have developed and evolved over the years
7 to the point that it has manifested itself in many
8 ways, one, in soft money and, two, in electioneering
9 ads by diverse organizations that are not required
10 to disclose their sources of funding.

11 BY MR. THOMPSON:

12 Q Do your constituents think that your
13 judgment has been affected by any electioneering
14 communications that have been run in any contest
15 that you have participated in as a candidate?

16 MS. BREGMAN: Objection; speculation.

17 THE WITNESS: Again, it gets back to the
18 system that I'm a part of. I, as an officeholder,
19 as a member of the United States Senate, feel an
20 obligation to respond to the concerns, to the
21 questions, to the skepticism, to the cynicism of my
22 constituents.

1 money, for elections. It was a very difficult
2 decision for the people of Maine to make, given the
3 many needs that exist in the state. But they were
4 prepared to do that because they are deeply
5 concerned about the way in which campaigns are
6 financed.

7 Q How often do you listen to the radio in an
8 average week?

9 A Sporadic. There will be some weeks that I
10 wouldn't listen to the radio.

11 Q When you do listen, are you listening to
12 channels like NPR that don't have ads or do you
13 listen to other types of --

14 A No, I listen to others. It is very
15 sporadic. I don't have the opportunity to listen to
16 the radio much.

17 Q Okay. I know the feeling. Have you
18 reviewed any scripts or audiotapes of radio ads that
19 have been broadcast within the 60 days prior to an
20 election?

21 A I haven't reviewed any recently, no.

22 Q Can you recall having done so at any time?

1 That's why I became involved in the
2 development of the Snowe-Jeffords Amendment, because
3 I thought it was important to at least address some
4 of the more serious flaws that exist in the current
5 system, understanding that people are concerned
6 about what has taken place. And it certainly has
7 changed dramatically over the years, certainly not
8 what we intended.

9 BY MR. THOMPSON:

10 Q Do you think there is more cynicism now
11 among the general public about the political process
12 than there traditionally has been?

13 A I don't have any evidence of recent polls
14 to suggest that. I don't know. But I do know there
15 is a high level of cynicism. Obviously it
16 manifested itself in Maine, when there was a
17 dramatic reversal in the public stance with respect
18 to public financing of state elections.

19 I think that underscores the level of
20 disenchantment and disappointment the people have
21 with the system. They were prepared to take that
22 step, prepared to spend their own money, taxpayers'

1 MS. BREGMAN: Apart from during
2 consideration of the bill?

3 MR. THOMPSON: At any time I'm asking.

4 THE WITNESS: Well, I'm sure I heard some
5 during the course of campaigns, but I just can't
6 recall a specific instance or a specific ad.

7 BY MR. THOMPSON:

8 Q Other than just generally hearing things
9 during your own campaigns, any other basis of
10 knowledge about the radio ads that are run in the 60
11 days prior to an election?

12 A No. Suffice to say that there are a lot
13 of ads that are run during that period of time. I
14 do know that. We all run ads during that period of
15 time. But I don't listen enough to the radio to
16 know how often and what types of ads are run
17 consistently.

18 Q Are you familiar with any studies or
19 analyses of radio ads?

20 MS. BREGMAN: Objection; speech or debate.
21 Again, whatever was before the Senator when the Act
22 was being considered is in the legislative record.

1 Are you asking her in some personal
2 capacity apart from that and more recently or
3 just -- I'm having trouble understanding what you
4 are asking her, in her individual capacity if there
5 is such a thing, as opposed to as a legislator in
6 considering the ad?

7 MR. THOMPSON: I'm just asking her the
8 question.

9 BY MR. THOMPSON:

10 Q I'm not trying to hair-split, divide your
11 brain into two parts. I'm just asking you are you
12 aware sitting here today of having reviewed any
13 analyses or studies of radio ads?

14 MS. BREGMAN: Same objection. I will let
15 you answer.

16 THE WITNESS: I can't recall. There may
17 be some cited in the legislative record, but I can't
18 recall specific ones at this point.

19 BY MR. THOMPSON:

20 Q Let's turn our attention to television.
21 How much time in an average week do you watch
22 television?

1 A Maybe two hours a day on the news.

2 Q Do you spend your weekends in the
3 Washington, D.C. area or up in Maine?

4 A In Maine mostly. Some weekends I do spend
5 here or other places. But generally more frequently
6 I'm home. Most weekends I'm in Maine.

7 Q Do you watch less television when you are
8 up for re-election or out campaigning?

9 A That's correct.

10 Q And, generally, do you watch less
11 television even when you are not up for reelection
12 because you are helping your fellow colleagues up in
13 Maine campaign?

14 A Correct. But I have a chance to see more
15 television when I'm not up for re-election.

16 Q Have you reviewed any scripts or
17 videotapes of television ads that run in the 60 days
18 prior to an election?

19 MS. BREGMAN: Same objection about asking
20 her something in her personal capacity as opposed to
21 as a deliberator on the Act.

22 But if you have seen any in any context, I

1 suppose you can answer.

2 THE WITNESS: I haven't personally
3 reviewed any scripts. Just television ads? You
4 mean scripts or specific ads that I have seen aired
5 on television?

6 BY MR. THOMPSON:

7 Q I guess I'm asking beyond the ones you
8 just saw during your normal television viewing time,
9 are you familiar of any other television ads that
10 have been run?

11 A I have seen ads for candidates on
12 television at home, federal candidates, yes.

13 Q I'm saying beyond your general viewing of
14 television, have you reviewed any compilations of TV
15 ads or scripts or videotapes of those ads?

16 A Yes, I did review some ads recently, yes,
17 for a candidate.

18 Q For a campaign?

19 A Yes.

20 Q Is that someone who is running for office
21 right now?

22 A That's correct.

1 Q Leaving that to the side, any other review
2 of TV scripts or videotapes that you have done?

3 A No, I can't recall any. I can't think of
4 any.

5 Q Do you ever meet with representatives of
6 special interest groups, like the Sierra Club, for
7 example?

8 A Yes, I meet with a number of people in my
9 office. They don't have to represent special
10 interests to have access to my office.

11 Q When you meet with -- let's stay with the
12 Sierra Club. When you meet with representatives of
13 the Sierra Club, are you meeting with them because
14 they represent constituents or for some other
15 reason?

16 A Because they represent constituents in my
17 state and have concerns about legislation that might
18 affect my state.

19 Q Will you please explain how speech that
20 qualifies as an electioneering communication gives
21 rise to an appearance of corruption.

22 MS. BREGMAN: Objection, based on the

Page 46

1 speech or debate clause that was vetted at length.
2 Again, without waiver and if you choose to, you can
3 try to answer the question.
4 THE WITNESS: Could you repeat the
5 question?
6 BY MR. THOMPSON:
7 Q Yes. Will you please explain how speech
8 that qualifies as an electioneering communication
9 gives rise to an appearance of corruption?
10 MS. BREGMAN: I believe that was also
11 asked and answered before. But go ahead.
12 THE WITNESS: Again, it gets back to the
13 question of ensuring the public has the right to
14 know what types of funds are being used in
15 sponsoring ads that influence the results of a
16 federal election, who is sponsoring those ads and
17 how much money is being spent on those ads.
18 So when those types of factors do not
19 prevail, yes, it does give the appearance, because
20 massive sums of money are being spent during that
21 period of time. There have been studies that have
22 indicated that \$100 million, for example, of all the

Page 47

1 money that was spent through the form of soft money
2 on electioneering ads was spent in the last two
3 months of the campaign.
4 So, yes, it does give rise to the
5 appearance. That's how the public perceives it.
6 BY MR. THOMPSON:
7 Q Leaving aside the issue of disclosure,
8 which you have spoken to extensively today, explain
9 what you mean by it's the amount of money. I don't
10 understand the dynamic that you are referring to.
11 A The dynamic of money?
12 Q Is it the amount of money contributed by a
13 particular individual to a group or is it the
14 overall amount of money spent by an organization?
15 MS. BREGMAN: Or both?
16 THE WITNESS: It would be both. You don't
17 know; that's the point. Many organizations and/or
18 individuals we would have no way of knowing spend
19 large sums of money that are unregulated, unlimited
20 because they don't come under the enforcement
21 mechanisms of federal campaign law as we know it as
22 candidates.

Page 48

1 So I think that obviously we are in a
2 different realm today, and that's what I think the
3 public has had a chance to witness. And it has
4 grown exponentially over the years. Soft money, in
5 1980, it was 19 million, and today it is 500 million
6 or more. I don't know the latest statistics in the
7 current election, but suffice to say something has
8 dramatically changed.
9 Something is terribly wrong with a system
10 that all this money can be raised and spent in
11 elections and no one knows the source, the type for
12 these ads or supporting activities in campaigns that
13 can influence the outcome. So there is something
14 systematically wrong with the campaign finance
15 process as we know it today.
16 BY MR. THOMPSON:
17 Q Let's say the NRA wants to run a lot of
18 television broadcasts, and to finance this activity,
19 including, not exclusively, during the 60 days prior
20 to an election. And let's say they go and raise two
21 pots of money. They go out and they raise a million
22 new members. Each one of those million members

Page 49

1 gives them \$25. So they have a \$25 million pot of
2 money in their corporate treasury fund. And let's
3 say then their PAC goes out to a million different
4 members and raises \$25 a head from them.
5 So the PAC has \$25 million and the
6 corporate treasury has \$25 million, and they run the
7 exact same ad, "George W. Bush will protect your
8 Second Amendment rights."
9 Is there a difference in the appearance of
10 corruption between those two ad campaigns?
11 MS. BREGMAN: Objection; calls for
12 speculation, hypothetical.
13 THE WITNESS: Well, we specify in the law
14 specific criteria that would trigger what
15 constitutes an electioneering amendment. So then
16 everybody will be accountable, living by the same
17 restrictions and criteria.
18 So there is a distinction, because if you
19 are talking about a political action committee, that
20 is obviously required to be disclosed, limited in
21 its contributions. There's a very big difference.
22 BY MR. THOMPSON:

1 Q You understand, Senator, that if the
2 contributions are less than \$200 in a cycle, then
3 contributors to a PAC don't need to disclose their
4 identity?
5 A Right. Everybody lives by that same \$200.
6 So everybody is living by the same requirements.
7 Q And I understand that. I'm not really
8 asking you what the law does or the distinctions the
9 law draws. You to have testified and put in
10 declarations saying there is a perception, an
11 appearance of corruption, and I'm asking you is
12 there a difference in the appearance of corruption
13 between the identical ads that are run in this
14 hypothetical that I have given you?
15 A Again, it gets back to the question of
16 types of funds used, the sources of those funds and
17 that the public has a right to know. And the fact
18 of the matter is there is a difference.
19 Q In terms of the right to know, in my
20 hypothetical, the public will not know who the
21 individual donors cutting the \$25 checks are, either
22 to the NRA itself or to the PAC. And my question is

1 why is it different?
2 You say it is different, but how is it
3 different if the NRA announces, for example -- let
4 me change the hypothetical. Let's say the NRA
5 announces that the moneys it collects into its
6 general corporate treasury funds that are used for
7 electioneering communications will be confined to
8 dues from voluntary members, \$35 a head. Would that
9 change the appearance of corruption, in your
10 opinion?
11 MS. BREGMAN: Objection. I don't
12 understand the question. Did you say if it
13 announces that?
14 BY MR. THOMPSON:
15 Q Yes. If the NRA has a formal policy
16 saying that when we run electioneering
17 communications with funds from our corporate
18 treasury, we will confine the sources of those funds
19 to contributions from individual members not
20 exceeding \$35 a member. Would that change the
21 appearance of corruption, in your opinion?
22 MS. BREGMAN: Objection; hypothetical,

1 asked and answered.
2 THE WITNESS: It would be very difficult
3 to develop a system in which you are trying to
4 enhance the public's confidence by depending on an
5 inconsistent response.
6 So there would be no difficulty for the
7 NRA, for example, to do what this legislation would
8 require you to do.
9 BY MR. THOMPSON:
10 Q You are saying that the NRA can raise the
11 same amount of hard money as it can hard money? Is
12 that what you are saying?
13 A That's correct. That's the requirement of
14 this legislation.
15 Q That is the requirement.
16 A So there's no difficulty there for you.
17 Q What is the basis for your statement that
18 there is no difficulty for the NRA to raise this
19 money through its PAC?
20 A Well, you just gave me two examples. So I
21 was saying that if you could do it on the one hand,
22 then you could do it on the other hand. Maybe I

1 misunderstood you.
2 Q I was giving you a hypothetical. You seem
3 to be changing to the real world. Let's deal with
4 the real world for a minute here.
5 A Okay.
6 Q Do you believe that the NRA will be able
7 and other similarly situated groups will be able to
8 raise just as much money to fund electioneering
9 communications through their PACs as they do now
10 through individual member contributions?
11 MS. BREGMAN: Objection. That really
12 calls for her to speculate as to something that I'm
13 not sure she would know. If you have a feeling, I
14 think that was the question.
15 THE WITNESS: I would have no way of
16 knowing what the NRA could or could not do in
17 raising hard money for a political action committee.
18 But that is the requirement of candidates.
19 That's the current federal requirement
20 that we think should be applicable to organizations
21 that are involved in influencing the outcome of
22 federal elections so that everybody knows and

1 everybody is living by the same standards.
2 It is not denying you the ability to
3 express or convey your message to a constituency, to
4 whomever. We are just saying what types of funds
5 can be used under those circumstances in a very
6 nuanced way in a very targeted period of time.

7 MR. THOMPSON: At this point I would like
8 to have marked as Snowe Exhibit 3 --

9 MS. BREGMAN: Let's just take a short
10 break.

11 (Recess.)

12 MR. THOMPSON: At this point, I would like
13 to have marked as the next couple of exhibits a CD,
14 the contents of which have been previously produced.
15 This will be Exhibit 3.

16 (Snowe Exhibit 3 identified.)

17 BY MR. THOMPSON:

18 Q Senator, with your permission, I would
19 like to bring this down and show you a video.

20 (Whereupon, the video was played.)

21 MS. BREGMAN: Were you able to hear the
22 ad?

1 of corruption attributable to an ad by the NRA
2 responding to this ad?

3 MS. BREGMAN: Objection; hypothetical.
4 Could you do that one more time?

5 BY MR. THOMPSON:

6 Q Senator, let me first say that I can show
7 you the ads, if you are interested, but
8 Mr. Shriver's opponent in the Democratic primary,
9 which is where this ad was run, was also running
10 negative ads about the NRA.

11 So the NRA, assume for purposes of this
12 question, did not care whether Mr. Shriver won or
13 his opponent won, both of whom were attacking the
14 NRA.

15 Let's say the NRA ran an ad that said,
16 "Why are Mark Shriver and his opponent lying about
17 the NRA? The NRA has never supported legislation
18 that would permit felons to own handguns. Call them
19 and tell them to stop lying about the NRA."

20 If the NRA ran such a communication on
21 television within the 30 days prior to this
22 Democratic primary, how would there be an appearance

1 THE WITNESS: Not all of it. I got the
2 drift of it.

3 MR. THOMPSON: We will mark as Exhibit 4
4 now a document that is the ad.

5 (Snowe Exhibit 4 identified.)

6 BY MR. THOMPSON:

7 Q Please turn to the second page of this
8 document, Exhibit 4. It is the top half of that
9 page which reads, "Mark Shriver: I stood up on the
10 floor of the House of Delegates this year and
11 defeated a piece of legislation backed by the NRA
12 that would have allowed convicted felons to own
13 handguns. That's bad public policy.

14 "We shouldn't allow people who are
15 convicted of domestic violence to own a handgun. We
16 need trigger locks on our handguns, we need to
17 eliminate the gun show loophole, we need to make gun
18 licensing the law of the land.

19 "So I welcome the fight from the NRA
20 because nothing would give me more pleasure than
21 defeating the NRA."

22 Senator, how would there be an appearance

1 of corruption emanating or relating to such an ad?

2 MS. BREGMAN: Objection; speech or debate.
3 You can answer, if you choose to.

4 THE WITNESS: Well, again, what was
5 outlined in the legislation that became law was
6 specific criteria that would trigger the
7 requirements of what would constitute an
8 electioneering ad.

9 So it doesn't deny the NRA its ability to
10 communicate your message to that particular district
11 in that particular primary. It is just the types of
12 funds that are being used. It doesn't ban your
13 ability to express yourself as an organization with
14 respect to a particular candidate's position in a
15 particular primary.

16 BY MR. THOMPSON:

17 Q You are referring to the fact that the NRA
18 political Victory Fund, its PAC, could run a
19 responsive ad. Is that what you are saying?

20 A Yes. You would be running it using hard
21 dollars --

22 Q Let's say --

1 A -- and disclosure.

2 Q Let's say Mr. Shriver uses his own
3 substantial personal wealth to fund these attack ads
4 on the NRA. Doesn't that create an uneven playing
5 field, where he can dip into his own fortune, attack
6 the NRA, and we are stuck trying to raise hard
7 dollars to respond to that? Is that fair?

8 A Again, there are only so many issues I
9 think that we can address in a particular piece of
10 legislation when it comes to overhauling the
11 campaign finance system. Obviously someone using
12 their own personal wealth, as we know, is an
13 unrestricted ability, even in the eyes of the court.

14 So the fact of the matter is the NRA does
15 have the ability to raise money, just like every
16 candidate has the ability to raise money. So the
17 same types of funds would have to be used for
18 communication within a very specified period of
19 time, 30 days before the primary. Your organization
20 would be required to abide by the same law that
21 applies to every candidate and political action
22 committee using the same types of funds.

1 Q But how is it fair if a candidate can dip
2 into their own personal fortune and the NRA can't go
3 to a likely, similarly situated philanthropist who
4 agrees with their issue and say, hey, can you give
5 us the money to respond to these attack ads funded
6 by personal wealth of an individual who happens to
7 be running for office? Why is that fair?

8 MS. BREGMAN: Objection. That was the
9 question she just answered.

10 BY MR. THOMPSON:

11 Q Well --

12 A I can't speak to Mark Shriver's personal
13 wealth. But what I can speak to is developing the
14 equivalency in terms of the types of requirements
15 that should be part of our campaign finance system
16 between and among all those who participate in that
17 process, because the public has the right to know.

18 It is not denying your organization the
19 ability to convey that message. It is not denying
20 your organization the ability to raise those funds.

21 So talking about one individual's personal
22 wealth, that is not true for most candidates who run

1 for public office. The question is how best to
2 finance a system that elects individual candidates
3 for public office, and there are many means to
4 distribute that message. You have the ability, as
5 any other organization, to raise that money.

6 Q Now, let's say that an incumbent, let's
7 say Vice President Gore during 2000, goes on the
8 Today Show and launches an assault on the NRA, says
9 the NRA is opposed to anything that promotes safety
10 in America, and he doesn't have to pay a dime for
11 that national exposure. And let's say the NRA isn't
12 given equal air time. Then why should there be
13 restrictions on the NRA's response to such an
14 attack?

15 MS. BREGMAN: Objection; speech or debate.
16 There are restrictions. It is in the law.

17 MR. THOMPSON: Are you testifying now?

18 MS. BREGMAN: No. I'm making an
19 objection. Please wait until I finish.

20 The question you are asking goes directly
21 to the reasons why some things were chosen to be
22 covered by the law by our legislators and why other

1 things weren't. It is core speech or debate. I
2 thought I had been giving the witness enormous
3 latitude to answer your questions. They are
4 protected.

5 MR. THOMPSON: Are you finished?

6 MS. BREGMAN: No.

7 MR. THOMPSON: Okay. Go on.

8 MS. BREGMAN: If the witness chooses to
9 speak, despite the fact that the questions are
10 directed to speech or debate areas, she may. But
11 some of your questions are so specifically directed
12 at things that were considered during the enactment
13 of the law that I think I will have to instruct the
14 witness not to answer.

15 Let's try that question one more time and
16 see which side I think it properly falls in.

17 MR. THOMPSON: Actually, I want to make
18 clear, you concede that this is the Senator's
19 privilege, not your privilege?

20 MS. BREGMAN: I understand that.

21 MR. THOMPSON: The Senator has been very
22 forthcoming.

1 BY MR. THOMPSON:
2 Q I appreciate that, Senator. Your attorney
3 is permitted to make these objections.
4 But I would like you to listen to the
5 question, and if you want to answer it, assuming for
6 the moment that your counsel's objection is well
7 founded -- which we don't concede -- but that may
8 expedite matters.
9 So please read the question back.
10 (The reporter read the record as requested.)
11 MS. BREGMAN: I reassert the privilege.
12 Would you give me one moment to confer
13 with the witness as to whether she wishes to abide
14 by the privilege?
15 (Counsel conferred with the witness.)
16 MS. BREGMAN: I will not instruct her.
17 The witness wishes to answer this question.
18 THE WITNESS: Again, it doesn't restrict
19 NRA's ability to respond. The legislation specifies
20 certain criteria that comes within the scope of
21 electioneering ads. If we are talking about a
22 60-day period, a 30-day period, you can continue to

1 to loosen the grip oil-producing nations have on us,
2 to make responsible plans for the future that employ
3 better technology and American know-how to decrease
4 our dependence on oil.
5 "That's why we want to thank Senators
6 Olympia Snowe and Susan Collins for voting to make
7 Detroit manufacture better cars that get better gas
8 mileage and for refusing to bend to pressure and
9 lies from the auto industry.
10 "Call Senator Snowe and Collins at
11 202-224-3121. Tell them that an energy bill that
12 does nothing to reduce our dependence on oil, or
13 that sacrifices special places like Arctic National
14 Wildlife Refuge, is just unacceptable. Ask them to
15 vote for a cleaner, cheaper, safer energy plan --
16 for our families, for our future.
17 "Paid for by the Maine Chapter of Sierra
18 Club."
19 Senator, were you aware of this ad before
20 I just showed it to you?
21 A No. I might have been informed at some
22 point that some group was running an ad. I don't

1 express yourself, but it will be through a different
2 venue than currently is the case.
3 So there are no restrictions on your
4 ability to respond to Vice President Gore. But,
5 obviously, it is not on the same level playing field
6 when you are talking about the public media.
7 BY MR. THOMPSON:
8 Q Now, I would like to continue showing you
9 some other specific ads and get your reaction to
10 those.
11 Let's go ahead and mark as Snowe Exhibit 5
12 the following document.
13 (Snowe Exhibit 5 identified.)
14 BY MR. THOMPSON:
15 Q Senator, I would like to direct your
16 attention to the second page of this. I will
17 represent to you that it is an ad that the Sierra
18 Club has been running this year up in Maine on the
19 radio. It is the second ad on page 2, and it reads,
20 "on September 12th, we hugged each other harder and
21 looked with new eyes at our families, our fellow
22 Americans and the future. And we realized we needed

1 know if it was this one or not. So I can't recall.
2 Q Assume for the purpose of this question
3 that this ad is being run within 30 days of a
4 primary or 60 days of a general election. Do you
5 think there is an appearance of corruption that
6 arises out of this ad?
7 MS. BREGMAN: Same objections and the
8 privilege assertion as before.
9 You can answer, if you wish.
10 THE WITNESS: Again, we are drawing
11 distinctions between what are considered so-called
12 issue advocacy ads but really are designed in the
13 guise of electioneering ads in a specific period of
14 time that is intended to influence the outcome of a
15 federal election. So as we have identified it in
16 the legislation that became law, there is very
17 specific criteria about which there is no dispute.
18 BY MR. THOMPSON:
19 Q Right. I understand those criteria. I'm
20 not asking you to apply those criteria to this ad.
21 I'm asking a different question, which is do you
22 believe that there is an appearance of corruption

<p style="text-align: right;">Page 66</p> <p>1 that would arise out of the airing of this ad in the 2 30 days prior to Senator Collins' primary or 60 days 3 prior to her general election? 4 A The problem is it is part of a system of 5 failures. That's what we are attempting to address 6 in the legislation that became law. We wanted to 7 reform our campaign system because we are now seeing 8 the evolution of these types of ads that are 9 purported to be issue advocacy but also have the 10 intent of influencing the outcome of a federal 11 election. 12 Now, there may be some that might not, but 13 in the final analysis, it is no coincidence that the 14 preponderance of ads, as well as the majority of the 15 money, overwhelming majority of the money, is spent 16 in the final weeks and months of the campaign. 17 So I think we should construct the same 18 criteria for these types of ads sponsored by 19 organizations as we do for candidates who are 20 participating in a federal campaign. 21 It is a systemic problem that has 22 manifested itself in these ads that now represent</p>	<p style="text-align: right;">Page 68</p> <p>1 ask you to do the same with other ads that I show 2 you. 3 Could you explain why this ad is part of 4 the problem? Forget the other ads. Why is this ad 5 a part of the problem? 6 MS. BREGMAN: I want to object. I do not 7 think that a member of the Senate has to explain why 8 a particular ad was part of the reason for the 9 enactment of legislation. 10 MR. THOMPSON: You are the first of your 11 six colleagues to interpose any objection to this 12 type of question. 13 Senator Feingold answered all these 14 questions. Senator McCain answered these types of 15 questions. Representative Meehan answered these 16 types of questions. This is the first time we have 17 had this type of objection to this line of inquiry. 18 I would invite the Senator, who has 19 already started answering some questions about this, 20 to answer this as well. 21 MS. BREGMAN: We appreciate your 22 invitation.</p>
<p style="text-align: right;">Page 67</p> <p>1 almost a half a billion dollars or more in the 2 current election. It certainly was \$500 million in 3 the last election. So we can only assume that it is 4 going to even be much greater now. 5 Q Is this ad part of the problem? 6 MS. BREGMAN: Objection; speech or debate. 7 You can respond. 8 THE WITNESS: Yes, it is part of the 9 problem, what you have represented in this ad, that 10 the preponderance of these ads are being run in that 11 specific period of time. 12 So we are saying that you have specific 13 criteria to address the flaws in the current system 14 so that people understand the purpose of these ads. 15 It is a question of whether or not we think it is so 16 significant that we have to change the existing laws 17 to advance the interests of government. 18 BY MR. THOMPSON: 19 Q Well, I appreciate your answer speaking to 20 the preponderance of other ads. But I want to put 21 those other ads and the totality of the picture of 22 ads to the side and really focus on this ad. I will</p>	<p style="text-align: right;">Page 69</p> <p>1 First, I do not necessarily know it to be 2 the case that this is the first time that an 3 objection was raised. Secondly, the privilege is, 4 of course, specific to any particular legislator, 5 who can rely upon it or not. 6 We have allowed your questions, and the 7 Senator is answering your questions. And now you 8 are asking if one particular ad. You haven't asked 9 her whether it falls within the Act, which I think 10 she might have answered. But you are asking whether 11 it would have supported the legislation. That 12 question is not appropriate. 13 MR. THOMPSON: In your opinion. With all 14 respect, you are the first one of your colleagues to 15 interpose and take that position. 16 MS. BREGMAN: That means nothing to me. 17 MR. THOMPSON: Okay. I guess I won't 18 comment upon that. 19 I will show the Senator a series of ads. 20 We will not fixate on this one. I have a manila 21 file folder of some other ads that have been used in 22 other depositions. It is not going to exceed the</p>

1 scope of what has been used in other depositions.
2 But I have eight or nine of these ads.
3 BY MR. THOMPSON:
4 Q I'm just trying to get your understanding
5 of why this ad is a problem. Let me ask it this
6 way.
7 Have you been committed to environmental
8 causes and protection of the environment throughout
9 your career and as a candidate?
10 A Yes, I have.
11 Q And Senator Collins as well?
12 A Yes, she has.
13 Q Do you think that anyone listening to this
14 ad would think that you or Senator Collins, your
15 position on the CAFA standards was in any way
16 influenced by this radio ad?
17 A Well, the point is that there is an
18 evolving universe of advertising that is escaping
19 the enforcement mechanisms of the current federal
20 election laws, and that's what this legislation is
21 striving to address.
22 So while we may want to look at one

1 Q I understand and appreciate that. Going
2 back to my question, which is do you think anyone
3 who listened to this ad would think that you or
4 Senator Collins had taken your position because of
5 these types of ads being run by the Sierra Club?
6 A There are all types of ads being run
7 during that course of time.
8 Q Yes.
9 A There are many, many ads. So that's the
10 point, is that we are now saying that if it comes
11 within a 60-day period before a general election, 30
12 days before a primary, any ad which identifies an
13 individual who is running for office has to use
14 certain types of funds, as do the candidates, and
15 they have to be disclosed. A very specific
16 criteria.
17 Q With all respect, are you familiar with
18 the comments that you submitted to the FEC with
19 regard to their Title II regulations?
20 A Yes. I don't know which specific ones you
21 are referring to.
22 Q Do you recall that there were certain

1 individual ad, the public is exposed to a voluminous
2 number of ads. And it is totality.
3 It is no coincidence that the
4 preponderance of these ads are run during a key
5 period of time before the election. It is no
6 coincidence about the timing or the effect or
7 identifying individuals who are up for election or
8 re-election.
9 So that's why we developed very specific
10 and targeted criteria, because I think the public
11 has the right to know who is sponsoring these ads,
12 what types of funds are being used, and we should
13 develop the equivalency so that everybody is
14 operating by the same rules, that these ads are not
15 flying under the radar and are becoming in some way
16 stealth advocacy, but, yet, are not required to
17 abide by the same laws that the candidates are
18 during the course of an election.
19 So it is striving to do that, while not
20 denying any organization or individual its ability
21 or his or her ability to communicate to whomever
22 they want to communicate.

1 types of ads that would fall within the literal
2 confines of Snowe-Jeffords that you all asked the
3 FEC to exempt, such as MCFL, Massachusetts for
4 Citizens for Life type organizations?. Are you
5 familiar with that?
6 MS. BREGMAN: If you recall what was in
7 the FEC paper, you can certainly answer. If you
8 would like him to put it in front of you --
9 THE WITNESS: I would like to review it so
10 I make sure I know what I'm speaking to.
11 MR. THOMPSON: Sure.
12 I would like to have marked as Snowe
13 Exhibit 6 the following document.
14 (Snowe Exhibit 6 identified.)
15 BY MR. THOMPSON:
16 Q Is that your signature on page 2 of this
17 document, Senator?
18 A Yes, or it is authorized by me.
19 Q I show you this document at the present
20 time just to refresh your recollection that there
21 were certain categories, were there not, of
22 broadcast ads that would fall within the literal

<p style="text-align: right;">Page 74</p> <p>1 confines of Snowe-Jeffords but that you asked the 2 FEC to exempt. And one example of that would be on 3 page 10. 4 (Witness examined the document.) 5 Does that refresh your recollection, 6 Senator? 7 A Yes, it does. 8 Q The reason I'm asking you these questions 9 about specific ads, Senator, is because in these 10 comments to the FEC, you and your colleagues have 11 drawn distinctions between ads that fall within the 12 literal definition of electioneering communications. 13 So we believe we are entitled to probe the basis of 14 the distinctions that you yourself have drawn in 15 these FEC comments that you have signed or had 16 authorized to have signed on your behalf. 17 So putting aside other ads, I want to go 18 back to Snowe Exhibit 5, the one that was run that 19 references you and Senator Collins, and just ask you 20 to focus on this ad and answer whether you think 21 anyone that listens to this ad would think that you 22 and Senator Collins were influenced by the airing of</p>	<p style="text-align: right;">Page 76</p> <p>1 re-election if it is run within the 60-day period of 2 the general election. 3 Q My question is is there a problem with 4 that and, if so, what is it? 5 MS. BREGMAN: Objection; asked and 6 answered. 7 THE WITNESS: I have answered the 8 question. 9 BY MR. THOMPSON: 10 Q Let me ask this question. I don't think 11 you have answered this one. 12 Do you think anyone would think that 13 Senator Collins' position on drilling in the Arctic 14 National Wildlife Refuge would be influenced by this 15 type of radio or broadcast ad? 16 MS. BREGMAN: Objection; calls for 17 speculation. How could she possibly know what 18 anybody would think? 19 BY MR. THOMPSON: 20 Q Your lawyer is not a witness. So you are 21 permitted to answer. 22 A It is true. What we can do as</p>
<p style="text-align: right;">Page 75</p> <p>1 this communication in your judgment on the issues 2 that are identified here. 3 MS. BREGMAN: Same objection, same 4 privilege. 5 You can answer, if you know it. 6 THE WITNESS: It comes within the scope of 7 our specified criteria. 8 MS. BREGMAN: Are you pointing -- 9 THE WITNESS: The Sierra Club ad, are you 10 referring to that? 11 BY MR. THOMPSON: 12 Q Yes, I am. We have now established that 13 some things that fall within the specified criteria 14 you don't think should be covered under the statute 15 or as interpreted in the regs. That's why I showed 16 you the comments. 17 I'm really trying to get beyond whether 18 this is merely covered under the statute or not and 19 have you explain whether there's a problem with the 20 type of ad that the Sierra Club ran here and, if so, 21 if you would identify it. 22 A It identifies a candidate who is up for</p>	<p style="text-align: right;">Page 77</p> <p>1 officeholders is identify problems, and we look at 2 the totality of the problem. It is the collective 3 impact. It is the millions and millions and 4 millions of dollars that are raised through 5 circuitous means to evade the current federal 6 election laws, that are unregulated, unlimited and 7 most not disclosed. 8 I mean exceptional amounts of money that 9 are devoted to this purpose that undermines the 10 integrity of the process and therefore erodes the 11 confidence of the public. So that's what they are 12 witnessing and exposed to in election after 13 election. And it has exponentially grown. 14 You only have to look at the numbers from 15 election to election just from the presidential 16 campaign in '92 to now, in the year 2000. It has 17 grown by more than 500 percent in terms of soft 18 money that is used for this purpose. 19 So it is that particular problem that we 20 seek to address in this legislation in a very 21 narrow, targeted way so that it doesn't infringe 22 upon any organization or individual to express</p>

1 themselves but express themselves by the same rules
2 and requirements as the candidates in a very narrow
3 period of time. Then everybody knows who is
4 participating in the election and what sources of
5 funds and who is supporting that funding so that we
6 have disclosure and accountability.

7 That's what this is all about. I don't
8 think it is difficult to understand. If you are
9 looking at the totality of the problem that we are
10 facing, it is massive amounts of money. People are
11 bewildered, and that affects the public's
12 perception.

13 It gets back to the issue of corruption.
14 If the public perceives the system to be corrupt,
15 then we have to address that, because perception can
16 be viewed as reality, and that's a problem for each
17 and every one of us. We can't ignore that
18 perception.

19 Q I understand that point, Senator. My
20 question -- let me ask you a separate question about
21 this specific ad. Do you understand this ad to be
22 urging the listener to vote for Senator Collins?

1 were being conducted and financed.

2 BY MR. THOMPSON:

3 Q But the Maine experience, as you have
4 articulated to me -- and if I'm missing part of the
5 picture, please fill it in -- that doesn't really
6 speak to electioneering communications, does it, in
7 that outside groups are unaffected by Maine's clean
8 election laws, as I understood you to describe it?

9 A No, it doesn't, but it uses public funds
10 to support candidates so that they don't have to
11 raise their money from outside interests.

12 MR. THOMPSON: Let's mark as the next
13 exhibit a document bearing Bates number NRA 09579.
14 (Snowe Exhibit 7 identified.)

15 BY MR. THOMPSON:

16 Q This ad, Exhibit 7, reads, and it has a
17 picture of John McCain on it -- and, actually,
18 Senator, let me describe this to you. This is a
19 so-called story board collected by the Brennan
20 Center for Justice. They paid CMAG, which was an
21 outfit that collects these through electronic means.

22 They purport to have the full text of the

1 MS. BREGMAN: Her own personal reading of
2 it?

3 MR. THOMPSON: Yes.

4 THE WITNESS: It could. The fact of the
5 matter is when an ad of this kind is being aired at
6 a point in time that it can influence an election,
7 it should be identified as such. There's a major
8 distinction, because the overwhelming amounts of
9 money that are now being raised through soft money
10 are used for these types of ads, and most of these
11 ads are being aired in a very limited time before
12 the election. It is no coincidence as to why; they
13 are attempting to influence the outcome.

14 It is the cumulative effect that these ads
15 are having on the public's perception of the
16 process. That's why Maine people voted for public
17 financing. Believe me, I can tell you, they could
18 use their money for many other purposes and needs,
19 you know. But they ultimately resigned themselves
20 to the fact that they had to finance these campaigns
21 through taxpayers' dollars, because they are so
22 concerned about the manner in which these campaigns

1 ad, and then they have a picture every four seconds
2 of what appears on the television screen.

3 Have you seen one of these story boards
4 before, Senator?

5 A I think so. These story boards, these are
6 developed before the ad?

7 Q No. What CMAG does is they search all
8 television stations in the 75 largest markets and
9 they capture any ad that is two minutes or
10 shorter -- any TV segment two minutes or shorter,
11 and then they sort it out into political and
12 nonpolitical, and then they reduce it to so-called
13 story board format.

14 My question is whether you have ever seen
15 any of these CMAGs before.

16 A No, I haven't.

17 Q This one reads, "For years special
18 interests and big money have had a negative
19 influence on our local, state and national
20 elections. Arizona's clean election law changes
21 that. In 1998, you voted for the Clean Elections
22 Act and restored voter confidence in the electoral

1 process. Clean Elections works well to overcome the
2 influence of special interests. It gives Arizonans
3 the power to create good government. Keep
4 supporting Clean Elections. Paid for by the Clean
5 Elections Institute, Inc."

6 Senator, assume that this ad was run in
7 the 30 days before Senator McCain's primary in
8 Arizona in connection with his campaign to win the
9 Republican nomination in 2000. Do you think this ad
10 gave rise to an appearance of corruption?

11 MS. BREGMAN: Same objections and same
12 privilege.

13 You can respond.

14 THE WITNESS: Again, we have identified
15 certain ads as electioneering ads, that they should
16 be identified as such under the current campaign
17 finance system.

18 BY MR. THOMPSON:

19 Q I understand that, Senator. But that's
20 really not my question, because we have established,
21 as your comments to the FEC state, that some of the
22 ads that technically fall within the literal

1 outcome.

2 That's why we are saying that the same
3 requirements should be prescribed for those
4 organizations as it is for candidates and the same
5 types of funds, same types of disclosure
6 requirements. That's important, I think, and
7 essential to restoring the public's confidence in
8 the integrity of the system, yes.

9 MR. THOMPSON: I would like to mark as the
10 next exhibit a document that bears the Bates number
11 BRE 001223.

12 (Snowe Exhibit 8 identified.)

13 BY MR. THOMPSON:

14 Q Again, Senator, this is another one of
15 these story boards. It reads: "It is almost too
16 much to swallow. Year after year the federal
17 government takes a bigger piece of the pie. In
18 fact, in 1998 we will pay more in federal taxes than
19 at any time in American history except for World War
20 II. And now with the budget surplus, in 30 years
21 all the Washington politicians can talk about is
22 getting their hands on more of your dough. Call

1 language may or may not be a problem. We have asked
2 the FEC to draw certain lines.

3 So I just want to focus on this particular
4 ad and ask you is this ad part of the problem in
5 terms of the appearance of corruption?

6 A Yes, it is. It is the totality and it is
7 the collective impact and the weight of the millions
8 of dollars that are raised through back channels as
9 well as the types of ads that are aired prior to an
10 election that have a direct impact on the results of
11 that federal election. That's what the statute that
12 we enacted is designed to address.

13 Q Do you think this ad is urging the viewer
14 to vote for John McCain?

15 MS. BREGMAN: Her personal reading of this
16 ad?

17 MR. THOMPSON: Yes.

18 THE WITNESS: It could. We identified as
19 part of the criteria showing an individual's name or
20 likeness. So the point of this ad could be, yes.
21 It is an ad that's run during an immediate period
22 shortly before an election that could influence the

1 Harry Reid and John Ensign. Tell them no matter who
2 goes to Washington, you want them to cut your taxes.
3 Otherwise they'll nothing left but the crumbs."

4 Do you think this ad, Senator, was urging
5 the viewer to vote for one of these candidates?

6 A Again, it is hard for me to know how the
7 viewer would perceive it. It is part of a failed
8 and flawed system that gives rise to the
9 preponderance of these ads shortly before an
10 election. I think the public has the right to know
11 who is sponsoring these ads, and if it is
12 identifying an individual who is up for re-election,
13 then it should come under the same criteria as other
14 campaign activity that is required of candidates.

15 Q Don't you think, Senator, that an ad like
16 this that references both candidates, doesn't
17 contrast one versus the other, isn't part of the
18 problem?

19 MS. BREGMAN: Objection. That again goes
20 to the core of speech or debate.

21 You can answer, if you choose to.

22 THE WITNESS: It should be identified for

1 what it is. Getting back to the specific criteria
2 in the law, we lay out the requirements that would
3 trigger what would constitute an electioneering ad.
4 We think they are very specific, very narrow,
5 identifying a period of time that comes within a
6 period that influences the results of a federal
7 election.

8 I think it does get to the heart of the
9 public's confidence in the system, to know the
10 sources of these funding, the sources of the
11 sponsorship and the fact that you see millions and
12 millions of dollars worth of ads that are being
13 aired at this specific moment in time. That I think
14 goes to the essence of the problem, because it does
15 erode the public's confidence.

16 These ads aren't being sponsored by
17 candidates. They are sponsored by an organization
18 that doesn't have to identify its donors, doesn't
19 have to identify its source of funding. That does
20 not advance the government's interest.

21 All we are saying is live by the same
22 rules and requirements as candidates during a very

1 all, what would that new ad fulfill these criteria?

2 MS. BREGMAN: Objection. That calls for
3 her to apply something in a written document to
4 something specific.

5 If you think you can answer that question,
6 you can.

7 THE WITNESS: I assume that you are -- I
8 should ask you. "Call Harry Reid and John Ensign,"
9 so that would be adjusted?

10 BY MR. THOMPSON:

11 Q The Senator is referring to the sixth
12 story board, which says "call Harry Reid and John
13 Ensign." And let's say that was gone and it was
14 just another snapshot of the pie that was being
15 featured. Would that satisfy the criteria?

16 A Yes.

17 Q The change from Harry Reid and John Ensign
18 to "your Senator and his opponent," why does that
19 make a difference, in your opinion?

20 MS. BREGMAN: I think the response is set
21 forth in the paragraph after the one you were
22 reading on paragraph 10. If you are asking for her

1 narrow, targeted period of time.

2 BY MR. THOMPSON:

3 Q All right. I don't mean to cut you off.

4 A That's okay.

5 Q Let's say this ad were changed and instead
6 of the tag line starting with "Call Harry Reid and
7 John Ensign," let's say instead it said, "Call your
8 Senator and his opponent. Tell them no matter who
9 goes to Washington, you want them to cut your
10 taxes." Would that ad fulfill the criteria that you
11 have specified in Snowe Exhibit 6, which is your
12 comments to the FEC?

13 MS. BREGMAN: Please take your time to
14 read that.

15 (Witness examined the document.)

16 THE WITNESS: And you said call your
17 Senator?

18 BY MR. THOMPSON:

19 Q "Call your Senator and his opponent. Tell
20 them no matter who goes to Washington, you want them
21 to cut your taxes."

22 My question is how does that -- first of

1 own interpretation of what was set forth in the
2 comments that were prepared in conjunction with
3 counsel, I suppose you can do that.

4 Why don't you take your time to review
5 some of the document that reflects your view at the
6 time.

7 (Witness examined the document.)

8 THE WITNESS: All right. I think that it
9 is clearly explained in our letter to the FEC.

10 BY MR. THOMPSON:

11 Q I assume you are referring to "permitting
12 the use of 'your Congressman' and similar
13 expressions that clearly identify the person or
14 persons to be contacted, but continuing to prohibit
15 the use of a candidate's name, makes it less likely
16 that the exemption will be used to accomplish an
17 electoral objective."

18 Why is that so?

19 A Because you are not specifying the name.
20 We were very careful not to be sweeping in our
21 attempts to draft the very specific criteria.

22 Q So you --

<p style="text-align: right;">Page 90</p> <p>1 A We made a very clear distinction that 2 identifying a candidate by name or by likeness or by 3 both, to make it very clear so that we are not 4 overreaching in our attempt to draw the distinction 5 between what would be an issue advocacy ad and an 6 electioneering communication, understanding the 7 concerns of the Court. 8 Q Let me give you the following hypothetical 9 and ask you whether this hypothetical would satisfy 10 the criteria set forth in the comments to the FEC. 11 Let's say the Sierra Club runs the 12 following ad and says, "The Arctic National Wildlife 13 Refuge is a national treasure, it is home to 14 numerous species of animals. Call the President and 15 tell him not to rape the Arctic National Wildlife 16 Refuge by drilling for oil there." 17 Would that ad satisfy these criteria? 18 MS. BREGMAN: Which criteria? 19 MR. THOMPSON: The criteria in the FEC 20 comments that are specified on page 10. 21 THE WITNESS: Yes. 22 BY MR. THOMPSON:</p>	<p style="text-align: right;">Page 92</p> <p>1 addresses the concerns that the public has with the 2 current system. And it is the accumulation. You 3 can look at study after study. You have to only 4 look at the accumulation of these ads in their 5 totality from election to election and what has 6 happened. They have grown exponentially from 7 election to election. We are up to \$500 8 million-plus of soft money infused to support this 9 type of advertising. 10 So we developed a very targeted approach. 11 You may find some faults here and there, but I think 12 it comes within the realm of what the Court I think 13 would support, with overbreadth and vagueness. 14 BY MR. THOMPSON: 15 Q Just going back to your statement on page 16 11 of your comments again, where you say it is less 17 likely that ads that have the tag of "your 18 Congressman," as opposed to the name. Why do you 19 draw the distinction between listing Harry Reid by 20 name and just saying "your Senator"? 21 A Well, again, if we didn't attempt to do 22 that, I suspect there would be a different challenge</p>
<p style="text-align: right;">Page 91</p> <p>1 Q Do you think that ad would, if run in the 2 60 days prior to an election, be viewed by the 3 average listener as urging them to vote against the 4 President? 5 MS. BREGMAN: Same objections as before. 6 If you know what the average listener would think, 7 you can answer. 8 THE WITNESS: Obviously I can't conjecture 9 in terms of how the viewer would perceive that ad in 10 terms of how he or she would cast a vote. But in 11 crafting this legislation, we attempted to be very 12 specific in our criteria and were attempting not to 13 overreach and to provide specific criteria that 14 could be identified in making a decision in terms of 15 what constituted an issue advocacy ad or an 16 electioneering ad, trying to draw the bright line 17 test to ensure that there was a distinction over 18 which there would be no dispute or debate, to make 19 it very clear in responding to the Court, in either 20 being too vague or too overreaching. 21 So we drew that line. Now, it may be an 22 imperfect line, but we drew a line that we think</p>	<p style="text-align: right;">Page 93</p> <p>1 to this question. Obviously, if an organization is 2 attempting to convey a position on a particular 3 issue, then it is immaterial in terms of the 4 person's name, but it is the position. 5 By the use of the name specifically, 6 running these ads where the preponderance of ads are 7 being aired shortly before an election, there's a 8 primary objective involved. There is no 9 coincidence about that. 10 There is no coincidence about the fact 11 that most of these ads are run in that period of 12 time before an election identifying individuals by 13 name who are running for election or re-election, 14 with the obvious objective of influencing the 15 outcome of that election. That's why millions of 16 dollars are being raised through soft money to 17 support these types of ads to advocate the election 18 or defeat of an individual candidate. 19 That's why we wanted to develop some 20 specific criteria by which you could measure what 21 was truly an issue ad and what was an electioneering 22 ad, a very clear distinction, so the stealth</p>

1 advocacy is exposed for what it is.
2 Q Do you think the general public, if they
3 were to watch Snowe Exhibit 8, the ad about Harry
4 Reid and John Ensign, or to sit and watch it as it
5 appears in this story board and then were to sit and
6 watch our amended version, that they would draw a
7 different inference from those two ads?
8 MS. BREGMAN: Objection; calls for
9 speculation.
10 THE WITNESS: Again, I can't speculate in
11 terms of how someone might perceive it or influence
12 their vote. But clearly it does make a difference.
13 If it didn't make a difference, they might not be
14 asking the question. By virtue of the fact that
15 they are using a name obviously can make a huge
16 difference in influencing that vote.
17 That's why many organizations are running
18 these types of ads shortly before an election. If
19 an organization is truly interested in conveying a
20 position on an issue, they don't have to identify
21 the candidate. All they can say is "call your
22 Congressman, call your Senator, call Congress, call

1 the Senator," with a telephone number, conveying
2 their position, give the telephone number of the
3 specific Senator or member of Congress, and you
4 could achieve the same result.
5 MR. THOMPSON: I would like to have marked
6 as the next exhibit, Exhibit 9, the following
7 document.
8 (Snowe Exhibit 9 identified.)
9 BY MR. THOMPSON:
10 Q Senator, this is another one of these
11 story boards. I would like you to assume that this
12 was run in the 60 days prior to Senator Hatch's last
13 re-election bid. The ad reads: "America's greatest
14 generation. They gave us peace, prosperity and a
15 better world. Senator Orrin Hatch knows they
16 sacrificed for us and he's always supported them
17 time and again. Now Medicare spending for nursing
18 home care is \$15 million less than Congress
19 budgeted. America's greatest generation needs Orrin
20 Hatch's help again. Senator Hatch is a leader.
21 Call. Ask him to restore Medicare funding for
22 nursing home care. Keep the promise. Paid for by

1 Alliance for Quality Nursing Home Care."
2 Do you think this ad was urging the
3 listener to vote for or against Senator Hatch?
4 MS. BREGMAN: Same objections.
5 You can respond.
6 THE WITNESS: Again, I can't speculate
7 about how someone might perceive this. Clearly it
8 is designed to influence the outcome. I would
9 perceive it just the way I perceived it in 1996,
10 when I had the opportunity, sitting out that
11 election for the first time in 20 or more years, not
12 being in an off year -- in an election, I had the
13 opportunity to witness the incessant bombardment of
14 these types of ads to the voters in that particular
15 period of time, not sponsored by the candidates but
16 other organizations that are not required to live by
17 the same law that candidates are.
18 So they are sponsoring ads to the tune of
19 millions of dollars. These are just an example of
20 the multiplicity of ads that are aired during that
21 particular period of time. Again, it is no
22 coincidence as to why they are being aired during

1 that period of time. They are designed to
2 influence.
3 BY MR. THOMPSON:
4 Q Is it harder for candidates to get their
5 campaign message out now than it was 10 years ago
6 because of these issue ads that are being run?
7 A I think it has changed the dynamic in
8 elections. One of the interesting and I think
9 unfortunate results of the manifestation of these
10 types of ads has been that these ads are run for or
11 against a candidate but don't say "vote for/vote
12 against." Most candidates don't run ads that even
13 say that.
14 If candidate X said "that ad misrepresents
15 my position," candidate Y might say, "well, you
16 know, I didn't sponsor that ad, it was some
17 organization of which I had no control," that is
18 another troubling development with a proliferation
19 of these types of advertisements from organizations
20 about whom we do not know because they are not
21 required to disclose and they are using sources of
22 money that are not required to be disclosed and huge

1 sums of money are being raised that circumvent the
2 restrictions that candidates are required to adhere
3 to.

4 So I think that that is a troubling
5 development. It is a disturbing one, and it has had
6 a profound effect on the public's perception of the
7 way in which this system is financed, each of us
8 individually and collectively.

9 Q Do you think that BCRA will help
10 ameliorate this situation in which candidates are
11 losing control of their campaign messages?

12 A Obviously the intent is to be able to
13 identify serious flaws within the system. Obviously
14 we can't address all issues in totality, but we can
15 identify the most egregious and begin to address
16 those so that at least the public has some awareness
17 of who is participating in these elections that
18 influence the outcome.

19 Who is responsible? What types of funds
20 are being used? I think that is important to
21 enhancing the accountability of the process,
22 absolutely. It goes to the heart of our system.

1 Q Do you think it is going to make it
2 easier for candidates to control their message and
3 get their message out during campaigns after the
4 BCRA goes into effect?

5 A I personally would hope so. I can't speak
6 for everyone. But I think it helps to ensure the
7 candidate is at the forefront of his or her campaign
8 in sponsoring the kind of advertisements that that
9 candidate is accountable for and can speak to. I
10 think that's a big difference than having the types
11 of ads that are being aired now that really do, I
12 think, undermine the integrity of the process.

13 Q And returning for a moment to Snowe
14 Exhibit 9, the ad about Senator Hatch, do you
15 understand this ad to be urging the listener to vote
16 for Senator Hatch or against Senator Hatch?

17 A Obviously they are in favor of Senator
18 Hatch. So I think that it is designed to do that.
19 One need not put "vote for" or against to indicate a
20 preference for an individual candidate, especially
21 if this ad is being aired shortly before the
22 election. It certainly can have that effect.

1 We are saying if these ads are being run
2 during that period of time, then they ought to live
3 by certain standards.

4 MR. THOMPSON: Let's mark as Snowe
5 Exhibit 10 the following document, another story
6 board.

7 (Snowe Exhibit 10 identified.)

8 BY MR. THOMPSON:

9 Q It reads: "There's a nursing home crisis
10 in America. Despite record budget surpluses,
11 Medicare has been cut by billions, seniors' access
12 to quality nursing home care threatened. 'Caring
13 for the elderly, it becomes your life. But with
14 Medicare cuts my job is much harder.' Call. Tell
15 Al Gore to fight to restore the Medicare cuts. Keep
16 the promise. 'Help me help those who need it the
17 most.'"

18 Senator, do you understand this ad to be
19 urging the listener to vote for or against a
20 candidate?

21 MS. BREGMAN: Are we assuming it was
22 run --

1 MR. THOMPSON: Yes. That's a helpful
2 clarification. Thank you.

3 BY MR. THOMPSON:

4 Q Assume it was run within 60 days of the
5 general election of 2000.

6 A Yes.

7 Q Do you understand it to be urging the
8 listener to be voting for or against Al Gore?

9 A Yes.

10 Q Is it clear to you which it is?

11 A That would be my interpretation.

12 Q That it is urging the listener to vote for
13 Al Gore?

14 A I wouldn't view this as a positive ad for
15 him.

16 Q You view it as a negative ad?

17 A Yes. That would be my perception.

18 MS. BREGMAN: Are we moving to the next
19 one?

20 MR. THOMPSON: Yes.

21 MS. BREGMAN: Can we take two minutes?

22 MR. THOMPSON: Yes.

1 (Recess.)

2 BY MR. THOMPSON:

3 Q Senator, do you think the American
4 public's attention on matters of important policy is
5 at its zenith in the weeks leading up to an
6 election?

7 A Well, I think there's no question that
8 people are focused on the campaigns as they get
9 closer to an election.

10 Q And are they also focused on the
11 ramifications, the outcome those campaigns will have
12 on issues?

13 A Depending on the candidates' positions. I
14 can't say specifically about how the public views
15 certain candidates, but I think obviously they are
16 influenced by the advertisements, yes.

17 Q My question isn't so much the influence
18 that the ads may or may not have on the public, but
19 whether the public is particularly tuned in and
20 cognizant of important issues during the weeks
21 leading up to a general election.

22 MS. BREGMAN: Asked and answered.

1 already have. Tell Jim Matheson to make a decision.

2 This issue is too important to ignore. Paid for by
3 the U.S. Chamber of Commerce."

4 Do you think this ad is urging the viewer
5 to vote for or against Jim Matheson?

6 MS. BREGMAN: Same objections as before.
7 Where was the ad run?

8 MR. THOMPSON: In his district.

9 THE WITNESS: 60 days before an election?

10 BY MR. THOMPSON:

11 Q Yes.

12 A Then clearly it is designed to express a
13 point of view about him and his position. It is
14 certainly not a positive ad.

15 Q I understand that.

16 A I don't think I would like it.

17 Q None of us would. But it is a slightly
18 different question. Do you understand this ad to be
19 urging the viewer to vote in the election for or
20 against Representative Matheson?

21 MS. BREGMAN: Your personal opinion, you
22 can offer that.

1 THE WITNESS: Yes. I think, obviously,
2 they are, in conjunction with an individual
3 candidate's position.

4 BY MR. THOMPSON:

5 Q Moving on to just a few more of these ads,
6 and then we will be done with this exercise.

7 I would like to mark as the next exhibit,
8 Snowe Exhibit 11, the following story board.

9 (Snowe Exhibit 11 identified.)

10 BY MR. THOMPSON:

11 Q Senator, again, please, for purposes of
12 this question or these questions about this story
13 board, assume that it was run within the 60 days
14 prior to a general election.

15 "Jim Matheson can't decide what position
16 to take on prescription drug coverage for seniors.
17 He doesn't support the common sense plan passed by
18 the House of Representatives. He doesn't support
19 Bill Clinton's big government plan. Tell Jim
20 Matheson the big government plan is the wrong way to
21 go. It gives seniors no choice, and it could cause
22 millions of seniors to lose the coverage they

1 THE WITNESS: Well, it is certainly not
2 urging them to vote for him. You don't have to use
3 specific words to convey a message. The fact is it
4 becomes much more effective not to. Most ads don't
5 say vote for or against. They are not that overt in
6 communicating the idea that he obviously doesn't
7 take a certain position with respect to prescription
8 drug coverage that this organization favors.

9 So clearly it is my view they are very
10 explicit about their views towards him and his
11 position on a key issue. And since it is running in
12 that targeted period of time, it is also clearly
13 intended to influence the outcome of that election.
14 It is not being run in January of the year.

15 Q Right. Let's --

16 A This ad is not run in January of the year,
17 is it?

18 Q No, it is not.

19 A It is obviously running in a 60-day period
20 before the general election, obviously with an
21 express purpose in mind.

22 Q Would your opinion change about this ad if

1 you were told that there was an upcoming vote on
2 this piece of legislation during the 60 days prior
3 to the general election?

4 A Well, then again, it doesn't have to
5 identify that individual in that limited period of
6 time before an election by name. It could put his
7 telephone number up and say "call Congress," call
8 whatever his telephone number is to communicate your
9 view with respect to a position on a key issue if it
10 should occur shortly before the election.

11 It doesn't often happen, but it could. I
12 understand that. So, again, looking at what's at
13 stake here, one could accomplish the same goal by
14 placing the telephone number, calling that office.
15 That would achieve the same purpose without having
16 to identify him by name shortly before the election,
17 which is what exactly the preponderance of these ads
18 are doing. They are not being run any other time of
19 the year. In a two-year period, they happen to run
20 in the last two months before an election.

21 Q If an ad --

22 A Not all legislation occurs at that period

1 Q What I was intending to get at -- and I
2 apologize if it was unclear -- is an ad that was run
3 for, let's say, six months prior to a general
4 election continuously. Would that, in your opinion,
5 make it clearer that the ad was not intended to
6 influence an election?

7 A But at a certain point, it would be within
8 that defined period of time. That's where we say
9 there is a difference. I don't think that's
10 burdensome to establish the same requirements for
11 the airing of those ads for the sake of the
12 accountability and integrity of the process.

13 We are talking about millions of dollars,
14 millions and millions of dollars that are being used
15 for this express purpose. So we can't address every
16 isolated incident.

17 But what we can address is the cumulative
18 impact that these ads have and the millions of
19 dollars that are being aired shortly before an
20 election. Obviously they are playing a key role in
21 federal elections. That's what we are attempting to
22 address.

1 of time.

2 Q If an ad were run for several months prior
3 to the 60-day window in which BCRA kicks in prior to
4 a general election, would that be an indication in
5 your opinion that it was not being run to influence
6 the outcome of the election?

7 A Well, less likely to have that impact.
8 You mean outside the 60-day window?

9 Q Yes.

10 A We were not trying to be overreaching in
11 terms of drawing a distinction or that bright line
12 between what would be the operative period that
13 would constitute an electioneering ad.

14 MS. BREGMAN: Were you asking if the ad
15 were only run prior to the 60 days?

16 MR. THOMPSON: No.

17 MS. BREGMAN: I think your question was
18 unclear, whether she was supposed to be answering
19 about an ad running within the period or only
20 earlier. Could you do that again?

21 MR. THOMPSON: Sure.

22 BY MR. THOMPSON:

1 Q Just to finish up on what has been marked
2 as Snowe Exhibit 11, the ad that addresses Jim
3 Matheson, is this ad in your opinion a negative ad
4 generally about Jim Matheson, or is it urging the
5 listener to vote against Jim Matheson?

6 A It is a negative ad. I wouldn't want this
7 ad to be run against me. That's how I perceive it.
8 I think the message is quite clear. "He doesn't
9 support Bill Clinton's big government plan," "tell
10 Jim Matheson the big government plan is the wrong
11 way to go." "He doesn't support the common sense
12 plan passed by House of Representatives."

13 I wouldn't want that being run before my
14 election, shortly before, because that obviously is
15 a key period of time.

16 MR. THOMPSON: I would like to mark as
17 Snowe Exhibit 12 the following document.

18 (Snowe Exhibit 12 identified.)

19 BY MR. THOMPSON:

20 Q Exhibit 12, Senator, is an ad featuring
21 John McCain. He is speaking on a proposition that's
22 on the ballot in Michigan. Let's say that this ad

Page 110

1 was run in the year 2000, within 30 days of his
2 primary against George W. Bush. The ad reads:
3 "Michigan knows me as a fighter for common sense
4 reform. Education reform that results in improved
5 performance of our children is at the top of my
6 list, which is why I support Proposal 1. Proposal 1
7 will initiate regular teacher testing and protect
8 public school funding. And it gives choice to
9 parents of kids trapped in failing schools.
10 Proposal 1 is vital reform for our kids. You are
11 the one who can put kids first. Vote yes on
12 Proposal 1."
13 Do you think the airing of this ad would
14 give rise to an appearance of corruption?
15 MS. BREGMAN: Same objections.
16 You can answer.
17 THE WITNESS: Again, it is part of the
18 system that is flawed and failed because the system
19 gives rise to the proliferation of these ads that
20 ultimately are dominating a very specified campaign
21 period supported by millions and millions of dollars
22 that there is no accountability for. That's the

Page 112

1 Q Let's put the case aside. I was just
2 using that as a shorthand, and I think it confused
3 the matter.
4 Let's say this ad was run by a
5 not-for-profit corporation, a voluntary membership
6 association, it does not take any contributions from
7 corporations of any kind and it does not have
8 business activities. Let's say it is devoted to
9 promoting education reform, let's say, and it
10 decides it wants to run this ad because Senator
11 McCain is known as a champion for reform, and they
12 ask him to do the ad.
13 If they sponsor it then and if it runs 30
14 days prior to his campaign, do you think that such
15 an ad would give rise to an appearance of
16 corruption?
17 MS. BREGMAN: I have the same objections
18 because while you have dropped the name of the case,
19 you are addressing something that was specifically
20 considered by Congress and is a very specific area
21 of the law.
22 If you have an understanding and want to

Page 111

1 essence of the problem.
2 BY MR. THOMPSON:
3 Q Now, let's say the organization that
4 sponsored this qualified under the Supreme Court's
5 decision in Massachusetts Citizens for Life and that
6 it was a not-for-profit voluntary membership
7 organization not taking money from corporations,
8 et cetera. At that point do you think there would
9 not be an appearance of corruption resulting from
10 this ad?
11 MS. BREGMAN: Objection, and I invoke the
12 speech or debate clause. I also want to say that
13 this witness is neither a lawyer nor a
14 Constitutional scholar.
15 If you have an understanding of what this
16 question is about and want to answer the question,
17 obviously you may do so, since you are the Senator.
18 But it is certainly a question that you do not have
19 to respond to, given the speech or debate clause.
20 THE WITNESS: I can't answer. I don't
21 have an informed opinion on that particular case.
22 BY MR. THOMPSON:

Page 113

1 provide an answer, you can.
2 THE WITNESS: Well, is the case
3 fundamental to this ad?
4 BY MR. THOMPSON:
5 Q I'm saying leave aside the case. I'm
6 trying to put the case to the side and just identify
7 a sponsor that has the characteristics that I
8 identified.
9 A Well, it is getting back to the law that
10 was enacted by Congress. We delineated very
11 specific criteria by which we would make a
12 determination of what constituted a pure issue
13 advocacy ad and an electioneering ad. If it falls
14 within that specified period of time, it becomes
15 abundantly clear it will be considered an
16 electioneering ad.
17 It could be aired outside of that scope of
18 30 days before the primary. There's nothing to
19 prohibit it or prohibit the organization from
20 communicating in many other ways in the form of
21 direct mail or newsletters, door to door or whatever
22 the case may be.

1 What we are saying, in that limited period
2 of time, any organization that doesn't adhere to the
3 criteria laid out in the law, which is very
4 specific -- there is nothing vague or ambiguous
5 about the criteria -- it triggers the requirements
6 under the new law.

7 Q Is the appearance of corruption heightened
8 when the speaker is a corporation or union, in your
9 opinion?

10 MS. BREGMAN: Same objection.

11 See if you can answer if you have a
12 position on that or a personal sense.

13 THE WITNESS: I think that the Court has
14 already established the ability of Congress to
15 impose limitations on corporations and unions with
16 respect to electioneering and political activities.

17 So our legislation is an extension of
18 that, because we want to do everything we can to
19 reduce the appearance of corruption in the process
20 and the way in which it is financed.

21 So when you get back to the \$500
22 million-plus that are infused in campaigns with no

1 can be raised in the form of soft money in a
2 multitude of ways with no accountability and to be
3 used for the purpose of supporting these types of
4 advertisements.

5 So, understanding the Court's concerns
6 about overbreadth and vagueness, we tried to create
7 a framework that we think is pretty direct,
8 straightforward, unambiguous, to get at the heart of
9 the problem.

10 BY MR. THOMPSON:

11 Q As a matter of public policy, do you think
12 there is a qualitative difference in the appearance
13 of corruption between ads sponsored by a corporation
14 and ads sponsored by a wealthy individual?

15 A I think that it always gets to the heart
16 of the problem however it is done, and I think the
17 point is here that we are attempting to design a
18 system that really will make it clear what
19 constitutes political activities and what doesn't
20 and what types of funds are going to be used for
21 that specific purpose to say what it is so that the
22 public is aware of who sponsors that.

1 accountability, no disclosure, no regulations, no
2 limitations, yes, it does create that appearance.
3 If people are perceived to be corrupt, obviously we
4 have a serious problem we need to address, and
5 that's a governmental interest at stake here.

6 BY MR. THOMPSON:

7 Q As a matter of public policy, do you think
8 there is a difference between political ads run by
9 corporations and political ads run by limited
10 liability companies?

11 MS. BREGMAN: Speech or debate clause.
12 You can answer.

13 THE WITNESS: I think the point is we
14 attempted to address as much of the problem as we
15 could in this legislation to achieve a consensus.
16 We could impose those restrictions. So we did it on
17 corporations and unions. We established criteria by
18 which one could determine what is or isn't an
19 electioneering ad in a short period of time, because
20 it does have an effect on our elections.

21 Obviously, there is no coincidence, as I
22 said earlier, of the fact that millions of dollars

1 Now, we could address corporations and
2 unions, because there's a precedent for that. You
3 are talking about wealthy individuals? Well, we are
4 talking about requiring disclosure and the types of
5 funds that can be used.

6 Q Do you have an opinion as to whether the
7 Internet should be regulated as part of BCRA?

8 MS. BREGMAN: Objection; speech or debate
9 clause. Her opinion was set forth in the
10 legislative history. It is set forth in comments to
11 the FEC. It is immaterial what her personal opinion
12 is here.

13 If the Senator wishes to answer, she may.

14 THE WITNESS: It is part of the
15 legislative history, and it is obviously included in
16 this letter before us today.

17 BY MR. THOMPSON:

18 Q That's really what I'm asking about.
19 Obviously, you put in these comments. So I want to
20 focus on the comments.

21 I'm not asking you about statements that
22 you made on the floor of the Senate. I read them.

1 I know them. I'm not asking about those.
2 In terms of these comments that were put
3 in to the FEC, are you familiar with the fact -- let
4 me ask you this as a factual question -- that some
5 Internet sites have running video on them?

6 A I suppose I know that. I hadn't thought
7 about it. I know that some do, yes.

8 Q Are you concerned to the extent that --
9 strike that.

10 Tell me, if the NRA puts together a
11 five-minute piece attacking Al Gore by name on his
12 Second Amendment positions and they broadcast it
13 over the Internet, how is that any different in
14 terms of the appearance of corruption cited in your
15 declaration than the same broadcast aired over the
16 television?

17 MS. BREGMAN: Objection; speech or debate.
18 Again, you are asking for why is one thing subject
19 to the law and why isn't another thing subject to
20 the law and why did Congress draw the lines that it
21 drew. I can't imagine anything that goes more to
22 the core of the speech or debate clause.

1 included. So that was one of the criteria.

2 BY MR. THOMPSON:

3 Q I understand, Senator. My question really
4 focuses on your declaration. When you say that the
5 system is widely perceived to be corrupted, do you
6 believe that part of that perception is attributable
7 to the Internet?

8 A Well, I think the Internet, it certainly
9 hasn't arrived at the same equivalency when it comes
10 to broadcasting over television and/or radio.
11 Obviously those mediums reach a far greater degree
12 of individuals than the Internet would at this point
13 in time. But certainly there are possibilities in
14 the future, and obviously we will continue to
15 address any of the gaping holes that may exist in
16 the future as the Internet evolves with respect to
17 political communications.

18 Q And I appreciate that answer. What I'm
19 really trying to hone in on is whether you have any
20 factual basis for believing at the present time that
21 the Internet is giving rise to the appearance of
22 corruption referenced in your declaration.

1 Because you have comments here in written
2 form, if you want to direct the witness to the
3 comments, allow her to refresh her recollection as
4 to what those comments were, and given her
5 understanding of the hypothetical, if she can answer
6 your question, she may.

7 BY MR. THOMPSON:

8 Q Your declaration, paragraph 4 that we
9 started the deposition with, makes reference to a
10 system that's widely perceived to be corrupted.
11 Information conveyed by the Internet, is that part
12 of the basis for your contention that the system is
13 widely perceived to be corrupted?

14 MS. BREGMAN: Same objections.

15 You can answer, if you have an answer.

16 THE WITNESS: I think we are looking at
17 the totality of the system. Obviously, in this
18 letter, as you can see, we disagree, however, with
19 the blanket exemption for communications over the
20 Internet.

21 The aim of our legislation that became law
22 was for reaching 50,000 or more individuals to be

1 MS. BREGMAN: Same objection; same
2 privilege.

3 If you have an understanding that allows
4 you to answer.

5 THE WITNESS: I don't have any specific
6 examples with respect to the Internet.

7 BY MR. THOMPSON:

8 Q Do you believe that print advertisements
9 that appear in major newspapers paid for by
10 corporations out of their general corporate treasury
11 funds give rise to the appearance of corruption
12 identified in paragraph 4 of your declaration?

13 MS. BREGMAN: Same objection, same
14 privilege.

15 You can answer.

16 THE WITNESS: We exempted print
17 communications. We essentially addressed the media
18 that is licensed and regulated by the government.

19 BY MR. THOMPSON:

20 Q And I'm asking a slightly different
21 question, which is you have stated that you believe
22 that the current system is widely perceived to be

<p style="text-align: right;">Page 122</p> <p>1 corrupted, and I'm asking you is that statement 2 predicated in any way on advertisements paid for by 3 corporations out of their general treasuries that 4 run in newspapers? 5 A Well, we are addressing the most egregious 6 flaws in our system. Again, it gets back to 7 developing a very specific nuanced approach to the 8 most serious flaws that exist, and that's what we 9 did in this legislation. 10 So that was to identify the electioneering 11 ads and the use of corporate and union funds during 12 that very targeted period. Obviously, that's an 13 example of the most serious problems facing the way 14 we treat finance the system and obviously through 15 soft money and other means. So that's what we 16 attempted to do in this instance. 17 So we exempted printed communications 18 because generally the Court wouldn't view it that 19 way or uphold it. We specified regulated and 20 licensed media. We thought that was in our realm of 21 authority. 22 Q But just as a factual matter, do you</p>	<p style="text-align: right;">Page 124</p> <p>1 broadcasts, not on newspaper. 2 Q And I'm really not asking you why you drew 3 the distinction or what distinction you drew. I'm 4 asking you a factual question. You made a factual 5 statement in your declaration. I'm trying to 6 understand the bases for that factual statement. 7 My question remains whether 8 communications, political ads run in newspapers paid 9 for by corporations naming a candidate in the 60 10 days prior to an election are part of your belief 11 that there is an appearance of corruption in the 12 political system. 13 A Again, it gets back to a flawed system and 14 how that money is raised and by what means and 15 through what sources. The problem that has 16 manifested itself in current campaigns is the 17 evolution of soft money and the predominant position 18 that it holds in elections in financing of the types 19 of ads that ultimately affect the outcome of federal 20 elections. 21 So I happen to believe in accountability 22 and disclosure. So I can say yes, we want to have</p>
<p style="text-align: right;">Page 123</p> <p>1 believe personally that communications run in 2 newspapers that are paid for by corporations that 3 reference a candidate that attack a candidate by 4 name in the 60 days before an election give rise to 5 an appearance of corruption? 6 MS. BREGMAN: Same objection. I can't 7 imagine what her personal opinion on that, how that 8 is relevant to the constitutionality of the 9 legislation. 10 But if you have a personal opinion, go 11 right ahead. I think you have stated it. 12 THE WITNESS: Whether I agree or disagree 13 or what I view in terms of an ad, who it is 14 sponsored by in the newspapers, the fact of the 15 matter is we chose to focus on broadcast 16 communications. 17 BY MR. THOMPSON: 18 Q I understand that, Senator. But I'm 19 asking a different question. 20 A That reaches the greatest proportion of 21 the population, obviously. That's why most of the 22 money is spent in airing of television and radio</p>	<p style="text-align: right;">Page 125</p> <p>1 more accountability and more disclosure, even with 2 respect to print. But you have to draw some lines 3 in order to ensure that these laws are upheld. So 4 we drew a bright line test. We tried to satisfy all 5 concerns that we were not overreaching. 6 Q If you wanted to learn in depth about a 7 particular environmental issue, will you be more 8 likely to turn to the Sierra Club's Web site or to 9 one of the leading TV broadcast company's Web sites? 10 A That's not how I personally get my 11 information when I'm being informed on an issue. 12 Q Okay. 13 A Maybe my staff does. That's generally not 14 how I get my information to develop a position on an 15 issue. 16 Q Do you have any knowledge of whether -- 17 not your staff. But do you have any knowledge as to 18 whether the Sierra Club Web site is more 19 content-rich on environmental issues than ABC News's 20 Web site, for example? 21 A No. I have no way of knowing that. 22 Q Do you know whether the Internet has</p>

1 changed the way in which information is disseminated
2 in the United States and, in particular, changed the
3 the way in which the American people learn about
4 issues?

5 A It could. I can't say firsthand, but it
6 certainly has the possibilities of having more
7 information that's accessible at home. But I have
8 no way of knowing at this point.

9 Q Are you familiar with the fact that most
10 of the major TV broadcasting companies are now owned
11 by large corporate parents?

12 A Yes.

13 Q And do you know whether the news divisions
14 of the TV broadcasting companies are under
15 increasing pressure to increase profits?

16 A I wouldn't be surprised.

17 Q Do you know whether there has been a
18 deterioration -- do you have an opinion as to
19 whether there has been a deterioration in the
20 quality of news coverage over the last 10 years?
21 Has it become more sensational?

22 MS. BREGMAN: Objection on relevance

1 If you have a view.

2 THE WITNESS: No, I don't. I would have
3 to know exactly what you are referring to.

4 BY MR. THOMPSON:

5 Q Referring back to what has been marked as
6 Snowe Exhibit 12, the McCain ad, do you have an
7 opinion as to whether this ad urges the listener or
8 viewer to vote for John McCain?

9 MS. BREGMAN: Same objections as before,
10 same privilege.

11 You can answer it if you have a personal
12 view.

13 THE WITNESS: Certainly it is conveying a
14 positive image 30 days before a primary. So I think
15 the intended purpose is to support John McCain.

16 BY MR. THOMPSON:

17 Q Would you want to know anything else? For
18 example, if George W. Bush were also running ads
19 like this in like numbers, saying vote for Prop 1,
20 would you want to know that sort of context before
21 you came to a final conclusion?

22 A All we are saying in the law that was

1 grounds.

2 If you have a personal opinion of that,
3 you can offer it.

4 THE WITNESS: I have no opinion.

5 BY MR. THOMPSON:

6 Q Do you watch the news?

7 A Yes.

8 Q But you don't have an opinion as to
9 whether it has become more sensational over the last
10 10 years?

11 A I don't know what you mean by
12 "sensational." Tabloid?

13 Q Yes.

14 A It depends on what you mean. I would have
15 to see the reporting to tell you whether or not it
16 is sensational.

17 Q I guess I'm just asking in general, not
18 specific stories, but whether you think the media in
19 its chase for profits focuses more on soft stories
20 rather than stories that deal with the tough
21 important issues.

22 MS. BREGMAN: Lack of foundation.

1 enacted is that if it is in that specified period of
2 time, in this case 30 days before an election, that
3 the types of funds used will be the same as those
4 used by candidates to expose this ad for what it is.

5 We are not denying the organization's
6 ability to express itself or whom it supports. But,
7 rather, we are saying let's identify this ad for
8 what it is so that the public knows what it is and
9 what it is intended to do.

10 Q My question really just pertains to this
11 particular ad, and can you envision circumstances
12 like the one -- strike that.

13 Let's say that this ad was run 10 times in
14 a particular market at the same time and an
15 identical ad, just substituting George W. Bush, was
16 also run. Would that change your opinion as to
17 whether it was intended to support or urge the
18 viewer to vote for one of the candidates?

19 MS. BREGMAN: Same objections.

20 You can answer.

21 THE WITNESS: Yes, if it comes within that
22 prescribed time period.

1 BY MR. THOMPSON:

2 Q I want to make sure the record is clear.
3 Yes, if George W. Bush had the same ad essentially
4 offsetting this ad, would that change your opinion
5 as to whether the McCain ad was intended to urge a
6 voter to vote for him?

7 MS. BREGMAN: Would it change her opinion
8 as to whether it falls within the electioneering
9 provisions?

10 MR. THOMPSON: No. Of course, none of my
11 questions speak to that.

12 MS. BREGMAN: Her answers do. Try it
13 again. I found it confusing.

14 THE WITNESS: You are saying --

15 BY MR. THOMPSON:

16 Q What I'm saying, Senator, is whether this
17 ad, Snowe 12, the McCain ad, whether your opinion as
18 to whether it was urging a voter to vote for John
19 McCain would be changed if you knew some other
20 circumstances, such as the same ad was being run for
21 George W. Bush by the same group and they just want
22 to get Prop 1 passed.

1 think.

2 Senator, do you wish to add something?

3 A No.

4 MR. THOMPSON: Let's mark as the next
5 exhibit the following ad.

6 (Snowe Exhibit 13 identified.)

7 BY MR. THOMPSON:

8 Q Let's assume, Senator, that this ad was
9 run in the 60 days prior to the re-election of
10 Senator Feingold. And it reads: "America was
11 outraged when two New Jersey teenagers checked into
12 a Delaware hotel and delivered and exposed of their
13 newborn baby in a dumpster. Most Americans couldn't
14 believe that this defenseless human life could be so
15 coldly snuffed out. But incredibly, if a doctor had
16 been present that day in Delaware and delivered the
17 infant, all but 1 inch from full birth and then
18 killed him, it would have been perfectly legal.
19 Instead of murder or manslaughter, it would have
20 been called a partial-birth abortion. Killing late
21 in the third trimester, killing just inches away
22 from full birth. Partial-birth abortion puts a

1 A Well, I suppose that could happen. But,
2 again, there would be some very limited
3 circumstances in which that would happen. That
4 could happen. It still would be within the
5 prescribed criteria as an electioneering ad. But
6 that is a possibility it could happen. Again, it is
7 talking about what is advancing the governmental
8 interest.

9 The criteria outlined in the new law
10 captures most of what we have identified to be a
11 circumvention of the existing federal election
12 restrictions.

13 We want these types of ads to come under
14 the same rubric as ads that are financed by bona
15 fide federal candidates in a specific period of
16 time. It is not overly burdensome to say that if an
17 organization wants to run this type of ad that they
18 are going to be required to adhere to certain
19 restrictions, restrictions that are identical to
20 candidates'.

21 Q We have two more of these ads, and then I
22 will conclude my portion of the questioning, I

1 violent death on thousands of babies every year.
2 Your Senators, Russ Feingold and Herb Kohl, voted to
3 continue this grisly procedure. Contact Senators
4 Feingold and Kohl today and insist they change their
5 vote and oppose partial birth abortion. Their
6 number in Washington is 202-224-3121. Paid for by
7 members of the National Pro-Life Alliance."

8 And there are, obviously, some pictures
9 that are reflected in the exhibit as well.

10 Do you view this ad as one that was urging
11 the viewer to vote against Senator Feingold, who
12 stood for re-election within 60 days of its airing?

13 MS. BREGMAN: Same objection, same
14 privilege.

15 You can answer.

16 THE WITNESS: I do.

17 BY MR. THOMPSON:

18 Q This ad would have a different impact
19 depending on whether the viewer was pro-life or
20 pro-choice, wouldn't it?

21 MS. BREGMAN: Objection; calls for
22 speculation.

1 THE WITNESS: The point is it is conveying
2 a specific message about someone who is up for
3 re-election during that targeted period of time. So
4 you are asking me is it designed to influence the
5 outcome for or against a candidate?

6 BY MR. THOMPSON:

7 Q Yes.

8 A Yes.

9 Q And I'm not asking you I guess the
10 tautological question of is this an electioneering
11 communication, because obviously it names the
12 candidates. But what about this ad suggests to you
13 that it was urging the viewer to vote against
14 Feingold?

15 MS. BREGMAN: Same objections, core speech
16 or debate.

17 But you can answer, if you have a personal
18 perception as to what it is about this ad that does
19 so.

20 THE WITNESS: This ad clearly intends to
21 convey a negative view of the vote that Senator
22 Feingold has cast with respect to a specific

1 noted for electioneering communications.

2 MR. THOMPSON: I would like to mark as the
3 next exhibit, Snowe Exhibit 14, a document that is a
4 story board relating to a Congresswoman Northrup.
5 (Snowe Exhibit 14 identified.)

6 BY MR. THOMPSON:

7 Q It reads: "Dear high-tech company, I
8 would like to send you my resume.' 'Dear graduate,
9 sorry, Congress is going to give your job to a
10 foreign worker.' 'But I have just finished four
11 hard years of technical studies.' 'Sorry. Besides
12 foreign workers will work for a lot less.' Is this
13 any way to treat American workers? But based on her
14 record, Congresswoman Northrup is likely to vote in
15 favor of the Foreign Worker Bill. Call
16 Congresswoman Northrup and tell her to save our best
17 jobs for American workers. Ask her to vote no on
18 the Foreign Worker Bill. This message paid for by
19 the Coalition for the Future American Worker."

20 Do you believe that this ad is urging the
21 listener and viewer to vote against Congresswoman
22 Northrup?

1 procedure. So obviously it is intended to convey a
2 negative view. If it is occurring 60 days before
3 the election, obviously it has the impact of
4 influencing the outcome. That is the purpose of
5 running these ads within that 60-day time period.

6 They could run this ad at other times
7 during that two-year period, with the exception of a
8 30-day period before a primary or 60 days before a
9 general election. It is a very limited, specified
10 period over a two-year period in which they could
11 run this ad.

12 So I don't think it is asking too much if
13 we are talking about advancing the government's
14 interest in trying to restore the public's
15 confidence in a system in which people fundamentally
16 believe they have been disenfranchised, disaffected,
17 disappointed, because they see this preponderance of
18 soft money that's financing these ads for which no
19 one is accountable.

20 That's the problem. That's the
21 fundamental problem that we attempted to address
22 through the Snowe-Jeffords Amendment, which is now

1 MS. BREGMAN: Same objection, same
2 privilege.

3 You can respond.

4 THE WITNESS: Well, obviously the ad is
5 intended to convey a message about her position on a
6 specific piece of legislation that certainly could
7 have the effect of influencing voters in her
8 district before an election if it comes before that
9 prescribed time period.

10 There are some ads that you might question
11 as to whether or not it is much more issue advocacy.
12 Very rarely is that the case anymore. The
13 preponderance of ads are now being financed by soft
14 money, millions. We are talking about \$500 million
15 worth of ads that were financed through soft money
16 in the last election in the year 2000. We know it
17 is only going to get worse from there.

18 That's the problem. The fact that you are
19 showing me example after example I think is an
20 indication of the extent to which these
21 advertisements, these types of advertisements are
22 pervasive in campaigns today.

1 That's what is so troubling about the
2 system. And the public fundamentally understands
3 that. We know that something is terribly wrong when
4 all you see is a multiplicity of ads that are
5 pervading the airwaves by organizations that you can
6 barely identify, let alone know who is supporting
7 and financing these ads, through circuitous routes
8 because of the soft money.

9 It is a back-door approach to financing
10 all these advertisements and many other activities
11 as well with no disclosure, no accountability.
12 Obviously, the public is going to be disenchanted
13 and turned off by the way in which these campaigns
14 are financed.

15 So it goes to the integrity and to the
16 heart of the matter. We each have an individual and
17 collective responsibility to do what we can to
18 improve upon it.

19 There is no denying any organization or
20 individual from communicating their message at any
21 point in time. We are just saying in this limited
22 period of time, the types of funds you use will be

1 the same as the candidates. That's not asking too
2 much.

3 MR. THOMPSON: Senator, that concludes my
4 questions. I very much appreciate your patience.

5 THE WITNESS: Thank you. I appreciate it.
6 (Whereupon, at 12:40 p.m., the deposition
7 was recessed, to be reconvened at 1:30 p.m. this
8 same day.)
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1 AFTERNOON SESSION (1:30 p.m.)
2 Whereupon,
3 OLYMPIA J. SNOWE
4 resumed the stand and, having been previously duly
5 sworn, was examined and testified further as
6 follows:

7 EXAMINATION

8 BY MR. CARVIN:

9 Q Good afternoon. My name is Michael
10 Carvin. I represent the Republican National
11 Committee as well as some state GOP parties, not
12 Maine.

13 A Okay.

14 Q And I know you chatted about this at some
15 length this morning, but just so I'm clear, I take
16 it that in terms of electioneering communications,
17 the accountability and disclosure and equivalent
18 regulations, I take it from what you were saying
19 this morning that you think all groups that pay for
20 ads designed to influence federal elections should
21 be subject to equivalent rules governing the source
22 and amounts of their funding under federal election

1 law?

2 A Yes.

3 Q So if political committees and candidates
4 need to fund those ads through so-called hard money,
5 then unions and corporations should be obliged to do
6 likewise?

7 A That's correct.

8 Q And on sort of a related question, without
9 this evenhanded regulation, is it your view that
10 soft money that special interests or outside groups
11 give to the political parties could be redirected to
12 run their own ads directly in a manner designed to
13 influence federal elections?

14 MS. BREGMAN: Objection. Did you
15 understand the question? Objection; first, on
16 grounds of speech or debate, as before. What do you
17 mean "could be"? Consistent with the law? I really
18 wasn't sure what your question was.

19 BY MR. CARVIN:

20 Q Is one of your concerns about the need for
21 uniform regulation for the different actors that get
22 involved in influencing federal elections that

1 groups who donate soft money to political parties
2 could, absent that evenhanded regulation, simply
3 redirect that money towards paying for their own ads
4 in a manner that would be designed to influence
5 federal elections, for example, unions and
6 corporations?

7 MS. BREGMAN: Objection, vague and
8 unclear.

9 If you understand it, you can answer.

10 THE WITNESS: I'm not sure I do understand
11 that.

12 BY MR. CARVIN:

13 Q I take it that one of the concerns you had
14 in terms of the Snowe-Jeffords Amendment was that if
15 soft money was prohibited to political parties and
16 there was no Snowe-Jeffords Amendment or restriction
17 on electioneering communications, that unions, for
18 example, could continue to run these kinds of
19 electioneering communications directly and that
20 would provide an unequal playing field, if you will,
21 for political communications?

22 A Yes, potentially. That's right.

1 question on it.

2 (Witness examined the document.)

3 A Okay.

4 Q Is it your view that electioneering
5 communications paid for by corporate and union
6 treasury funds distort the political process when
7 unions and corporations use the special legal
8 benefits granted to them and convert them into
9 political expenditures for electioneering
10 communications that are designed to influence
11 federal elections?

12 A Yes.

13 MS. BREGMAN: Same objections as I made
14 earlier. Let's make sure that we are repeating what
15 I have in the way of continuing objection to
16 questions about the BCRA and its purposes.

17 The witness has answered. So we will go
18 forward.

19 BY MR. CARVIN:

20 Q Now, in terms of grassroots voter
21 mobilization, which I'm defining as essentially get
22 out the vote efforts, voter registration, phone

1 Q I can give you, just to make sure I
2 understand all the reasons, the interrogatories you
3 placed in this case.

4 (Snowe Exhibit 15 identified.)

5 BY MR. CARVIN:

6 Q My first question is, just in terms of
7 Snowe 15, is this the responses of you and the other
8 intervening defendants to interrogatories served by
9 the Plaintiff McConnell in these cases?

10 A Which one?

11 Q Well, the entire document.

12 A Oh, the entire document, yes, that's
13 correct.

14 Q If you want -- I think you can see your
15 own signature on page 22 of that document.

16 A Yes.

17 Q This is, I think, a straightforward
18 question. If you could turn to page 6 of the
19 document, please. If you would read, please, number
20 5, which is one of a number of listed governmental
21 interests to justify the BCRA, and if you want to
22 just take a moment to review that. Then I have a

1 banks on election days, do you think that those
2 also, if done on a day when a federal candidate
3 appears on the ballot, also influence federal
4 elections?

5 MS. BREGMAN: Same objections, and speech
6 or debate.

7 If you have an answer, you can choose to
8 offer it.

9 THE WITNESS: Well, they could, depending
10 on who is doing it, certainly.

11 BY MR. CARVIN:

12 Q What if a state party, political party was
13 doing it?

14 A Well, obviously it depends on where you
15 are as a candidate. "Political party" meaning a
16 candidate's own political party?

17 Q Yes.

18 A Yes, certainly it could.

19 Q What if it was done by a corporation or
20 union in an effort to help a particular candidate?

21 A Yes, it could have the same impact,
22 because obviously they are going to target their get

1 out the vote to their own particular constituency
2 that would be consistent with their philosophy of
3 their own membership.
4 Q In light of that, as with these
5 electioneering communication ads, should groups that
6 spend money on the kind of voter mobilization I have
7 described also be subject to equivalent rules as to
8 the source and amounts of their funding as imposed
9 on other groups that engage in that activity?
10 MS. BREGMAN: Objection, and speech or
11 debate privilege, because here you are asking should
12 they be in in the sense of should Congress have done
13 something different than it did or done what it did
14 or drawn different lines.
15 Do you choose to answer?
16 THE WITNESS: I will answer. I have no
17 informed opinion on that particular issue.
18 Obviously, my focus concentrated on electioneering
19 communications sponsored by corporate treasury funds
20 and union dues, because we saw that's where the
21 predominant amount of money has been raised and used
22 to finance ads that come outside the purview of the

1 conventional enforcement mechanisms under the
2 federal election laws.
3 So there are other areas that we probably
4 could have addressed, but we chose to focus on the
5 few major issues in the scope of this legislation.
6 It doesn't deny the parties their ability to get out
7 the vote.
8 BY MR. CARVIN:
9 Q It does not?
10 A No, it doesn't.
11 Q Why is that?
12 A Because I think that -- I was involved in
13 parties before soft money, and there are ways of
14 engaging the grassroots to become active in getting
15 out the vote. There are very conventional means by
16 which you can get out the vote. It doesn't
17 necessarily require the use of money to do it. You
18 get volunteers, very traditional methods in which to
19 do that. And, frankly, I think that it can work
20 very well. It has worked very well in the past.
21 Q Under your understanding of the Act, could
22 corporations and unions use their unregulated

1 treasury funds for this kind of grassroots voter
2 mobilization efforts?
3 MS. BREGMAN: Objection to questions to
4 the witness about her understanding of the
5 legislation. The legislation does what the
6 legislation does. The Act speaks for itself.
7 Speech or debate.
8 Do you want to answer this question with
9 respect to aspects of the legislation apart from
10 Title II?
11 THE WITNESS: I don't recall whether or
12 not they are able to use funding for that particular
13 purpose.
14 BY MR. CARVIN:
15 Q Can you think of a reason -- let me ask
16 you this. Would corporations and unions' efforts to
17 get out the vote create an appearance of corruption
18 in elections where federal candidates are on the
19 ballot?
20 MS. BREGMAN: Same objection, same
21 privilege.
22 Do you have an opinion on that in your

1 personal capacity other than whatever cumulative --
2 THE WITNESS: We sought to identify some
3 of the major flaws with the existing system and to
4 curb those abuses where the raising of soft money to
5 the tune of millions of dollars had proliferated
6 over the years. It had culminated in an explosion
7 of these so-called electioneering ads that are
8 purported to be issue advocacy ads. It is just
9 another way of influencing elections.
10 So we obviously sought to identify those
11 major problems and address it accordingly in this
12 legislation.
13 BY MR. CARVIN:
14 Q I take it, therefore, that one of the
15 major problems was not the use of unregulated
16 treasury funds by corporations and unions for
17 grassroots voter mobilization?
18 MS. BREGMAN: Objection. The purposes
19 behind the legislation are stated in the legislative
20 history. This witness is one of 535 legislators.
21 The major purposes are set forth there. Are you
22 asking this witness whether she knows the interests

1 of all of the members who voted or what she
2 remembers about what was said during the legislative
3 history?

4 MR. CARVIN: No.

5 MS. BREGMAN: What is it you are asking?
6 The purposes behind the Act? Whether they are, I
7 think that is speech or debate, and I think on here
8 we will have to call a privilege.

9 MR. CARVIN: It is neither speech nor
10 debate, as evidenced by the fact that they have
11 already listed the interests set forth in BCRA, and
12 speech and debate only goes to motivations or things
13 that were said in the House or Senate, neither of
14 which I'm asking about.

15 MS. BREGMAN: We don't share that view.

16 MR. CARVIN: The witness just said that
17 they sought to identify the major flaws, and I'm
18 asking whether or not one of those major flaws that
19 was sought to be addressed was the use of
20 unregulated treasury funds by unions and
21 corporations for grassroots voter mobilization.

22 MS. BREGMAN: Same objection, same

1 elections than grassroots voter mobilization
2 efforts; is that correct?

3 MS. BREGMAN: Objection; same objections
4 as before and that it restates her testimony.

5 You can answer.

6 THE WITNESS: It influences the outcome.
7 Grassroots activities are something that has been --
8 we did not identify grassroots activities in the
9 sense of excluding support for those in this law.
10 But communications certainly do have the ability to
11 influence people's interests in how they vote on a
12 particular candidate.

13 BY MR. CARVIN:

14 Q But I assume that this grassroots activity
15 would affect turn-out and the number of people who
16 actually show up in the polls who support one or the
17 other candidate; is that fair?

18 A Yes.

19 Q Therefore, I take it that as well would
20 influence federal elections?

21 A Yes, that certainly could. But the
22 question is what is the most pervasive and

1 privilege.

2 I would instruct the witness not to answer
3 this question. She tried to answer as completely as
4 she could with respect to Title II with which
5 Senator Snowe was intimately involved. I instruct
6 the witness not to answer unless you have some
7 burning desire to do so.

8 THE WITNESS: Again, to repeat what I said
9 earlier, we attempted to identify the most
10 significant deficiencies in the current system that
11 are pervasive.

12 The types of communications that are
13 conveyed through television and radio broadcasting
14 obviously reaches a wide sector of the population.
15 So how those ads are financed becomes a significant
16 government interest. That's what we chose to
17 identify in looking at the communications. That's
18 how people really seek to get their message across.
19 That's what I attempted to address.

20 BY MR. CARVIN:

21 Q So in your view, these electioneering
22 communications have more of an influence on federal

1 concentrated in terms of the amounts of money that
2 are spent. We are talking, obviously, millions of
3 dollars, as I indicated earlier, in a short period
4 of time to reach the greatest number of people.

5 So obviously that's what we attempted to
6 identify in balancing the interest in this
7 legislation. I personally in developing this
8 legislation didn't seek to identify getting out the
9 vote efforts.

10 Q You didn't seek to identify it as
11 something --

12 A No. We looked at communications and
13 advertisements.

14 Q Do you think these state party efforts to
15 get out the votes in federal elections is something
16 that creates the appearance of corruption if done
17 with unregulated soft money?

18 A Well, it creates a problem. We have
19 identified that problem as a loophole in the system,
20 and I mean by which raising significant sums of soft
21 money that are channeled through political entities,
22 including the parties at the national and state

1 level, for the purposes of electing a federal
2 candidate. It is another avenue by which you can
3 support a federal candidacy.

4 That, again, I think obviously has to be
5 identified, which we did in this legislation with
6 the banning of soft money, because it is sort of an
7 undisclosed, unregulated route that becomes an
8 enormous, if not a disproportionate, sum of money
9 that supports federal candidates in federal
10 elections without any accountability. They work
11 through the parties.

12 Q And, therefore, I assume instead of the
13 state parties doing it with money given to them by
14 unions and corporation, if the unions and
15 corporations did this get out the vote activity
16 directly, that would also be a loophole in the
17 system of the sort you have just described?

18 A I think you are making an assumption as to
19 whether or not the state parties would depend on
20 corporate and union sources in order to get out the
21 vote. There are many other ways in which to do that
22 and also sources in which to raise money.

1 unidentified money for their own get out the vote
2 activities; correct?

3 MS. BREGMAN: Same objection; asked and
4 answered.

5 THE WITNESS: It may well be true, but we
6 are talking about millions of dollars worth
7 nationwide.

8 BY MR. CARVIN:

9 Q So I guess my question is why does it
10 potentially create the appearance of corruption if
11 these activities are done with soft money by state
12 parties but not create the appearance of corruption
13 if the soft money donors themselves directly engage
14 in that activity?

15 MS. BREGMAN: Lack of foundation.

16 THE WITNESS: My opinion is that -- and it
17 is not an informed opinion. Obviously this is not
18 an area in which I concentrated my efforts.

19 But I will tell you this. Banning soft
20 money advances a public benefit, because when you
21 are talking in the amounts of millions that have
22 been raised for that purpose that are channeled and

1 Q Do you know how much soft money is devoted
2 by the state parties to get out the vote, voter
3 registration, activities of that sort?

4 A I don't.

5 Q Do you think that those activities by
6 state and local parties -- let me put it this way.
7 Are you aware of any soft money donations or
8 expenditures by state parties that in your mind
9 creates an appearance of corruption for federal
10 officeholders and candidates?

11 MS. BREGMAN: Same objection, same
12 privilege.

13 THE WITNESS: I think the point is it's
14 all part of the same flawed system. Soft money is
15 soft money, regardless of who is using that soft
16 money. In this instance, the soft money is being
17 used for federal candidates and for federal
18 elections that comes from unaccountable sources,
19 unidentifiable sources.

20 BY MR. CARVIN:

21 Q That would be equally true if the unions
22 or the corporations used that unregulated,

1 funneled through a variety of sources, including
2 state parties, clearly it does undermine the public
3 integrity of the process.

4 BY MR. CARVIN:

5 Q Is that because --

6 A So we identified and we concentrated on
7 communications. Now, if there are some other
8 identifiable egregious loopholes with respect to get
9 out the vote and who contributes to those, obviously
10 we can evaluate that in the future.

11 Q And it undermines public integrity because
12 special interests channel these moneys through state
13 parties in a manner that creates the perception that
14 federal candidates or officeholders are unduly
15 influenced by those soft money donors?

16 MS. BREGMAN: Objection.

17 THE WITNESS: I can't speak to that, but
18 if the public perceives that that perception exists,
19 then obviously it does affect the public's
20 confidence in the system. So that does require us
21 to take action, and obviously we are responsible as
22 law makers to redress that perception.

1 The cynicism has developed. We are not
2 talking about minor sums of money in the soft money
3 arena. We are talking about millions of dollars as
4 a way of evading the federal election laws. We have
5 just seen the proliferation, and they have grown
6 exponentially from election to election. So
7 obviously that is going to continue, unless we try
8 to address it.

9 BY MR. CARVIN:

10 Q Is there a public perception of corruption
11 caused by a state party raising soft money and
12 expending it on voter mobilization efforts?

13 MS. BREGMAN: Objection; privilege, asked
14 and answered.

15 THE WITNESS: It is not the purpose for
16 which it is expended. The question is money that is
17 being raised that comes in under the radar of
18 conventional enforcement mechanisms under the
19 existing federal election law.

20 BY MR. CARVIN:

21 Q As I understand it, then, any money used
22 by a state party should be subject to these

1 particular view or a particular candidate without
2 acknowledging it's a political campaign ad. That's
3 much more insidious, you know.

4 Q Unions do engage in that kind of get out
5 the vote grassroots activity?

6 A Yes.

7 Q And is it your understanding of current
8 law that they can only do that in communications
9 with people who were members of the union?

10 MS. BREGMAN: Objection; asked and
11 answered.

12 THE WITNESS: I really can't say.

13 MS. BREGMAN: If you have a view on your
14 interpretation of current law, but if you do not
15 know that for sure --

16 THE WITNESS: I don't know if they are
17 limited to their own membership in getting out the
18 vote. I don't know that.

19 BY MR. CARVIN:

20 Q Do you think that after the Act takes
21 effect, a union would be prohibited from, say,
22 running a print ad or sending out a mailing that was

1 conventional enforcement mechanisms under federal
2 election law?

3 A I think that not using it for the purposes
4 for federal elections.

5 Q But you don't think that a similar problem
6 is created when the unregulated undisclosed money in
7 the corporate and union treasuries is expended on
8 precisely the same kind of voter mobilization
9 efforts that the state parties --

10 A I don't have any specifics to tell you one
11 way or the other on the amounts of money that are
12 expended by corporations to get out the vote. I'm
13 just not aware that corporations engage in that
14 activity as much as labor unions engage in that
15 activity.

16 Q Let's focus on unions.

17 A Getting out the vote is a grassroots
18 activity. That's working within their own
19 memberships. Frankly, that is a far different
20 activity, I think, than talking about sponsoring
21 advertisements over the airwaves, communicating to
22 the maximum number of people possible about a

1 designed to encourage people to show up on election
2 day?

3 MS. BREGMAN: Objection.

4 THE WITNESS: We didn't make the
5 exemptions for that, for print.

6 BY MR. CARVIN:

7 Q So the answer would be they could do that?

8 A That's correct.

9 Q And then, just generally, do you see a
10 good public policy reason for restricting a state
11 party from, to use one example, using unregulated
12 money donated by a union for get out the vote
13 activities while simultaneously not prohibiting the
14 union from expending its own funds on the same get
15 out the vote activity?

16 MS. BREGMAN: Objection, and speech or
17 debate privilege. Congress saw fit to do what it
18 did based on everything before it, of which this is
19 one member.

20 I can't imagine how an answer to the
21 question is anything other than what Congress saw
22 fit to do and what it decided and why it decided it

1 and what lines it chose to draw. So I think that is
2 core speech or debate. And I would urge the witness
3 not to answer, unless you really tell me you want
4 to.

5 MR. CARVIN: Let me make it quite clear
6 that I didn't ask about any of those things that
7 were just said. I just said does she have a public
8 policy, does the Senator have one.

9 She has spent the last four hours talking
10 about the various kinds of distinctions between good
11 and bad things, whether it is 60 days or something
12 else. There is absolutely no reason she can't
13 answer the same question now. And no one has ever
14 invoked speech and debate in remotely analogous
15 circumstances.

16 MS. BREGMAN: At least I did the other
17 day. We did try to answer questions this morning
18 with respect to the Snowe-Jeffords Amendment so as
19 to be able to provide some answers without waiver of
20 the privilege which clearly pertains.

21 You are asking if she has a public policy
22 reason. She is a legislator. The public policy

1 those issues in conjunction with the other changes
2 in the election laws.

3 So you are drawing equivalency between
4 state parties and unions and corporations. We
5 identified the most serious problems that we have
6 recognized in the current system with the so-called
7 issue advocacy ads that are financed by
8 corporations, unions because we are entitled in
9 Congress to impose those types of restrictions on
10 those entities because that has a precedent in law.
11 Beyond that we chose not to go, and we
12 exempted printed communications. It is not
13 regulated. We addressed the soft money, which is a
14 serious flaw and happens to be funneled through
15 state parties.

16 That doesn't deny state parties the
17 ability to engage in get out the vote activities.
18 Believe me, they were doing that consistently and
19 very effectively long before soft money.

20 BY MR. CARVIN:

21 Q When were they doing it before soft money?

22 A When I was running in the 1970s.

1 reasons were set forth in connection with the
2 legislative history.

3 What other kind of answers could that give
4 other than what did I take into account, what do I
5 think the law should do, what do I think appropriate
6 legislation does do, should do, did do, will do.
7 That's a question that goes to the core of speech
8 and debate and can't be compelled. It can be
9 provided voluntarily, as was done this morning.

10 I would instruct the witness not to
11 answer.

12 THE WITNESS: Let me just say this. Since
13 I was the primary author of Snowe-Jeffords, we
14 developed an approach to obviously address some of
15 the serious flaws in the current system and to look
16 at how we could identify those sources of money and
17 do that in corporate and union when it came to
18 broadcast communications. We didn't extend it
19 beyond that.

20 Now, if there are other problems that have
21 developed or are identified, we will address those
22 in the future. But we chose to address and balance

1 Q And that was before soft money existed?

2 A Yes, I think that's right. Soft money
3 didn't come into being until the late '70s.

4 Q For state parties?

5 A Yes.

6 Q It's your understanding that up until the
7 late '70s, state parties were prohibited from using
8 any moneys not subject to FECA's source and amount
9 limitations on get out the vote activities?

10 MS. BREGMAN: I don't think that's what
11 the witness said.

12 THE WITNESS: No, I didn't say that.

13 BY MR. CARVIN:

14 Q So prior to the late '70s, state parties
15 could use money not subject to source and amount
16 limitations of the Federal Election Campaign Act for
17 get out the vote activities; correct?

18 MS. BREGMAN: Do you understand the
19 question?

20 THE WITNESS: No, I did not understand
21 that question.

22 MS. BREGMAN: If you don't understand the

1 question, ask him to rephrase it, because I thought
2 he flipped it around.
3 BY MR. CARVIN:
4 Q When were state parties prohibited under
5 federal law from using soft money, which I will
6 define as money not regulated by FECA?
7 A I have no idea. Just for the record, I'm
8 not an expert in the history of state parties.
9 Q I'm just trying to figure out when parties
10 were able to get out the vote without soft money.
11 At what point were they deprived of soft money as a
12 source and still able to engage in get out the vote
13 activities?
14 A You indicated that they --
15 MS. BREGMAN: Objection. I think this is
16 completely confused. She is answering a completely
17 different question than you are asking.
18 MR. CARVIN: How do we know, because she
19 hasn't answered the question? It would be helpful
20 if she could answer the question and then we might
21 know the source of the confusion.
22 MS. BREGMAN: Try one more time or have

1 get out the vote?
2 A I have no idea if they did. Let me say it
3 was in common terminology usage. They were able to
4 get money from a variety of sources. It may not
5 have constituted soft money, unless you know that
6 soft money was back in the '60s and early '70s. I'm
7 not aware of it. But maybe it was what we know to
8 be soft money today.
9 Q I'm trying to figure out what is the basis
10 for your assertion that state parties in the past
11 have been able to engage in effective get out the
12 vote activities without the use of money unregulated
13 by federal campaign law?
14 A What is my basis? Prior to when?
15 Q At any time. As I understood your prior
16 discussion, it was the state parties may not be
17 severely disadvantaged in get out the vote
18 activities because they are quite able to engage in
19 get out the vote activities without soft money.
20 A When soft money was created.
21 Q That was evidenced by the fact that they
22 had been able to engage in these kinds of activities

1 the question read.
2 BY MR. CARVIN:
3 Q At one point in the last 50 years has
4 federal law prohibited state parties from using
5 unregulated soft money for get out the vote
6 activities?
7 A I'm talking about federal campaign law.
8 Q At what point in the last 50 years has
9 federal --
10 A Whenever the federal election law was
11 passed. Was it 1971, 1974? It was the late '70s
12 when it manifested itself, 1978, '79.
13 Q So I'm clear, between '71 and '74 or '78
14 and '79 it is your understanding that state parties
15 were prohibited from using soft money for get out
16 the vote activities?
17 A No, I didn't say they were prohibited. I
18 didn't say they were prohibited.
19 Q Okay.
20 A I didn't say that. It manifested itself
21 as soft money. I didn't say it was prohibited.
22 Q They had soft money available to them for

1 in the past; is that correct?
2 A Yes.
3 Q And the period that you are referencing
4 when they were able to do it, can you give me a
5 rough estimate of that time frame?
6 A No, I can't.
7 Q And --
8 A Soft money was created when it was created
9 in the late 1970s. And how it evolved --
10 Q I'm trying to figure out -- go ahead.
11 A I'm talking about before then. So what do
12 you define as soft money prior to that time?
13 Q Right.
14 A What are you defining as soft money prior
15 to 1978 or '79.
16 Q Money not subject to the source and amount
17 restrictions of the Federal Election Campaign Act.
18 A Uh-huh.
19 Q Now, rather than getting into a legal
20 dispute, when you were making that representation
21 before, was that based on your personal experience
22 in state party activities in the 1970s?

1 A Yes. In fact, I never heard the
2 phraseology "soft money," not a common term back in
3 the 1970s, nor the 1980s. It was there, obviously.
4 In 1980, there was \$19 million.

5 So obviously somebody was aware that soft
6 money was developing as a means by which to finance
7 federal election activities. But it certainly
8 wasn't common terminology. I never heard it. I'm
9 just saying if it existed, it wasn't to my knowledge
10 it existed.

11 We did basic conventional activities to
12 get out the vote, putting people at the polls,
13 calling people from our houses. We didn't use soft
14 money to get people out to vote. We set up a system
15 of volunteers and placed them at the polls. You
16 have a voter list, you purchase a voter's list. You
17 call them up, take your car, go pick them up, take
18 them to the polls, take them home. That was the
19 basic get out the vote. We had a system of
20 telephone banks. That was pretty much it.

21 Q Those phone banks, to use them as an
22 example --

1 own get out the vote activities on behalf of my own
2 candidacy in my year as a state representative and
3 then for the state Senate.

4 Q Do you recall way back in the '70s whether
5 or not the state party was subject to restrictions
6 like they couldn't take corporate money or they
7 couldn't take X amount of dollars from any one
8 individual or things like that?

9 A Well, there was very little in the way of
10 campaign restrictions, obviously, at the state level
11 or the federal level, for that matter.

12 Q To switch back to the issue as to the
13 electioneering communications, do you have a view as
14 to whether or not electioneering communications run
15 61 days before a general election have the purpose
16 or effect of influencing federal elections?

17 MS. BREGMAN: Same objection, same
18 privilege.

19 You can respond, if you choose.

20 THE WITNESS: It was a question of drawing
21 a line. I suspect if we went beyond that 60 days to
22 61, 62, 63, it would be viewed as sweeping. So we

1 A I didn't have my phone banks. I'm talking
2 about my own campaigns. I can't speak for anybody
3 else.

4 Q That was going to be my next question.

5 A Every local candidate had their own phone
6 bank --

7 Q How about the party itself?

8 A -- from our houses. We used our houses,
9 our homes, various volunteers in their homes, the
10 old-fashioned way. Maybe somebody else did it
11 differently.

12 Believe me, "soft money" was not a common
13 terminology. I never heard of it. A lot has
14 changed since then.

15 Q We can agree on that. I'm trying to
16 figure out -- you have described your efforts as a
17 candidate for office in the 1970s?

18 A Yes. I was in the state legislature.

19 Q Was the Maine Republican Party doing
20 similar kinds of things, to your recollection,
21 during the 1970s?

22 A I'm sure they were. But I conducted my

1 drew a bright line.

2 Generally, the traditional period for
3 which campaigns begin is after Labor Day. At least
4 that seems to be commonly acknowledged. So that's
5 the line we drew so that we could be very specific
6 in terms of the time frame over which there would be
7 no question.

8 BY MR. CARVIN:

9 Q It is true, is it not, that a state or
10 national political party couldn't run an ad that
11 falls within the definition of an electioneering
12 communication with soft money at any time?

13 MS. BREGMAN: Objection. Are you asking
14 for her to interpret the Act?

15 Do you choose to do that with respect to
16 provisions other than the electioneering
17 communication provision which doesn't address those
18 sorts of ads?

19 THE WITNESS: Would you ask the question
20 again?.

21 BY MR. CARVIN:

22 Q Under the Act, a state party or a national

Page 174

1 political party couldn't run a broadcast
2 advertisement that falls within the definition of
3 electioneering communications 365 days a year at any
4 time, could they?
5 A Except within the time frame, the
6 specified time frame.
7 Q Let me make it as clear as I can. Is it
8 your understanding that a national or state
9 political party could run a broadcast advertisement
10 that falls within the definition of electioneering
11 communication with soft money 61 days before a
12 general election?
13 MS. BREGMAN: Again --
14 THE WITNESS: When? Now or later?
15 MR. CARVIN: Under the Act.
16 MS. BREGMAN: He is asking you your
17 understanding of the way that the law would operate.
18 The law operates the way the Act says. He is asking
19 for the legal conclusion.
20 I believe his client refused to answer
21 such questions at the deposition, and I don't think
22 you need to either. If you understand the question

Page 176

1 (The reporter read the record as requested.)
2 MS. BREGMAN: That is core speech or
3 debate clause. You are asking a legislator why
4 Congress did one thing with party ads and something
5 else with labor union ads.
6 What is it that you want from her? What
7 Congress's view was? Why she thought the way she
8 did? What she was thinking when she voted? What
9 the perception of the problem was when the
10 legislature was considering the Act?
11 I don't understand how it is anything but
12 speech or debate. I would instruct the witness not
13 to answer.
14 We tried to answer those Title II
15 questions on which Senator Snowe focused. But I do
16 not see how she could be compelled to answer these
17 speech or debate clause privilege questions at this
18 time.
19 MR. CARVIN: You are putting the Senator
20 in an impossible position. These are utterly
21 frivolous. The fact that she was more closely
22 connected to Title II is irrelevant because this is

Page 175

1 and want to answer the question about provisions
2 other than the EC provisions, I can't stop you.
3 THE WITNESS: I just don't understand the
4 question.
5 BY MR. CARVIN:
6 Q Isn't it true that national and state
7 political parties can't use soft money at any time
8 to run ads, broadcast ads that fall within the
9 definition of electioneering communications under
10 the Act?
11 A That's correct.
12 Q And is it your view that an ad that
13 constitutes an electioneering communication, if paid
14 for by a political party with soft money, influences
15 federal elections if it is run, say, a year before
16 the election in question?
17 MS. BREGMAN: Same objections, same
18 privilege, same legal conclusion problem.
19 Do you have an answer you want to offer to
20 that?
21 THE WITNESS: I would have you repeat the
22 question.

Page 177

1 a question about Title II. If anything, you would
2 think her more intimate involvement would raise a
3 greater speech and debate, not a lesser speech and
4 debate concern. So that really doesn't make much
5 sense.
6 BY MR. CARVIN:
7 Q Can you please answer the question.
8 MS. BREGMAN: I found it compelling.
9 Do you want to answer the question or rely
10 on the speech or debate clause?
11 THE WITNESS: Let me say this. I can't
12 speak for the entire Congress.
13 BY MR. CARVIN:
14 Q That's fine. I'm not asking you to. I'm
15 asking your opinion.
16 A You are talking about my opinion, but my
17 opinion is reflected in the statute. That's what
18 has passed, that's what has become law. I have
19 identified those areas in which I was fully
20 involved.
21 Whether or not we allowed other activities
22 to occur or certain situations to continue to

Page 178

1 prevail is one thing, just as the statute as it is
2 as it is passed. Why we did or didn't do other
3 things I can't say.
4 I focused on where there were the most
5 serious problems, tried to create a balance to
6 achieve a consensus to get the necessary votes to
7 pass in the Senate.
8 That you have identified other areas or
9 perhaps it represents an imbalance in the approach
10 is something that we can take up in the future. But
11 we identified those areas where we thought it
12 required the most immediate action in terms of
13 reforming the system.
14 Q In your opinion, why does banning
15 political parties from using soft money to run
16 broadcast ads that refer to a clearly identified
17 federal candidate give the appearance of corruption
18 one year prior to a federal election?
19 MS. BREGMAN: Same objection, same
20 privilege.
21 THE WITNESS: Because it is part of the
22 same system.

Page 179

1 BY MR. CARVIN:
2 Q Why does a corporation or union running a
3 broadcast advertisement that refers to a clearly
4 identified federal candidate one year prior to an
5 election not create the appearance of corruption?
6 MS. BREGMAN: Objection; lack of
7 foundation.
8 THE WITNESS: Again, it gets back to how
9 much we could do in reforming the system's serious
10 problems. Whether you agree or disagree is another
11 matter. Whether I agree or disagree is another
12 matter. It is immaterial to what has already become
13 statute.
14 We identified those areas that had the
15 greatest deficiencies that undermined the public's
16 confidence. So we developed the legislation and it
17 became law. It is immaterial what my opinion is
18 now. It is immaterial what your opinion is.
19 This is what the statute is because we
20 identified the greatest areas that really
21 underscore, I think, the fundamental flaws in the
22 current system, and this is the first action

Page 180

1 Congress has taken in more than 25 years.
2 BY MR. CARVIN:
3 Q Do you have a view as to whether or not a
4 broadcast advertisement referring to a clearly
5 identified federal candidate paid for with soft
6 money by a national or state political party gives
7 the appearance of corruption?
8 MS. BREGMAN: Same objection, same
9 privilege. If she had a view, it might be in the
10 legislative history.
11 THE WITNESS: I would suggest you look at
12 the legislative history. It is there.
13 BY MR. CARVIN:
14 Q You don't have a view?
15 A Obviously I have expressed my views in
16 terms of what I identified to be the most serious
17 problems.
18 Q As I understand it, the serious problems
19 were ads run within 60 days of a general election
20 for the reasons you have already given or 30 days of
21 a primary.
22 A Uh-huh.

Page 181

1 Q Now I'm asking you is there a separate
2 problem which requires regulation of political
3 parties' efforts to run broadcast ads that refer to
4 a clearly identified federal candidate more than 60
5 days before a general election and more than 30 days
6 before a primary election that you can think of?
7 MS. BREGMAN: Evidently so, as set forth
8 in the statute.
9 Do you understand what he is getting at?
10 There's a question pending. So I won't consult.
11 The area of questioning is subject to privilege. If
12 you would like to rely upon the privilege, you are
13 certainly entitled to do so.
14 I think also there is no meeting of the
15 minds here. I would instruct you not to answer the
16 question.
17 THE WITNESS: I think I have given my
18 answer.
19 MS. BREGMAN: Let me take a one-minute
20 break. Nobody has to leave the room.
21 (Pause.)
22 BY MR. CARVIN:

1 Q Do you want the last question read back?
2 MS. BREGMAN: I don't think there was a
3 question pending, was there?

4 MR. CARVIN: I will repeat the question.

5 BY MR. CARVIN:

6 Q In your view, does an ad run by a state or
7 national political party with soft money that
8 references a federal candidate 70 days before a
9 federal election create the appearance of
10 corruption?

11 MS. BREGMAN: Same objections as before,
12 same invocation of the speech or debate clause
13 privilege and instruction to the witness not to
14 answer the question.

15 BY MR. CARVIN:

16 Q Are you going to answer that question?

17 A No. I have answered.

18 Q And your answer is you do not think it
19 creates the appearance of corruption?

20 MS. BREGMAN: I do not believe that that
21 was her answer.

22 BY MR. CARVIN:

1 because not only is she taking a differential
2 approach with respect to the interrogatories that
3 she answered and now is refusing to answer follow-up
4 questions, she is taking a different approach with
5 respect to the very answers and very questions from
6 this morning.

7 BY MR. CARVIN:

8 Q Senator, with all respect, no court can
9 help to infer that the reason you are not answering
10 these questions, as opposed to the questions you
11 gave answers to this morning, is because you can't
12 think of an answer.

13 If anything is clear, it is that a Senator
14 cannot selectively invoke speech and debate when it
15 is to their advantage and then not answer when it is
16 to their disadvantage.

17 So I cannot understand and no one has
18 articulated a rational basis for why we can engage
19 in a lengthy colloquy about all these ads this
20 morning and then if I ask a simple follow-up
21 question, all of a sudden speech and debate is
22 implicated.

1 Q Am I going to have to guess? I was
2 informed the question was answered. Is your answer
3 that it does not create the appearance of
4 corruption?

5 MS. BREGMAN: Objection; speech or debate
6 clause privilege, and I instruct the witness not to
7 answer.

8 BY MR. CARVIN:

9 Q You want to pull out 14 here, Exhibit 14.
10 You answered a series of questions about the
11 appearance of corruption and whether or not this
12 fell within the Act this morning, okay.

13 Now my question is assume with me that
14 this was not paid for by the Coalition for the
15 Future American Worker but by the California
16 Democratic Party with soft money. If that ad was
17 run 70 days before an election, in your mind does
18 that create the appearance of corruption?

19 MS. BREGMAN: Clever, but same objection
20 and same privilege.

21 MR. CARVIN: It is not clever. You are
22 putting the Senator in an impossible position,

1 So I would urge you to chat with whomever
2 you need to but not to invoke something that is
3 clearly contrary to law, particularly since I am not
4 asking about any motivation that went into the Act
5 or anything that led up to the Act.

6 MS. BREGMAN: Every question you have
7 asked directly relates to the motivations and
8 deliberations leading up to the Act or views on
9 public policy.

10 The Senator is entitled to answer
11 questions voluntarily that she chooses to. There is
12 nothing in the way of giving an interrogatory answer
13 and responding to discovery requests that waives a
14 privilege. That was not testimony. She hasn't
15 submitted a declaration. She hasn't sworn in court
16 to give testimony and done so.

17 Providing discovery responses is not
18 nearly equivalent to that. In addition, at least
19 three times, maybe more, maybe 12, it says that the
20 interrogatory answers are subject to the privilege
21 and do not waive them.

22 We have a different view of the speech or

<p style="text-align: right;">Page 186</p> <p>1 debate clause. We have consulted with Senate 2 counsel, and we feel very confident that the clause 3 is properly invoked, and we will rely upon it. 4 MR. CARVIN: Can you describe for me why 5 the questions that were answered this morning went 6 into the motivation for the legislative acts and why 7 the last question read does not? 8 MS. BREGMAN: I don't really think I have 9 to explain anything. I will tell you the answer is 10 that they all are improper. They all go into speech 11 or debate. She chose to try to be responsive to 12 questions concerning the EC provisions because that 13 was her focus. Otherwise, we would have been done 14 two hours ago. 15 There is a difference between compelling 16 testimony and listening to it when it is offered by 17 the Senator. 18 MR. CARVIN: I will just have to cite from 19 Powell v. Ridge, a Third Circuit decision, 247 F. 20 3520-2001. "The legislative leaders, the privilege 21 proposed by them would enable them to seek discovery 22 but not respond to it, take depositions but not be</p>	<p style="text-align: right;">Page 188</p> <p>1 reservation was explicitly made. It is not a 2 question of affirmative introduction of evidence and 3 refusal to be cross-examined. 4 It is a question of the Senator trying to 5 be as helpful and cooperative as possible in 6 answering as many of your colleague's questions as 7 she is able to. I do not think the statement and 8 the inference that the Senator doesn't know the 9 answer is a proper statement. I don't think that 10 the reference to other Senators' choice as to when 11 to assert privilege or not is relevant to this 12 Senator's determination. 13 So the simple answer of my office is that 14 the questions that have prompted this colloquy 15 indeed are subject to a proper assertion of 16 privilege. They go to the Senator's understanding 17 of the law, its scope and the reasons for it, and 18 the questioning is specific to a statement or an act 19 on the floor or, more generally, if it is seeking to 20 compel a legislator to answer questions about a 21 subject on which legislation could be had, that may 22 not be compelled.</p>
<p style="text-align: right;">Page 187</p> <p>1 deposed and testify at trial but not be 2 cross-examined. In short, they assert a privilege 3 that does not exist. Not surprisingly, the 4 legislative leaders have failed to come up with even 5 one case which hints at the existence of the 6 privilege they press." 7 This is a common law immunity cause citing 8 a number of speech and debate clause cases. 9 I will ask Senate legal counsel on the 10 record. Is it your view that these questions go to 11 speech and debate and that they can be selectively 12 answered? 13 MR. FRANKEL: These questions are 14 virtually all privileged. There were a few 15 questions this morning relating solely to political 16 campaign activity, the Senator's knowledge and 17 participation in the campaigns. The others are 18 subject to speech and debate. Speech and debate was 19 asserted. The nonwaiver was asserted. 20 The privilege protects members from being 21 compelled to answer questions. Both in the 22 interrogatory responses and this morning the</p>	<p style="text-align: right;">Page 188</p> <p>1 MR. CARVIN: Questions about 2 interrogatories or responses that were voluntarily 3 filed in this legislation after they voluntarily 4 intervened in this? 5 MR. FRANKEL: The reservations are very 6 explicit in those answers to interrogatories. The 7 answers are very general. They refer to the 8 legislative history as the primary source, and, 9 again, not as an attempt to put forward affirmative 10 evidence but respond to interrogatories, to state 11 some very general observations. 12 I do not believe by doing so that a 13 Senator opens herself up to compelling detailed 14 questioning on the infinite variety of subquestions 15 that could be asked off of those very general 16 citations. 17 I find the reservations explicit and 18 unequivocal, and the law of the Supreme Court under 19 Helstoski is to waive the privilege. It is the 20 leading court case on waiver of speech and debate. 21 MR. CARVIN: It was grand jury compelled 22 testimony there. It wasn't a situation where</p>

Page 190

1 anybody volunteered in a civil litigation,
2 propounded discovery, propounded fact witnesses,
3 propounded expert witnesses, sought to supplement
4 the legislative history post hoc, answered
5 interrogatories, engaged in discovery and then when
6 it came to certain questions, at the 11th hour
7 sought to invoke the speech and debate clause on a
8 selective basis.
9 MR. FRANKEL: It was worse. It was a
10 member of Congress appearing before a grand jury and
11 then refusing to appear at his own criminal trial.
12 MS. BREGMAN: Having testified, I think,
13 eight times, and the Court still questioned whether
14 if there could be a waiver, there was one, and found
15 not.
16 MR. CARVIN: As to whether or not you
17 could introduce the grand jury testimony against him
18 at his trial. We don't need to discuss this.
19 Here's the problem. Since I'm utterly at
20 sea as to what conceivable line is being drawn here,
21 I'm going to have to plow through all these
22 questions and we will have to do this one at a time

Page 191

1 for, among other things, to establish a record for
2 the Court.
3 So I will try one last time with this
4 exhibit.
5 BY MR. CARVIN:
6 Q Do you think the appearance of corruption
7 depends on, for Snowe Exhibit 14, whether or not
8 corporations and unions directly expended the funds
9 or gave them to political parties to expend?
10 MS. BREGMAN: Objection; speech or debate.
11 Instruct the witness not to answer.
12 BY MR. CARVIN:
13 Q Do you think as a general rule political
14 parties are special interests in the political
15 process?
16 MS. BREGMAN: Objection; speech or debate.
17 Instruct the witness not to answer.
18 MR. CARVIN: What?
19 BY MR. CARVIN:
20 Q Do you think as a general rule political
21 parties are a special interest in the electoral or
22 political process?

Page 192

1 MS. BREGMAN: If you have an answer to
2 that question, I will allow you to answer it.
3 THE WITNESS: We identified areas in the
4 existing system that needed to be addressed, one of
5 which was the sources of funds. We drew lines. You
6 might disagree with those lines, but those are the
7 lines that were drawn. That was the consensus that
8 we achieved in Congress.
9 I recommend if you have any additional
10 suggestions, we could certainly address that in the
11 future. But at this point, that's what we
12 identified. So the sources of funds that are used
13 to influence and impact a federal election is a
14 concern. That's what we addressed.
15 BY MR. CARVIN:
16 Q And one of the lines was drawn between
17 political parties and corporations and unions;
18 correct?
19 MS. BREGMAN: Same objection; same
20 assertion of privilege. We are talking about lines
21 that Congress drew. What could be more within the
22 speech or debate clause, as the answers that the

Page 193

1 Senator has given you reveal?
2 MR. CARVIN: I'm trying to discuss it in
3 whatever context the Senator is comfortable. Quite
4 obviously, the Senator has made it clear that you
5 were involved in lines that it crosses.
6 BY MR. CARVIN:
7 Q All I'm trying to figure out is do you
8 think it makes sense to have a year-around ban on
9 soft money paying for ads when run by political
10 parties as opposed to the 60-day or 30-day ban when
11 soft money is used by corporations and unions to run
12 ads that are designed to influence federal
13 elections?
14 MS. BREGMAN: Objection; privilege. I
15 would hope that if she didn't think it made sense,
16 that she wouldn't have supported the legislation.
17 The legislation is what it is. Obviously Congress
18 thought it made sense to do what it did. I don't
19 think we should go into that here.
20 BY MR. CARVIN:
21 Q Do you think they drew that line?
22 MS. BREGMAN: Objection; privilege.

1 Do you think that a line was drawn? I
2 will let you answer that question.
3 THE WITNESS: Obviously a line was drawn.
4 The legislation was passed and became law. That was
5 the collective judgment of the institution. That
6 was done.
7 I focused on, as you well know,
8 electioneering communications because that is a
9 source of a major deficiency in the current election
10 laws. I sought to redress that. I focused on
11 communications, on corporations and unions, extended
12 to other organizations as well, that bright line.
13 If we had gone further, I suggest somebody
14 would have been challenging that particular point of
15 view. So this is the line we drew. Should we draw
16 it further and do more? That remains for the
17 future. I can't determine that. That's what we
18 came out with, reflected in the statute.
19 BY MR. CARVIN:
20 Q I guess the point I'm trying to make --
21 A I can't speak to everybody's intention in
22 the institution. I wish I could, but I can't. I

1 respect to labor unions and corporations and do
2 another thing with political parties.
3 You are asking her why that is, why lines
4 were drawn differently, why the Act treats one one
5 way and treats the other another way, and that is
6 speech or debate. It cannot be compelled, as much
7 as you wish that it could, in as many different ways
8 that you might hope to restate the question.
9 I would instruct you not to answer the
10 question.
11 BY MR. CARVIN:
12 Q Do you understand at this point whether or
13 not there is a total ban on soft money being used at
14 any time by a political party to run an ad that
15 falls within the definition of electioneering
16 communication?
17 A You want to show me the statute?
18 MR. CARVIN: Why don't we mark this.
19 (Snowe Exhibit 16 identified.)
20 BY MR. CARVIN:
21 Q Senator, the numbering on this document is
22 not particularly good. In other words, there's none

1 can't give you everybody's point of view. You may
2 disagree with this point of view that is embodied in
3 the statute, but that's how we developed a
4 consensus.
5 Q That's fair enough. I'm not asking you to
6 speak to anybody else's views. I'm just asking you
7 as --
8 A I doubt my views will have an impact on
9 the Court. My opinion, I should say.
10 Q So at this point I'm trying to figure out
11 you did go further with respect to advertisements
12 paid for by political parties, and I'm wondering why
13 you did that.
14 MS. BREGMAN: Objection. You are asking
15 her why she did something in connection with the
16 Act.
17 MR. CARVIN: I have asked it every
18 conceivable way.
19 MS. BREGMAN: Yes. And every conceivable
20 way you asked it brings home the point that you are
21 asking why the legislation was passed the way it was
22 with the provisions it has which do one thing with

1 at the bottom. So I would like you, if you could,
2 it is either in the upper left-hand corner or the
3 upper right-hand corner, 116 Stat. 82. It is
4 actually the second page of your document. If you
5 look at 101(a), and then there's a Section 323,
6 "Soft Money of Political Parties." And then if you
7 will see, it says, "National committees. (1) In
8 general. A National Committee of a political party
9 (including a national Congressional campaign
10 committee of a political party) may not solicit,
11 receive, or direct to another person a contribution,
12 donation, or transfer of funds or any other thing of
13 value, or spend any funds, that are not subject to
14 the limitations, prohibitions, and reporting
15 requirements of this Act."
16 So it seems to be apparent that if --
17 let's make it simple in this case -- a national
18 committee sought to solicit or spend funds for an
19 advertisement that was designed to influence a
20 federal election, they could not use soft money,
21 that is, money that's not subject to the
22 limitations, prohibitions or reporting requirements

1 of this Act. Is that correct?
2 MS. BREGMAN: Is it correct that it is
3 apparent to you?
4 BY MR. CARVIN:
5 Q Is it correct that the Act would not
6 permit a national committee to spend soft money on
7 an ad that falls within the definition of
8 electioneering communication at any time?
9 MS. BREGMAN: Calls for a legal
10 conclusion.
11 Do you share his understanding of the
12 reading of that provision?
13 THE WITNESS: As I read it, I presume
14 that's correct.
15 BY MR. CARVIN:
16 Q In your declaration, which I guess is the
17 second exhibit we have used, you say that the system
18 is significantly corrupted or at least by the
19 influence of special interest money. Do you view
20 political parties as special interests within the
21 meaning of that phrase?
22 A No. It depends on their source. It is

1 Q There is a number 4 at the top which you
2 should disregard. That was number 4 in Senator
3 Jeffords' deposition.
4 A Okay.
5 Q This is an ad that says, "Behind this
6 label is a shameful story of political prisoners and
7 forced labor camps, of wages as low as 13 cents an
8 hour, of a country that routinely violates trade
9 rules flooding our markets, draining American jobs.
10 Now Congress is set to scrap its annual review of
11 China's record and reward China with a permanent
12 trade deal. Tell Congresswoman Myrick to vote no
13 and keep China on probation until this label stands
14 for fairness."
15 As you see, that's paid for by the
16 AFL-CIO.
17 A Uh-huh.
18 Q If this ad was paid for by the AFL-CIO's
19 treasury funds and run within 60 days of a general
20 election, would that in your mind create the
21 appearance of corruption?
22 MS. BREGMAN: Same objection; same

1 the sources of funding. No, I don't. They are
2 political entities.
3 Q What kind of sources would be relevant to
4 your answer to that question?
5 A Soft money.
6 Q Let me ask you this, without referring to
7 a specific provision of the Act. Do you recall
8 around 1995, late '95 and early '96, the AFL-CIO ran
9 some ads I believe in Maine and other New England
10 states attacking, among others, Congresswoman Myrick
11 in an effort to defeat her and others for election?
12 A No, I'm not aware. They may have. You
13 are referring to Congresswoman Myrick?
14 Q There is a specific ad. It was part of a
15 larger AFL-CIO effort. I thought you might remember
16 that, some ads run by the AFL-CIO criticizing
17 Congresswoman Myrick.
18 A I don't. She is not from my state.
19 Q I understand.
20 MR. CARVIN: Mark this, please.
21 (Snowe Exhibit 17 identified.)
22 BY MR. CARVIN:

1 privilege.
2 You can answer this if you want.
3 THE WITNESS: Yes. It is part of the same
4 flawed system I referred to earlier.
5 BY MR. CARVIN:
6 Q And I think we agreed earlier that if they
7 ran it outside the statutorily prescribed period,
8 that it wouldn't fall within the Act; correct?
9 A Correct.
10 Q Is it your understanding of the Act
11 that -- say, the state GOP, if they responded to
12 this ad that had been run prior to the statutorily
13 prescribed period, would be prohibited from doing so
14 if they used soft money to fund it?
15 MS. BREGMAN: Objection; calls for a legal
16 conclusion.
17 If it is your understanding of the Act
18 that that is the case, you can answer this question.
19 THE WITNESS: Yes, it is my understanding.
20 BY MR. CARVIN:
21 Q As a general matter, do you think it is a
22 helpful public policy to disadvantage one

1 organization that seeks to participate in the
2 electoral process relative to other actors in the
3 electoral process?

4 MS. BREGMAN: Objection. That is core
5 speech or debate, also lacks foundation as to
6 whether that is the case. I would instruct --

7 THE WITNESS: You are making the
8 presumption that I drafted this entire legislation.
9 Let's go back first to this particular ad. Are you
10 suggesting that we should ban ads financed by
11 corporations and unions year round? Because
12 obviously that would raise a host of questions.

13 We might have wanted to draw the line
14 further out. But we could have run into
15 considerable difficulty. It might have been
16 regarded as sweeping and broad.

17 So we had to draw a line somewhere. Where
18 do these advertisements have the greatest influence
19 and the greatest impact? And it is within that
20 60-day period.

21 It well may be that they run ads before
22 that, and why not draw a parallel with political

1 honestly presented.

2 I did want to clarify that my prior
3 remark -- sometimes remarks are directed at counsel,
4 and they seem like they are directed at witnesses --
5 was a litigation-related observation, which I'm sure
6 your counsel will disagree with, in which I was
7 pointing out the perils of selectively invoking any
8 privilege, whether it be attorney-client or speech
9 and debate, because it could create a negative
10 impression about the witness.

11 I certainly didn't in any way mean to
12 suggest that you as a witness were being less than
13 forthcoming or were doing it. I think we all
14 agree -- I'm sure we disagree about the application,
15 but I'm sure we would all agree that we are in a
16 very unusual circumstance, where sitting Members of
17 Congress who were the principal sponsors of an Act
18 are intervening in an ongoing civil litigation about
19 it.

20 So I think we are all feeling our way as
21 best we can through what is a gray area of
22 constitutional law.

1 parties that are perpetual political entities. But
2 we had to draw a line when it comes to organizations
3 in being able to communicate to their own
4 constituencies, to their own membership.

5 You know, there has been a fine line in
6 how that would be regarded in terms of infringing
7 upon one's ability to free speech. So we drew that
8 line so that there would be no doubt that it is the
9 most compact period of time in which these ads are
10 run that could influence the outcome.

11 MS. BREGMAN: I would like to take a
12 five-minute break.

13 MR. CARVIN: That's fine.

14 (Recess.)

15 BY MR. CARVIN:

16 Q Let me say this on the record, if I might.

17 I want to make it clear that nothing I
18 previously said was in any way intended to either
19 cast aspersions or suggest that Senator Snowe was
20 being anything less than cooperative and was
21 obviously giving testimony that was fully within her
22 rights and, obviously, without question, being

1 I was making a litigation-related point
2 about the context in which you might want to
3 litigate that. I certainly didn't mean to suggest
4 anything about either your testimony or the way the
5 deposition is going.

6 A Thank you.

7 Q I wanted to clarify that for the record.

8 A I appreciate that. Thank you.

9 Q I think I will switch to see if at least
10 we can agree, and I will preface a little of this to
11 avoid any potential confusion. When I'm asking you
12 questions about your interaction with either the
13 state or national political party committees, I'm
14 obviously doing that in terms of your experiences or
15 observations. I believe you participated in that
16 process.

17 Are you aware of the Republican Party at
18 either the state or national level lobbying you or
19 other Members of Congress on pending legislation?

20 MS. BREGMAN: Objection; speech or debate.
21 You can answer that.

22 THE WITNESS: I don't know that I can cite

1 any specific instances. I know it hasn't been true
2 of the state party. The state generally has not
3 approached me on any issues. I believe there have
4 been times in which the Republican Party chairman
5 might have indicated a preference on an issue at a
6 policy lunch or something in the past on some issue,
7 but I really can't recall any specific instances.

8 BY MR. CARVIN:

9 Q And the last part of your answer was the
10 Republican chairman meaning --

11 A The national chairman. Sometimes the
12 national party chairman since I have been in the
13 Senate has frequently attended the policy lunches.
14 So it may well be that they might have indicated
15 somewhere along the line in the eight years I have
16 been in the Senate talks about a preference. But I
17 don't remember any specific instances.

18 Q Are you aware of any instances where the
19 national party committees -- and I would include in
20 that the RNC, the Congressional committee and the
21 Senatorial committee -- have implied or stated that
22 they would provide or withhold soft money to induce

1 A I would assume so. I don't know.

2 Q Does the Senatorial committee, as far as
3 you know since you have been in the Senate, have a
4 policy where Senators will contribute their personal
5 excess campaign funds to the Senatorial committee?

6 A Do they have a policy?

7 Q Have they ever had a policy since you have
8 been in the Senate?

9 A They have asked us to contribute -- you
10 mean left-over funds?

11 Q Right.

12 A That's correct.

13 Q How about solicitation, requesting that
14 Senators help them in fundraising for the Senatorial
15 committee?

16 A Yes.

17 Q How have you been asked, if at all, in the
18 past to do that?

19 A Well, it has been generally, of course,
20 through the person who is the director of the
21 Senatorial committee asking for Senators to
22 participate in events and making telephone calls for

1 a federal officeholder or candidate to support the
2 party committee's policies?

3 MS. BREGMAN: Objection; speech or debate.
4 You can answer it.

5 THE WITNESS: No, I don't have any
6 indication that's happened.

7 BY MR. CARVIN:

8 Q Have you looked at how the National
9 Republican Senatorial Committee makes decisions on
10 which races to fund or not to fund?

11 A I have no idea how they make that
12 decision. So that's a good question. I have no
13 idea.

14 Q I think I know the answer to this. In
15 light of that, do you have any reason to believe
16 that their expenditure decisions are in any way
17 affected by the identity of the soft money donors or
18 candidates who have raised a lot of soft money?

19 A No. I don't know that to be true.

20 Q And I may be really belt and suspenders
21 here. I take it that is also true of the Democratic
22 national committees?

1 specific events.

2 Q Let me start with the second part, if I
3 can. Have you ever made phone calls to seek to have
4 people attend or give money for an event?

5 A Yes.

6 Q How does that work? Do you actually go
7 over to the Senatorial committee to make those
8 calls?

9 A Yes, I do, or my apartment.

10 Q Somewhere off the federal premises?

11 A Yes.

12 Q And then do you have a list of folks that
13 you know to call, or how does that work?

14 A No. They provide me with a list.

15 Q And are these people that you typically
16 know or is it --

17 A Some. Several of them might know, but not
18 all, most certainly. Not all.

19 Q And how would you have known them? Is it
20 people --

21 A They might have attended my own events
22 from my own candidacy.

1 Q And do they give you a script for these
2 calls?

3 A No.

4 Q And is it a fairly straightforward
5 solicitation, "please come to this dinner on this
6 date" sort of thing?

7 A Yes, giving the time and place.

8 Q And do you ever discuss policy or
9 legislative issues in these phone calls?

10 A No.

11 Q Have you ever given somebody who you have
12 solicited on these calls or somebody who has given
13 money to attend these events preferential access to
14 your office?

15 A No. Everybody has access to my office to
16 the extent that I have time available.

17 Q So I will make it as broad as I can. Are
18 soft money donations to either the state GOP or the
19 national Republican committees in any way a criteria
20 for you or your office providing access?

21 A No.

22 Q And are you aware of any Senators of

1 A No, not with this -- the current chairman?

2 Q That's fair enough. Now let me expand it
3 to anybody who has been RNC chairman or their staff
4 over the last, say, 10 years.

5 A Possibly. I just can't say firsthand.
6 Somewhere along the line I might have. I just can't
7 think of any specific instances. Generally my
8 interactions have been either with the Congressional
9 committee when I was in the House or the Senatorial
10 committee.

11 I do attend RNC things. It is less
12 direct, so I don't know. I had known the party
13 chairman. It may be some specific example of doing
14 something for a dinner or something. I don't recall
15 a specific conversation.

16 Q How about the NRCC, the National
17 Republican Congressional Committee, have you ever
18 done any fundraising or talked to them about
19 fundraising?

20 A Well, not very recently. Very limited
21 when I was in the House. It would be very limited.
22 I didn't do much in that way at all. I can't even

1 either party who use soft money donations as a
2 criteria for providing access to the Senators or his
3 or her staff?

4 A No.

5 Q And I believe you also said -- let me
6 follow up. You have made phone calls for the
7 National Republican Senatorial Committee?

8 A Yes, I have.

9 Q Have you ever done anything analogous for
10 the Republican National Committee?

11 A I don't recall that I have, not in recent
12 times. I don't think so. Generally it has been the
13 Senatorial committee. But I just can't say
14 emphatically that I haven't. Sometimes, if you are
15 given a list. It is not often, but it could have
16 been for an RNC dinner. But they weren't names
17 given to me by the RNC.

18 Q Let me ask you --

19 A There are so many dinners, you can't keep
20 track of which one is sponsored by whom.

21 Q Have you talked to the RNC chairman or
22 staff about your participation in fundraising?

1 recall if they ever gave me a list, to be honest
2 with you. Things are much different now than they
3 even were then. I can't recall.

4 Q Now let's switch back, if I can, to the
5 Senatorial committee. Have you attended events or
6 dinners where some of the people were providing what
7 we will call soft money?

8 A Yes.

9 Q Are you aware of distinctions between soft
10 money and hard money events when it is run by one of
11 the national committees?

12 A You know, I don't think -- I haven't made
13 that distinction. I think you can identify them if
14 you are aware of the sum of money that's being
15 requested by table or by individual. Then you can
16 presume it is a soft money event.

17 Q If it is a large amount, then you presume
18 it is soft money?

19 A Yes.

20 Q If it is \$10,000 a plate? Or give me a
21 sense.

22 A Yes, 10,000, 12,000, whatever.

1 Q And that would be true even though -- I
2 think the old limit for giving to at least the
3 national committee was \$20,000 a year.

4 A Yes, it may well be. I'm not familiar
5 with that level.

6 Q How would you know -- did they communicate
7 to you in any way this is a soft money event?

8 A No, actually not. Talking about the
9 recent Senatorial dinner, they give you the
10 information about the dinner and the different
11 levels. I assume by those different levels, that
12 would presume that it is a soft money event. If you
13 bought a table, you know.

14 Q And then there would be -- how many of
15 these fundraisers, roughly, per year of these Senate
16 committee fundraising events?

17 A Well, it depends on how you make the
18 distinction. If it is for individual candidates,
19 Senators aren't running for re-election or
20 Senatorial committee-sponsored dinners.

21 Q Let's focus on the Senatorial
22 committee-sponsored dinners.

1 sponsored events. There are different groups with
2 different levels of contributors.

3 Q Oh, like what's called the Pioneers, or
4 they give them some name and that kind of thing?

5 A That's right.

6 Q Have you been involved in any of those
7 groups, meeting with them?

8 A I have attended some receptions and/or
9 dinners over the years, not many, but I have
10 attended some of them.

11 Q At those receptions and dinners -- and I
12 will call them for the high-donor group -- how many
13 of those would you say roughly you have attended in
14 the last eight years?

15 A I would hesitate to venture a guess. I
16 would rather be accurate on that. I couldn't tell
17 you. It is not a significant number. I wouldn't
18 want to speculate on that without knowing. Eight
19 years is a long time.

20 Q Again, would you guess less than 10 or
21 could it be more than 10?

22 A Are you counting the individual

1 A I'm not sure that I know. There was a
2 recent Senatorial committee dinner. Then there is a
3 joint House and Senate dinner, and there was the
4 President's dinner. I don't know if there were
5 three or two this year. I don't know.

6 Then there are the individual events for
7 Senators that are sponsored at the Senatorial
8 committee, are held there. They may not necessarily
9 be sponsored by the Senatorial committees. It is
10 the candidate, the Senator. And it is just held at
11 the location.

12 Q Focusing on that kind of thing, would
13 those moneys go to the individual candidate's
14 re-election fund as opposed to the committee?

15 A That's correct.

16 Q So let's focus on the ones, if you can,
17 that go to the Senatorial committee itself.

18 A There are also different groups. I'm just
19 not familiar with the different groups and what they
20 contribute, whether it is soft money or hard money.

21 Q Different groups that, what, attend the --

22 A They could be Senatorial committee

1 candidates?

2 Q No. Leaving those aside.

3 A Over eight years, I would say yes,
4 probably 10, if you assume two a year, two dinners a
5 year, certainly, and probably more sometimes with
6 other events. That would be a probably a minimum.

7 Q So I'm clear on this, I believe you
8 reference that there are one or two or maybe even
9 three dinners a year.

10 A Yes. I may not be correct on that. As I
11 recall, sometimes we have a joint House-Senate
12 dinner. I'm trying to think if we had that this
13 last year. We have a President's dinner. That
14 could be an RNC dinner. I'm just not sure. There
15 could be two events, one Senatorial, one joint, and
16 then I don't know about the President's dinner. I
17 really don't focus on that.

18 Q I will get back to the annual dinners in
19 one second. Have you ever attended or been
20 requested to attend some smaller gathering by the
21 Senatorial committee for people who have given some
22 amount of money such that they are in one of these

1 donor groups? Have you ever been to one of those
2 kinds of things?

3 A I have been to receptions, yes. I don't
4 recall their level of contributions. There are
5 various levels. I, frankly, don't keep track. If
6 it is on my schedule, if it is something I can do, I
7 do it. I'm not familiar with their level of
8 contributions.

9 Q How many of those kinds of receptions do
10 you think you have been to in the last 10 years,
11 your best estimate?

12 A That would be a tough guess. I really
13 couldn't tell you.- It is not a lot. I don't know.
14 I just don't have any idea. It could be several a
15 year. It could be in addition to the dinners. I
16 just couldn't tell you offhand.

17 Q How about at either of those receptions,
18 the annual dinners that you referenced earlier --
19 let's focus on the annual dinners. Would you
20 typically sit at a table for the dinner or how would
21 that work?

22 A You are generally assigned a table.

1 discuss the legislative process or issues that would
2 be coming to Congress at those dinners typically?

3 MS. BREGMAN: Speech or debate privilege.
4 But you can answer that question.

5 THE WITNESS: We didn't in this instance.
6 We talked about the political environment.

7 BY MR. CARVIN:

8 Q And how about more specific discussions of
9 pending legislation or legislation that might come
10 up?

11 MS. BREGMAN: Same objection, same
12 privilege.

13 THE WITNESS: We didn't happen to, no.

14 BY MR. CARVIN:

15 Q How about at the other --

16 A That I can recall. We didn't.

17 Q How about at the other dinners you have
18 attended? Have you devoted any substantial portions
19 of the time to discussing upcoming legislative
20 business?

21 MS. BREGMAN: Same objection, same
22 privilege.

1 Q Do you typically know the people at the
2 table?

3 A Sometimes. Some of them I might know.
4 Some I don't. I don't know all of them at the
5 table. They may know me just by virtue of my
6 position, but I might not know all of them. I might
7 know one or two people. It depends.

8 Q Do you remember -- for example, the most
9 recent one you went to, did you know anybody at the
10 table when you sat down?

11 A I knew one individual. I might have met
12 some others before, but there was one I definitely
13 knew.

14 Q Was that person a lobbyist or somebody who
15 was involved in the legislative process?

16 A Well, he might be. I would want to be
17 sure of my answer. He represents an association.
18 So I would assume that he is a lobbyist, but I would
19 want to be definite before I said that. I would
20 have to look at his card.

21 Q How about generally, either with this
22 person or other people at the table, would you

1 THE WITNESS: I just can't recall all my
2 conversations. It is possible. But most often it
3 is just discussing the political environment, what's
4 going on. But that's about it. There may well have
5 been conversations regarding legislative matters.

6 I just can't recall specifically those
7 conversations. It may well have happened. But
8 generally they are informal evenings, listening to
9 speeches, and then it is done, pretty quick.

10 BY MR. CARVIN:

11 Q Do you recall anybody making an
12 appointment to meet you subsequently to discuss any
13 pending legislative business at any of these
14 receptions or dinners that you have attended?

15 A No, not that I could ever recall. I don't
16 recall of any instances when that was the case.

17 Q How about these receptions for the donor
18 groups? Do you discuss legislative business or make
19 appointments for subsequent discussions at those
20 receptions?

21 A I can't recall any specific instances. I
22 can't rule it out. Generally they are very casual

1 and informal events. Many of those instances are
2 people from away. They are not from here. The
3 larger dinners, again, I just can't recall that
4 there were any instances that led to that. It might
5 well have been. I just don't recall any.
6 Q Would you, to the extent you know, think
7 that your experience in terms of the informal nature
8 of these contacts and discussions be fairly typical
9 of other Senators you know, or is that atypical?
10 MS. BREGMAN: Objection. If you know, you
11 can answer.
12 THE WITNESS: I just don't know. I can
13 only speak for myself.
14 BY MR. CARVIN:
15 Q I think I forgot to ask you, you mentioned
16 that from time to time the Senatorial committee
17 would ask you to make phone calls to ask people to
18 attend these dinners.
19 A Yes.
20 Q Do you have a rough estimate of how much
21 time you would devote to that in a year?
22 A Not very much. This last time, this

1 help, either with phone calls or through attendance
2 or that sort of thing.
3 Q Do they give you a list of the largest
4 soft money donors at any of these policy lunches?
5 A I can't recall that they have. I just
6 don't recall any lists that I received. It may well
7 be someplace, but not there. I don't recall that.
8 Q How about for the Republican National
9 Committee, are you aware of the large soft money
10 donors to the Republican National Committee?
11 A Actually, I'm not. Sometimes I have seen
12 lists in the paper for the Presidential campaign. I
13 really wouldn't be aware of who the major
14 contributors are.
15 Q I think I have asked you this question,
16 but just so I'm clear -- maybe I haven't. For the
17 state party, have you done fundraising for the Maine
18 Republican Party?
19 A Yes, I have attended events. I have sent
20 letters on behalf of the Maine Republican Party.
21 Q And in light of -- is it called the clean
22 election law now?

1 dinner was maybe an hour. So just a few hours
2 within this last year for those specific calls,
3 probably not more than a couple hours.
4 Q Does the Republican Senate Caucus meet on
5 a regular basis?
6 A Yes. You mean the policy lunch every
7 Tuesday?
8 Q Yes. They have a policy lunch every
9 Tuesday?
10 A Yes.
11 Q Is that the way the Republican Senators
12 regularly meet?
13 A Yes.
14 Q And do you recall whether or not at those
15 meetings soft money donations were ever a topic of
16 conversation?
17 A Well, not soft money donations per se.
18 Talking about events that are coming up and how they
19 are doing. It is that type of conversation, not
20 more specifically that it is soft money versus hard
21 money. It is generally the events that are coming
22 up, encouraging members to attend, urging them to

1 A Yes.
2 Q When was that passed?
3 A In '96 the referendum was approved. I'm
4 not sure exactly when it took effect.
5 Q There is some form of public financing in
6 Maine?
7 A That's correct, for gubernatorial and
8 state legislative races.
9 Q So post-'96, was the state Republican
10 Party raising money for state legislative or
11 gubernatorial races?
12 A Yes, although in Maine, the primary
13 fundraising is done by the candidates themselves on
14 behalf of their own candidacies. They assist with
15 some events, generally raising money for their own
16 state legislative races or for the party or get out
17 the vote, that sort of thing.
18 Q Are they still fundraising even after the
19 public financing law went into effect?
20 A Yes, I think they are. I think they are.
21 The way the fundraising law works in Maine, it is
22 funding the candidates.

1 Q So the party doesn't get it?
2 A That's correct. It goes directly to the
3 candidates, yes, if they opt to be a clean
4 candidate.
5 Q In any of your fundraising experiences for
6 the state party, have people approached you to
7 discuss pending legislative business or issues that
8 will come before Congress?
9 MS. BREGMAN: Objection; speech or debate.
10 You can answer.
11 THE WITNESS: No.
12 BY MR. CARVIN:
13 Q Are you aware of any donor that has given
14 to the state Republican Party with the intention of
15 securing preferential access to either you or any
16 other federal candidate or officeholder?
17 A No.
18 Q And I'm now going to make it more general.
19 To your knowledge, has soft money donations to state
20 parties been done with the expectation or informal
21 agreement that this will help influence or receive
22 preferential access from a federal legislator?

1 have to speculate.
2 THE WITNESS: I can't recall. I would
3 rather cite an accurate number than give an
4 inaccurate one.
5 BY MR. CARVIN:
6 Q I take it this is all reported to the
7 Federal Election Commission?
8 A It is. I was up for re-election in 2000.
9 I just can't recall the specific numbers at this
10 point.
11 Q Do you have a rough estimate of how much
12 you spent on your 2000 re-election campaign?
13 A Yes. Probably a little more than
14 \$2 million.
15 Q And were you aware of any soft money
16 expenditures in connection with your campaign?
17 A You know, I can't recall. There might
18 have been some. I just can't recall.
19 Q Do you have hard money fundraising events?
20 A Yes.
21 Q In the D.C. area and in Maine?
22 A Yes.

1 MS. BREGMAN: Objection; calls for
2 speculation in the minds of other people.
3 THE WITNESS: No, I'm not aware of any.
4 BY MR. CARVIN:
5 Q Again, are you aware whether or not the
6 state parties' expenditure decisions are in any way
7 linked or correlated with the candidates who raise
8 money for them?
9 A No.
10 Q Let me make this as broad as I can. Are
11 you aware of people giving money to a state party in
12 an effort to avoid or circumvent other contribution
13 limits in federal campaign law?
14 A No, not to my knowledge.
15 Q You accept PAC contributions?
16 A I do.
17 Q Do you have a rough estimate of what
18 percentage of your campaign comes from PACs as
19 opposed to individuals?
20 A I would rather give you an accurate
21 percentage.
22 MS. BREGMAN: If you don't know, you don't

1 Q Has a lobbyist ever been on the host
2 committee for one of those fundraising events?
3 A Yes.
4 Q And did you ever give access or influence
5 to lobbyists who served on the host committees
6 because of whatever help they gave you in raising
7 hard money?
8 A No.
9 Q Are you familiar with the term "bundling"?
10 A Yes, I am.
11 Q Are you aware of folks who have bundled
12 hard money contributions and sought to contribute
13 them to your campaign?
14 A Yes. I'm familiar with the term. I can't
15 say for sure that I haven't been the recipient of
16 that. I just wouldn't want to say for sure unless I
17 was absolutely clear on my answer.
18 Q Let me switch back.
19 A I just don't know, and so I don't want to
20 say unequivocally without knowing for certain.
21 Q How about for these fundraising events.
22 Let's start with D.C. Would you give me an estimate

1 of how many you had of those in, say, 1999-2000?
2 A I just can't recall. I would have to go
3 back and look at my records.
4 Q Would these be breakfasts?
5 A Yes. They would be breakfasts or
6 receptions, sometimes luncheons, sometimes dinners.
7 Q To the extent you can recall, would you
8 have spent more time doing that than fundraising for
9 the Senatorial committee events you have described
10 in '99 and 2000?
11 A Yes.
12 Q How about in the last two years, can you
13 give me an estimate of how many hard money
14 fundraising events you have been involved with for
15 yourself?
16 A None. I haven't done any fundraising in
17 the last two years for myself.
18 Q How about for other Congressional or
19 Senatorial candidates?
20 A Well, I have attended events for them. It
21 is very difficult to think about how many because
22 over the last two years I have attended events for

1 at any time suggesting that the expenditure
2 decisions of the Senatorial committee would be
3 affected by the amount which Senators raise soft
4 money for the Senatorial committee?
5 A No.
6 Q Let me ask you a general question while we
7 are looking at that. In your experience, are you
8 aware of the Republican National Committee either
9 soliciting or transferring money to state or local
10 candidates?
11 A Did you say soliciting?
12 Q Yes. I can break it down for you if it
13 would be clearer. Sending out a fundraiser letter
14 for somebody who is running for governor of some
15 state. Do you have any familiarity with that?
16 A No. It is possible. I just don't
17 recollect anything. But it may well be possible. I
18 could have been at some point in time. So much
19 comes across my desk. It is possible. I don't
20 recall. I don't want to say absolutely not and find
21 out that something did get my attention. But I
22 don't recall.

1 my colleagues that are held at the Senatorial
2 committee or other places and receptions. I have
3 done that. I can't cite a number offhand. I would
4 have to look at my record and schedule.
5 Q You don't have a leadership PAC?
6 A No, I don't.
7 Q And is it the chairman of the Senatorial
8 committee? Is that what they call the ranking
9 Senator?
10 A Yes.
11 Q Has the chairman of the Senatorial
12 committee ever mentioned to you soft money donations
13 in a context which even implies that he or she
14 thinks it should influence a legislative activity by
15 you?
16 A No.
17 Q I think you have answered this. To the
18 extent you are aware of soft money donations, it has
19 had no effect on your performance as a legislator in
20 either the Senate or the House?
21 A That's correct.
22 Q Senator, do you recall Senator McConnell

1 Q I take it there's a whole lot of
2 fundraising literature that the RNC sends out that
3 you never see. That's my assumption. Is that fair?
4 A With my name on it?
5 Q No.
6 A For solicitations, you mean?
7 Q Again, I will use the example of John
8 Jones is running for governor of X state. Have you
9 seen anything like that?
10 A Not recently. My husband ran for
11 governor. I can't think of any specific piece of
12 literature right now. It may well be.
13 Q When did he run for governor?
14 A In '86 he was governor and he had
15 re-election in '90.
16 Q Do you know, either in connection with
17 that or in other circumstances, whether or not the
18 Republican National Committee transfers money to
19 state parties so that they can spend it on state and
20 local races?
21 A Yes, they have transferred money to the
22 state parties. They have transferred money to Maine

1 Republican Party over time for different purposes,
2 but I assume to support state and federal candidates
3 in some way.

4 Q In your experience, has any of those
5 transfers or solicitations created what you viewed
6 as an appearance of corruption for the public?

7 MS. BREGMAN: Objection; speech or debate,
8 goes to what was considered by Congress.

9 If you want to give a personal opinion or
10 a personal experience, you can.

11 THE WITNESS: Are you asking me about soft
12 money?

13 BY MR. CARVIN:

14 Q Yes.

15 A Well, I think that obviously goes to the
16 heart of the legislation that became law in that we
17 are attempting to correct the system with the use of
18 soft money. It in the aggregate has created and
19 fueled a perception that has corroded the public's
20 confidence in the integrity of the process because
21 of the massive amounts of money that have been
22 raised in former soft money. That is a perception.

1 would be able or at least are perceived to be able
2 to have influence over federal candidates and
3 officeholders?

4 A Well, that is the perception. The fact is
5 that the parties are used to channel the soft money.
6 That's how it all evolved, that it was for party
7 activities.

8 Obviously we have seen how it has exploded
9 in terms of the amounts of money that have been
10 raised, and the parties became the avenue for
11 raising those types of funds. Obviously, to the
12 extent that we benefit as federal candidates, we are
13 accountable for the kind of system that has evolved
14 over time.

15 The question is do we want to change the
16 system or to allow the status quo. It won't be the
17 status quo; it is just going to continue to get
18 worse in terms of amounts of money. That has
19 created a problem with the American people.

20 Q Okay. As I understand it, you are saying
21 that the parties are sort of channeling this soft
22 money from special interests?

1 That's what we are trying to get at through this
2 legislation.

3 Q Fair enough. Again, I will be happy to
4 kind of walk you through it. I understood from your
5 prior answers that this may not have been the part
6 of the legislation that you directly focused on. So
7 I was trying to break it down. Maybe I could do it
8 this way.

9 State party expenditures on get out the
10 vote activities, in your mind does that create the
11 appearance of corruption?

12 MS. BREGMAN: Objection; speech or debate.

13 If you have a personal answer, you can.

14 THE WITNESS: It is not so much that the
15 parties spend money on get out the vote. I think it
16 is the source. So it is very difficult to make a
17 distinction by the types of activities they engage
18 in. It is the question of how they fund those
19 activities. That's at the heart of the matter in
20 this legislation.

21 BY MR. CARVIN:

22 Q In shorthand, because those sources then

1 A They are the recipients of it, whether it
2 is the national party or the state parties, some
3 parties to a greater extent than others. I'm not
4 familiar with each party at either the state level
5 or the national. It is in totality, in the
6 aggregate, exorbitant sums of money, as I mentioned
7 earlier, \$500 million. That's a major sum of money.
8 That's escalated tremendously over the last few
9 elections.

10 Q The \$500 million refers to the soft money
11 raised by the national parties?

12 A Sources.

13 Q But national as opposed to state? Are you
14 putting them both together?

15 A I assume it is combined. I don't know how
16 that breaks down between the national parties and
17 the state parties, but combined in the form of soft
18 money for use in federal election campaigns.

19 Q Are you aware of state parties that have
20 channeled soft money in an effort to directly or
21 indirectly benefit a federal candidate in a way that
22 raises the appearance of corruption in your mind?

1 MS. BREGMAN: Objection; speech or debate.
2 THE WITNESS: In the way it was channeled?
3 BY MR. CARVIN:
4 Q Maybe I should take a step back. You
5 would agree with me the Act doesn't prohibit a state
6 party from raising soft money?
7 MS. BREGMAN: Objection.
8 Is that a fair statement of your
9 understanding of the Act?
10 MR. CARVIN: I would be happy to --
11 THE WITNESS: I would like to review what
12 the Act says in that regard. But not for federal
13 purposes; it cannot be used in federal elections.
14 BY MR. CARVIN:
15 Q As I understand it, they can raise it, but
16 they can't spend it on federal election activity?
17 A That's correct.
18 Q I take it that the raising of it by state
19 parties and the going of it to certain uses, like,
20 for example, purely local races, wouldn't create the
21 appearance of corruption?
22 MS. BREGMAN: Objection; speech or debate.

1 THE WITNESS: It is a distinction that we
2 made in law because obviously this statute covers
3 federal elections. So states would have the
4 obligation to deal with their particular campaign
5 laws.
6 BY MR. CARVIN:
7 Q I can assure you this is not a trick
8 question. In an off-year election, like Virginia,
9 for example, they don't even run in the same years
10 that the federal candidates run.
11 A Yes.
12 Q So again, I would take it that in your
13 mind there's not an appearance of corruption for the
14 Virginia party raising soft money and spending it or
15 giving it to a gubernatorial candidate in, say,
16 2003, when there is no federal candidate on the
17 ballot?
18 MS. BREGMAN: Objection; speech or debate,
19 "in your mind." That was what the question was, I
20 believe.
21 If you have something in mind apart from
22 the legislative history of the Act, you can offer it

1 without waiving the privilege that clearly applies.
2 THE WITNESS: I guess I would ask the
3 question to you, so that I understand it, is that in
4 these instances they are raising soft money for
5 state elections; is that correct?
6 BY MR. CARVIN:
7 Q Yes.
8 A Obviously, we are not responsible for how
9 state elections are financed.
10 Q Right. Then I guess I'm trying to switch
11 to the point that would fall within the definition
12 of federal election activity. I will represent to
13 you -- feel free to check that -- that this would
14 include generic campaign activities like a door
15 hanger. Do you know what I mean by that phrase?
16 A Yes, I do.
17 Q Or a vote Republican or vote Democratic,
18 and some voter registration I believe within 120
19 days of the election.
20 A Uh-huh.
21 Q Do you have knowledge of or a view as to
22 whether or not those kinds of activities, again,

1 when a federal candidate is on the ballot, create an
2 appearance of corruption for those federal
3 candidates?
4 MS. BREGMAN: Objection; speech or debate
5 and the legislative history.
6 If you have a personal view on that, you
7 can give it.
8 THE WITNESS: I want to be sure that I
9 understand your question. Are you saying that
10 because a federal candidate is one among state
11 candidates on that door hanger?
12 BY MR. CARVIN:
13 Q Well, that would be one example. It would
14 go beyond that, where if you just said "vote
15 Republican" and there was a federal candidate and
16 let's assume you didn't list anybody's name. It
17 would still come within federal election activity
18 because it would benefit both the federal candidate
19 as well as some of the state people down on the
20 ballot.
21 A In this legislation that became law, we
22 obviously identified the fact that soft money

1 created serious problems in the way in which we fund
2 federal elections because there was a circumvention
3 of the existing system. That does create a
4 perception problem, particularly to the magnitude in
5 which this money is being raised.

6 Q Okay. I think I understand. I'm trying
7 to cut -- I think I would understand that point when
8 we are talking about either federal candidates
9 benefitting from it or being involved in the
10 national parties. I'm wondering does that
11 appearance problem attach to money raised by state
12 parties and spent for generic campaign activity in a
13 year when a federal candidate appears on the ballot?
14 Does that in your mind create the appearance of
15 corruption?

16 MS. BREGMAN: Objection; speech or debate.

17 THE WITNESS: It may. I think we attacked
18 the most egregious aspects, the pervasiveness of
19 soft money and how it is being raised and used.
20 There may be exceptions that might create or
21 constitute that perception. There are
22 extenuating -- there are exceptions.

1 previous elections. It is very possible.

2 Q When you say -- I'm sorry --

3 A For purposes of elections.

4 Q For federal as opposed to state elections?

5 This would be like a Republican National Committee
6 transfer to --

7 A I don't know if it would be a National
8 Committee or a Senatorial committee.

9 Q Are you more familiar with the Senatorial
10 committee?

11 A I'm not very familiar with their
12 transfers. If you are asking me some very intricate
13 exchanges, I'm not familiar. That's not what I do
14 every day --

15 Q No.

16 A -- and not very often either. I can't sit
17 here and cite chapter and verse about what the
18 Senatorial committee transfers to whom --

19 Q Right.

20 A -- with any specificity.

21 Q Maybe you have answered this. I thought
22 before you gave an example where the Senatorial

1 We can't address every exception in the
2 law in terms of off-year elections and whether or
3 not a federal candidate is -- whether those campaign
4 activities affect a federal candidate.

5 BY MR. CARVIN:

6 Q As an empirical matter, are you aware --
7 when you use the phrase "channeled soft money"
8 before -- where state parties have been used to
9 channel soft money to help federal candidates? Are
10 you aware of any instances where that has actually
11 occurred?

12 A No, but my understanding is the money can
13 be -- money can be received by state parties for the
14 purposes of assisting federal candidates.

15 Q Has that gone on, to your knowledge? I
16 will start with Maine.

17 A Yes, it has been the recipient of money
18 from the national party for the purposes of helping
19 federal candidates.

20 Q When did that happen that you can recall
21 in Maine?

22 A Well, probably this election and probably

1 committee or the national committee had given some
2 money to a state party and earmarked how they could
3 spend that money on federal elections?

4 A It would be used for get out the vote
5 purposes or potentially sharing of headquarters with
6 candidates, that sort of thing. That has happened,
7 yes.

8 Q Are you aware that they directed that it
9 be given to a certain federal candidate?

10 A I'm not aware of that.

11 Q My most general question, how would a
12 state party go about channeling soft money to help
13 the soft money donor or help the federal candidate
14 that you are trying to protect?

15 A I don't know about helping the soft money
16 donor. What I'm saying is that they become the
17 recipients of funds to assist in the overall
18 election that helps and benefits a federal
19 candidate, like the sharing of headquarters, for
20 example, or whatever. That is get out the vote that
21 benefits every candidate that's on the ballot, that
22 you share the get-out-the-vote costs, for example.

1 Q Right. I'm trying to think of the least
2 controversial example. If they had money in -- I
3 don't know where the Maine GOP -- where are they
4 headquartered?

5 A In Augusta.

6 Q If that money went to help them with their
7 headquarters, that wouldn't directly help the
8 federal candidate, certainly?

9 MS. BREGMAN: Objection. I think she said
10 it could help a federal candidate or would.

11 THE WITNESS: It helps when you have
12 different locations for headquarters throughout the
13 state.

14 BY MR. CARVIN:

15 Q Because the federal candidate would use
16 the facilities?

17 A Yes, right, for campaign activities. It
18 could be a party headquarters, for example, in which
19 you all shared sometimes. It would be volunteers
20 come in, do mass mailings, hold receptions, schedule
21 events. Some candidates share headquarters, and we
22 all pay a certain amount of your share of the

1 the fact that soft money has been raised in huge
2 sums. It is for the use and sponsorship of
3 advertisements. It has proliferated and it has
4 manifested itself in a major way in campaigns all
5 across this country. I think over that there's no
6 dispute.

7 It does circumvent the existing federal
8 election laws because of the size of donations that
9 can be made to the political parties or to the
10 national parties. It obviously far exceeds the
11 restrictions that are applied to candidates.

12 Q Right. Do you know, first of all, whether
13 or not soft money in state parties has gone up over
14 the last 10 years, or is it just the national
15 parties?

16 A Frankly, I don't make a distinction. So I
17 doubt the public does. I just know there is an
18 enormous sum of money. It is probably the national.
19 I don't know. I can't say for sure.

20 MS. BREGMAN: Can we take a break?

21 MR. CARVIN: Sure.
22 (Recess.)

1 contribution, that sort of thing, get out the vote,
2 so that you have headquarters located in different
3 parties of the state. Candidates may share the
4 headquarters or may not.

5 Q Have you ever used the party headquarters?

6 A Yes, I think I have. I'm trying to think
7 in the last campaign. I would have to go back to my
8 records. Yes, I think I did. I can't recall with
9 specificity whether or not they were my own that I
10 financed. I know my major ones, yes. I don't know
11 if there were any others up in northern Maine that
12 we might have shared with other candidates.

13 Q So these kinds of things, I take it, would
14 help both federal and state candidates?

15 A That's right.

16 Q Those kinds of things where the
17 headquarters could be used by both federal and state
18 candidates, do you think that people have used that
19 kind of activity as a conduit to circumvent the
20 restrictions on giving to federal candidates under
21 federal laws?

22 A I think what it is, it is getting back to

1 BY MR. CARVIN:

2 Q We have chatted about some fundraising.
3 Have you ever participated in or helped what I will
4 call an outside group, a 501(c) organization, to
5 raise funds?

6 A Yes. I'm not sure if they were 501(c)(4)s
7 or 527s. But that type of organization?

8 Q Yes.

9 A Yes.

10 Q Which organization was that?

11 A Well, I don't know which ones they are.
12 So I assume they are like Republican Pro-Choice or
13 Main Street Partnership, Wish List. I assume that
14 they come within those categories.

15 Q And what do they typically do, those
16 groups?

17 A In what way? What do you mean?

18 Q The first one was Republicans Pro-Choice?

19 A Right, on the pro-choice issue.

20 Q Are they an advocacy group? Let me make
21 it clear. Would they either give donations to or
22 get involved in direct candidate electoral

1 activities?
2 MS. BREGMAN: Answer if you know. If you
3 don't, then say you don't.
4 THE WITNESS: I don't know whether or not
5 they are strictly advocacy or campaign
6 contributions. I just don't know.
7 MS. BREGMAN: Don't speculate.
8 BY MR. CARVIN:
9 Q Is it Main Street Partnership?
10 A Yes.
11 Q What does that group do?
12 A It is a moderate Republican group, and
13 they give money to candidates. They also have a
14 policy arm that is separate, two different entities.
15 Q The last one was Wish List?
16 A Yes. That's Republican pro-choice women
17 candidates.
18 Q Kind of like Emily's List?
19 A Yes.
20 Q Have any of those three groups assisted
21 you directly or indirectly in any of your campaigns?
22 A Yes, they have.

1 Q In your mind, did that raise a potential
2 appearance for corruption, that you had fund-raised
3 for a group and then they made expenditures that
4 indirectly benefited?
5 MS. BREGMAN: Objection; speech and
6 debate.
7 Go ahead.
8 THE WITNESS: Consistent within the law as
9 a federal candidate raising individual contributions
10 is a restriction on the amount to which they can
11 contribute if they have a political action
12 committee, which is different from the soft money
13 issue that we obviously address with the new law.
14 The massive sums of money that are given
15 to parties in the form of soft money are generally
16 unrestricted, unlimited and, in some cases, not
17 disclosed.
18 The current federal election laws have
19 restrictions, have limitations that are placed upon
20 federal candidates in terms of how much they can
21 receive, and they are required to be disclosed. So
22 there is accountability within the system.

1 BY MR. CARVIN:
2 Q Would raising unlimited amounts of money
3 for a 501(c) organization that then used the money
4 to engage in I will say get out the vote, would that
5 raise the appearance of corruption, in your mind?
6 MS. BREGMAN: Same objections and
7 privilege.
8 If you have a personal opinion.
9 THE WITNESS: When you say unlimited
10 amounts, are you talking about soft money?
11 BY MR. CARVIN:
12 Q As I understood your first answer --
13 A If I go to an event on behalf of an
14 organization or raise money, still those
15 contributions made, if it is a political action
16 committee, are limited to specific limitations. I'm
17 not talking about soft money. I'm talking about a
18 specific limitation. They are restricted.
19 Q Right. That's what I gathered from your
20 first answer. The key to avoiding the appearance of
21 corruption, if you could raise unlimited amounts for
22 these groups that could then participate in get out

1 the vote activity, in your mind, would that raise an
2 appearance of corruption?
3 MS. BREGMAN: Same objection, same
4 privilege.
5 You can answer.
6 THE WITNESS: I guess I'm missing your
7 question.
8 BY MR. CARVIN:
9 Q Maybe I'm not clear. When I say unlimited
10 money, I'm talking about soft money, money that is
11 not regulated by -- I don't want to get hung up on
12 the terminology -- money that is not regulated under
13 the Federal Election Campaign Act.
14 A Right. Yes, it does raise that
15 perception. I think that's why Congress for the
16 first time in more than 25 years sought to reform
17 the current campaign financing system, because of
18 the explosion of the soft money that's being raised
19 and spent on behalf of federal campaigns. You are
20 talking \$500 million, and in 1996 it was somewhere
21 between 240 and 350. Now it is up to 500 or more
22 million dollars.

1 I think there is a dramatic change in the
2 characterization of these elections. Any time you
3 can avoid accountability restrictions, yes, it does
4 lessen the public's confidence in the system.
5 That's what we are talking about here.
6 Q Do you expect that the parties will have
7 less money available to them after the soft money
8 ban than before for the various activities that they
9 engage in?
10 A Certainly they will not be able to receive
11 the amounts of money and the size of the
12 contributions, individual contributions, for
13 example, the corporate contributions that they can
14 receive currently. Obviously it will have an effect
15 I believe on the amounts of money that they will be
16 able to receive.
17 That's sort of getting at the essence of
18 this problem, the way that money is raised and the
19 exceptional increases, the amounts raised in the
20 form of soft money that is unregulated, and it is
21 circumventing current law.
22 I think that's the question that we as a

1 Q Do you know what percentage, for example,
2 roughly, of state parties' funds comes from national
3 party soft money transfers?
4 A No, I don't.
5 Q Do you know how much of state parties'
6 funds is soft money that they have raised
7 themselves?
8 A No, I don't.
9 Q Do you have any sense, for example, of the
10 Maine Republican Party?
11 A No, I don't.
12 Q And have you looked at on the national
13 party level the percentage of money that's soft
14 money versus the percentage of money that's hard
15 money in their budgets?
16 A No. I don't know, comparatively speaking,
17 between soft and hard. I had read those figures at
18 one point back a while ago, but I don't recall them.
19 Suffice it to say that both parties have been able
20 to raise significant sums of money, even major
21 increases this year over the last election. I did
22 read that recently.

1 Congress had to confront. It was undeniable that
2 the landscape had changed and the way we were
3 financing campaigns, and it was avoiding the current
4 restrictions now. It was allowable because there
5 was a loophole. Somebody discovered a loophole.
6 As a result, we have seen massive amounts
7 of money being funneled into the parties in the form
8 of advertisements that are sponsored by others other
9 than the candidates themselves. We are seeing that
10 certainly present in this election, where most of
11 the ads right now, the ones I have seen, are
12 financed by other entities other than the candidates
13 themselves.
14 It has just transformed the system. I
15 think it is undeniable that it has affected the
16 public's perception even more, the growing cynicism
17 and disenchantment because large amounts of money.
18 Now, whether it is perception or reality, the fact
19 of the matter is it is something that we have to
20 grapple with. I happen to think the perception is
21 corrosive on the public's confidence because of the
22 volume of money.

1 Q Between 2000 and 2002?
2 A That's right, so far.
3 Q Do you know how the national parties spend
4 their soft money?
5 A I don't.
6 (Snowe Exhibit 18 identified.)
7 BY MR. CARVIN:
8 Q Senator, the exhibit that has been marked
9 18 I will represent to you was run in the 1996
10 election cycle within 60 days of the general
11 election. As you can see at the bottom, it was paid
12 for by the California Democratic Party. I will tell
13 you it was paid for with soft money by the
14 California Democratic Party.
15 Could you just take a moment, please, and
16 review this. This was a radio advertisement, this
17 text.
18 (Witness examined the document.)
19 A Okay.
20 Q Just so we are clear, I will represent to
21 you that this ad does not refer to a clearly
22 identified federal candidate. The only person

1 mentioned is Governor Wilson, who is obviously not a
2 federal candidate.

3 In your mind, would this advertisement
4 within 60 days of a general election raise the
5 potential or perceived appearance of corruption for
6 federal candidates or officeholders?

7 MS. BREGMAN: Objection; speech or debate.

8 You can answer.

9 THE WITNESS: Because it doesn't fall
10 within the targeted criteria that's specified in
11 legislation, it wouldn't constitute an
12 electioneering ad.

13 BY MR. CARVIN:

14 Q Do you think, notwithstanding that, that
15 it would create the appearance of corruption, in
16 your mind?

17 MS. BREGMAN: Same objection.

18 THE WITNESS: We have already specified
19 legislation. We have already expressed an opinion
20 what we thought was the best way to attack the
21 problem with specific criteria.

22 We have already expressed an opinion in

1 Q Would it matter to you whether it was paid
2 for with soft money by the California Democratic
3 Party or run by a not-for-profit corporation such as
4 the NAACP?

5 MS. BREGMAN: Objection; vague and
6 ambiguous.

7 You can answer, if it would matter to you.

8 THE WITNESS: You are asking me whether or
9 not it makes a difference between whether or not it
10 is done by a nonprofit or the California Democratic
11 Party?

12 BY MR. CARVIN:

13 Q Yes.

14 A I think it gets back to the issue of again
15 we identify -- first of all, I should say that we
16 identified in the legislation that became law
17 certain specific criteria that constitutes
18 electioneering.

19 So now you are asking me about an ad that
20 is not considered electioneering by our definition
21 according to the criteria that would trigger the
22 requirements of an electioneering ad; is that

1 the statute about what we thought would be the best
2 way to attack what we considered to be the most
3 significant problems prevailing in the current
4 campaign finance system that gets at the heart of
5 improving upon the way in which the public views the
6 financing of federal campaigns.

7 BY MR. CARVIN:

8 Q And this ad, we have agreed, would fall
9 outside that?

10 A It does.

11 Q And would it matter to you if the ad was
12 run by the California Democratic Party or, say, a
13 not-for-profit corporation like the NAACP in
14 analyzing the appearance of corruption issue?

15 MS. BREGMAN: In analyzing whether it
16 falls within the EC provisions, you say would it
17 matter to her?

18 MR. CARVIN: We have come to an agreement
19 that it doesn't fall within. Now I'm asking a more
20 general question about analyzing the appearance of
21 corruption issue.

22 BY MR. CARVIN:

1 correct?

2 Q Yes.

3 A So the California Democratic Party, they
4 are using soft money that was raised at the federal
5 level?

6 Q Soft money and raised at the state level,
7 if it will make it simpler.

8 A I guess that's the point. We identified
9 the soft money problem at the federal level. Are
10 you suggesting we ought to be banning it at the
11 state levels? That's a state responsibility. We
12 can only do what we can do.

13 Federal election activities, we have
14 control of those, and we have banned soft money
15 because of the egregious nature of soft money that
16 flies beneath the radar in terms of accountability
17 and restrictions and regulations and volume.

18 Q Right. The reason I was asking about the
19 different sources of the money, I take it that the
20 reason that you gave the answer you did was because
21 this was a radio ad about a state initiative to
22 amend the state constitution, and in light of that,

1 would it matter to you whether this was run by a
2 political party or a not-for-profit corporation or
3 the NAACP in terms of assessing the appearance of
4 corruption? That was my question.

5 MS. BREGMAN: Same objection and also
6 vague and ambiguous.

7 THE WITNESS: Obviously it would be
8 perceived to be negative. So obviously it does have
9 an effect on that perception. I mean, I think it is
10 the public's perception.

11 At the federal level we can't cure all
12 ills. Obviously this is done at the state level, it
13 is raised by a state entity for a state issue. We
14 obviously don't have control or authority to direct
15 those types of state election activities.

16 (Snowe Exhibit 19 identified.)

17 BY MR. CARVIN:

18 Q Snowe 19 I have just handed you. I want
19 to make two points to you. This, first of all,
20 again, was paid for with soft money raised by the
21 California Democratic Party. But unlike the first
22 ad, this is a newspaper ad. This was in print, not

1 standards that we included in the federal
2 legislation, obviously this would be an ad obviously
3 that would be exempt because it is print.

4 But, secondly, referring to Newt Gingrich,
5 this would not have been his Congressional district
6 or in his state.

7 BY MR. CARVIN:

8 Q That's correct.

9 A So it is very difficult to compare with
10 what we have in the statute.

11 Q Does that ameliorate your concern about
12 its potential for appearance of corruption since it
13 mentions Newt Gingrich but obviously this is
14 California and he is running in Georgia?

15 A Well, again, obviously, you prefer to have
16 more positive advertisement no matter what level in
17 which it occurs. The question is the responsibility
18 that we have as federal officeholders. We don't
19 have authority to control state elections and how
20 money is raised at the state level for state
21 campaign activities.

22 So, yes, I might say this does have an

1 in a broadcast. The other point I want, as you are
2 perusing the ad, it does reference Newt Gingrich in
3 the second paragraph there, and at that time in 1996
4 he was a candidate for federal office.

5 If you could just take a moment to review
6 that ad, please.

7 (Witness examined the document.)

8 A Okay.

9 Q Again, since this is print, I think we can
10 agree it doesn't fall within the Act.

11 A That's correct.

12 Q I'm wondering if because of the reference
13 to an identifiable federal candidate and the
14 exhortation of "vote Democratic in 1996," would this
15 raise the appearance of corruption in your mind if
16 it was paid for with soft money raised by the
17 California Democratic Party?

18 MS. BREGMAN: Objection; speech or debate.

19 If you have a view on whether it would or
20 wouldn't.

21 THE WITNESS: Well, looking at this ad,
22 first of all, in terms of just comparing it to the

1 effect, but, unfortunately for us, we don't have
2 control over that type of activity because it is
3 done at the state level.

4 Q Let me ask you about that. Again, I
5 understand your point about the federal and state
6 sphere. Let's assume they didn't reference
7 negatively Newt Gingrich Republicans. The kind of
8 ad has African American youngsters pictured and says
9 "vote Democratic in 1996," is this the kind of ad
10 that you think was designed to influence federal
11 elections or would that create the potential
12 appearance of corruption for federal candidates and
13 officeholders?

14 MS. BREGMAN: Objection; same privilege.

15 THE WITNESS: It certainly could. But
16 again, as you know, this would not apply under our
17 statute.

18 MS. BREGMAN: You are talking about the
19 electioneering provisions?

20 THE WITNESS: That's correct, that's
21 right.

22 BY MR. CARVIN:

1 Q And that's because it is print?

2 A Yes.

3 Q Or is there some other reason?

4 A That's correct.

5 MS. BREGMAN: Are you testing her recall
6 of the statute? We all know there is another reason
7 why it is not covered under the electioneering
8 provisions.

9 MR. CARVIN: Okay. I stopped thinking
10 once I saw this ad in the newspaper.

11 BY MR. CARVIN:

12 Q I am trying to get a sense about whether
13 generic campaign efforts to get people out to vote
14 for one party or another, as opposed to something
15 that focuses on a candidate that's in the state up
16 for re-election at the time, ameliorates your
17 concern about the potential appearance for
18 corruption, even assuming hypothetically, for
19 example, if this ad had been broadcast as opposed to
20 in a newspaper?

21 MS. BREGMAN: Same objection, same
22 privilege.

1 have control over a state party's activities.

2 This ad, just presuming it constituted an
3 electioneering ad, it is not running in somebody's
4 particular district to affect the outcome. It is a
5 generalized publication. Granted, it is obviously
6 arguing against Republicans. But we didn't adapt
7 that as criteria in our legislation. We were much
8 more specific within, one, the time frame; two, the
9 medium; and, three, that it was targeting an
10 individual by name in their particular district or
11 state that he or she was running in 60 days before
12 the election.

13 MS. BREGMAN: Just to clarify, when you
14 say "in our legislation," you mean in the
15 Snowe-Jeffords Amendment?

16 THE WITNESS: That's correct, yes.

17 BY MR. CARVIN:

18 Q And how about -- I think we have talked
19 about this generally. I could give you examples. I
20 will just ask you generally. Things like door
21 hangers and generic campaign activities done through
22 mailings as opposed to newspapers or something like

1 You can answer, if you like, again.

2 THE WITNESS: Well, again, if I'm looking
3 at the criteria that we established, this would not
4 comport with that criteria.

5 BY MR. CARVIN:

6 Q I understand.

7 A So what is the question? This does not
8 comport with the criteria that we established in law
9 for what is defined as an electioneering
10 communication.

11 Q Right. And maybe I'm belaboring the
12 follow-up. I take it, then, that the appearance of
13 corruption concern is less for this ad than for what
14 falls within the statutory definition?

15 MS. BREGMAN: Objection. I don't think
16 that's what she said.

17 THE WITNESS: I guess we have a
18 fundamental difference of opinion. But we attempt
19 in this legislation to address the most serious
20 deficiencies that exist. Now, we didn't capture
21 everything. Had we done that, you might have been
22 challenging us in different points. So we don't

1 that that encourage people to get out to vote and
2 vote Democratic or Republican, if done with soft
3 money, does that raise the appearance of corruption
4 in your mind on election days when federal
5 candidates are on the ballot?

6 MS. BREGMAN: Objection; speech or debate.
7 If you want to tell him what's in your
8 mind, that's fine.

9 THE WITNESS: I have already addressed the
10 issue as to whether or not we should attack the
11 basic problem with soft money and the volumes that
12 are raised on behalf of federal candidates
13 nationwide in the aggregate.

14 It is the volume. It is the fact they are
15 unrestricted, unregulated, to a large extent not
16 disclosed. That's the essence of the problem.

17 When you say "creates a perception," yes,
18 it does create a perception. Now, we can say there
19 are other exigencies or circumstances that might
20 also be inclusive. Granted, we didn't gather
21 everything. But by and large, if you are saying is
22 soft money creating a perception problem among the

1 American people with respect to how this system is
2 financed and whether or not it is corrupt. Yes,
3 there is a perception problem, massive enough to
4 compel the Congress for the first time in almost 30
5 years to do something about the campaign finance
6 system.

7 So there's a growing and disturbing trend.
8 So that's what this in essence is all about. Now,
9 do some things fall within the parameters and
10 outside? Yes.

11 BY MR. CARVIN:

12 Q What I'm trying to do, in all candor, is
13 break down where the appearance of corruption
14 attaches to. There's an appearance of corruption --

15 A Maybe not on one door hanger or one ad,
16 but in the aggregate, a massive problem. That's why
17 public polling shows a very strong negative opinion
18 about campaigns and how they are financed and how
19 much money is involved in the system.

20 We, as candidates, you can see it over the
21 years. It is no secret how expensive campaigns have
22 become. They have more than doubled just in the

1 Q And the volume of these electioneering
2 communications or sham issue ads has also increased
3 during that time frame?

4 A That's correct.

5 Q Do you see an analogous problem or
6 perception problem with respect to soft money raised
7 by state parties and not spent on these ads that are
8 coming in to everybody's living rooms and that sort
9 of thing but on what I would call more traditional
10 kind of why don't you go vote Democratic and vote on
11 election day?

12 A May well be. I can't say for sure. I
13 think that's something that would be very difficult
14 to judge until we have a chance to separate it all
15 out. Once this law takes effect, we will see the
16 impact of the changes that we have made, and we will
17 see what else is out there.

18 But how it has changed the system or not
19 changed the system, we don't have the ability to do
20 it. Suffice it to say, when you are talking about
21 large sums of money raised in the form of soft money
22 donations, clearly it is going to at least stem the

1 presidential elections between 1992 and the year
2 2000. The costs have escalated. The people have
3 sensed it. They can watch TV and see these ads
4 disseminated in a concentrated fashion day in, day
5 out for longer periods of time.

6 Remember, it used to be the campaign ads
7 would start after Labor Day. Now they are before
8 Labor Day. The volume has gone up to an inordinate
9 degree. So I think the fact is there is a
10 disturbing trend and phenomenon.

11 If you look at the bottom line in terms of
12 amounts, it is all there. You might say one door
13 hanger, this, that and the other, there are always
14 exceptions. But in totality, there is always
15 something profoundly wrong in the way in which the
16 system is financed. It has certainly surfaced with
17 soft money.

18 Q Now, the cost of campaigns have doubled or
19 the expenditures for campaigns have doubled over the
20 last 10 years?

21 A The amounts of money that have been raised
22 for campaigns, right.

1 tide of a growing and disturbing trend and phenomena
2 that has really evolved out of the system over the
3 last two decades.

4 Q That's fair enough. I guess you have
5 expressed a number of times today your concerns
6 about the volume and the effect on public cynicism
7 of these broadcast advertisements.

8 Do you have a view or have you looked at
9 any studies or analysis about the volume of or
10 contribution to public cynicism of generic kind of
11 mailings and door hangers that encourage people to
12 get out to vote?

13 MS. BREGMAN: Objection; privilege. Are
14 you asking her whether she has done it apart from
15 deliberating on the Act.

16 MR. CARVIN: Just does she have any
17 knowledge.

18 THE WITNESS: No, I don't.

19 BY MR. CARVIN:

20 Q Just in your personal experience, wholly
21 divorced from your legislative activities as a
22 candidate, is this the kind of thing that you think

1 political parties should be involved with, which is
2 getting people out to vote and encouraging them to
3 show up on election day?

4 A I think that would be a consistent role
5 for political parties. Getting out to vote,
6 grassroots activity is important. In fact, I think
7 I would say that that may well be a benefit to
8 political parties where they would be more engaged
9 or reengaged in many of the grassroots activities
10 that might have been displaced as a result of the
11 volume of broadcast communications.

12 I see that with the trend of the volume of
13 television and radio advertisement that perhaps has
14 served as a substitute for other types of activities
15 such as grassroots. I think it is an appropriate
16 role for the political parties.

17 The question is how is it going to be
18 financed. We are saying what we are responsible for
19 at the federal level is soft money that's raised at
20 the federal level, and that's what we have
21 responsibility for. That's what we have taken
22 action on.

1 infusion of dollars that come from unregulated
2 sources, that is a problem. It is one that we need
3 to confront and grapple with, and we did.

4 Now, we might not have done it in the most
5 perfect way, but you have to start somewhere, and
6 that's what we did. We may identify other issues
7 that you or others may bring before us, and we will
8 consider those too. I think it is a substantial
9 accomplishment that Congress has been able to pass
10 campaign finance reform legislation for the first
11 time in 30 years.

12 Q Right.

13 A It was in response largely because of what
14 has developed in gross soft money donations as well
15 as electioneering communications.

16 Q Right. To the extent I understand your
17 concerns about what has developed over the past 30
18 years or so, that there was this recognition at the
19 federal level that state party expenditures on kind
20 of generic get out the vote could be done with soft
21 money, but that both the volume increase and the
22 purpose got altered to these sham issue ads.

1 Q And what about sort of the hybrid
2 situation where the RNC raises it and then transfers
3 it to the states for state activities? Do you have
4 a view as to whether or not that kind of activity
5 raises the appearance of corruption that is
6 generally involved in soft money raising or
7 spending?

8 A Again, it gets back to the issue of
9 source, unrestricted, the volume, the amounts.
10 That's what we have targeted in this legislation,
11 the ban of soft money that has created the
12 perception. It has been been raised on a massive
13 scale.

14 We have no way to predict where it will go
15 in the future. We only know it is going to get
16 worse, just given the basic trends that have
17 occurred over the last decade alone. I guess what
18 I'm saying is that there is a perception problem,
19 and we addressed it because it goes to the heart of
20 our democratic system.

21 When you have the public's confidence
22 diminished substantially as a result of this massive

1 First of all, is that essentially your
2 understanding of how the regulation occurred over
3 the past --

4 A Yes.

5 Q Is that what you say your concern is about
6 this loophole, that it has been diverted from its
7 original purpose to fund these issue ads in a volume
8 that was not anticipated prior?

9 A Well, yes, and the fact is on one hand you
10 have a system for restricting the amount of
11 contributions to federal candidates, how much they
12 can receive. They have to form a political action
13 committee that receives hard money. You have one
14 system on one hand and you have another system that
15 totally evades those same type restrictions.

16 So obviously it has undermined our current
17 system. It is not certainly what I think the
18 original legislation was intended to do. So I think
19 that's ultimately what we have tried to address.

20 MS. BREGMAN: When you say "the
21 legislation," you are talking about Snowe-Jeffords.

22 THE WITNESS: Right.

<p style="text-align: right;">Page 278</p> <p>1 MR. CARVIN: I think in that context you 2 are probably talking about the whole legislation. 3 THE WITNESS: The whole legislation, yes, 4 BCRA. 5 BY MR. CARVIN: 6 Q Do you have any sense or expectation 7 concerning the effect of the Act on the viability 8 and effectiveness of political parties at the 9 national and state level? 10 MS. BREGMAN: Objection; same speech or 11 debate privilege. 12 You can answer, if you have any. 13 THE WITNESS: I don't have any empirical 14 studies or data that would suggest that. In fact, I 15 would say the contrary would be true. I don't think 16 it would diminish the effectiveness of the political 17 parties. They will engage in activities that have 18 been consistent with the role of political parties 19 over the years. 20 We wouldn't diminish the effectiveness of 21 political parties. I think they play a very key 22 role in our political system. I think they will be</p>	<p style="text-align: right;">Page 280</p> <p>1 MS. BREGMAN: Give us one minute before we 2 adjourn. 3 (Recess.) 4 (Whereupon, at 5:15 p.m., the deposition 5 was concluded.) 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22</p>
<p style="text-align: right;">Page 279</p> <p>1 involved in areas and activities that I think could 2 actually spur on additional grassroots activities, 3 get more people involved, because they will believe 4 their voices are being heard and not drowned out by 5 massive volumes of money that have been raised in 6 the form of soft money or through the electioneering 7 communications that had been fueled by the massive 8 growth and explosion in soft money donations to 9 federal campaigns. 10 So I see a positive effect from all this 11 in that parties will return to the roles that they 12 have played over the years: in building up the 13 grassroots activity and getting the average person 14 involved, building the parties from the ground up 15 and doing more of the kinds of activities that get 16 people interested, involved and enthused about their 17 political system. 18 MR. CARVIN: Give me one minute. 19 (Pause.) 20 MR. CARVIN: Senator, thank you. I have 21 no further questions. Thank you for your time and 22 cooperation.</p>	<p style="text-align: right;">Page 281</p> <p>1 I HEREBY CERTIFY that I have read this 2 transcript of my deposition and that this transcript 3 accurately states the testimony given by me, with 4 the changes or corrections, if any, as noted. 5 6 7 X 8 9 10 11 Subscribed and sworn to before me this day of 12 , 20 . 13 14 15 16 X 17 Notary Public 18 19 My commission expires: . 20 21 22</p>

1 CONTENTS

2
3 WITNESS EXAMINATION
4 OLYMPIA J. SNOWE
5 by Mr. Thompson 4
6 by Mr. Carvin 140
7

8 EXHIBITS

9
10 DEPOSITION NUMBER IDENTIFIED
11
12 Snowe Exhibit 1..... 6
13 Snowe Exhibit 2..... 7
14 Snowe Exhibit 3..... 54
15 Snowe Exhibit 4..... 55
16 Snowe Exhibit 5..... 63
17 Snowe Exhibit 6..... 73
18 Snowe Exhibit 7..... 80
19 Snowe Exhibit 8..... 84
20 Snowe Exhibit 9..... 95
21 Snowe Exhibit 10..... 100
22 Snowe Exhibit 11..... 103

1 EXHIBITS (Continued)

2 DEPOSITION NUMBER IDENTIFIED
3 Snowe Exhibit 12..... 109
4 Snowe Exhibit 13..... 132
5 Snowe Exhibit 14..... 136
6 Snowe Exhibit 15..... 143
7 Snowe Exhibit 16..... 196
8 Snowe Exhibit 17..... 199
9 Snowe Exhibit 18..... 257
10 Snowe Exhibit 19..... 262
11
12
13
14
15
16
17
18
19
20
21
22

<p>A ABC 125:19 abide 21:21 33:8 58:20 62:13 71:17 abiding 12:16 34:8 ability 23:11 54:2 57:9 57:13 58:13,15,16 59:19,20 60:4 62:19 63:4 71:20,21 114:14 129:6 147:6 152:10 164:17 203:7 272:19 able 53:6,7 54:21 98:12 148:12 162:19 166:10,12 168:3,11 168:18,22 169:4 188:7 203:3 236:1,1 254:10,16 256:19 276:9 abortion 132:20,22 133:5 about-face 27:21 absent 31:14 142:2 absolutely 30:5 98:22 162:12 229:17 232:20 abundantly 113:15 abuse 12:22 abuses 16:5 21:13,14 149:4 accept 227:15 acceptable 17:6 access 45:10 100:11 210:13,15,20 211:2 226:15,22 229:4 accessible 126:7 accomplish 89:16 106:13 accomplishment 276:9 account 163:4 accountability 31:14 31:18 32:1 34:2 35:7 37:6 78:6 98:21 108:12 110:22 115:1 116:2 124:21 125:1 138:11 140:17 154:10 251:22 254:3 261:16 accountable 34:4 35:17 49:16 99:9 135:19 236:13 accumulation 92:2,4 accurate 216:16 227:20 228:3 accurately 5:8 281:3 achieve 95:4 106:15</p>	<p>115:15 178:6 achieved 192:8 acknowledged 173:4 acknowledging 160:2 act 7:15 18:11,13 41:21 43:21 69:9 81:22 147:21 148:6 150:6 160:20 165:16 169:17 173:14,22 174:15,18 175:10 176:10 183:12 185:4 185:5,8 188:18 195:16 196:4 197:15 198:1,5 199:7 201:8 201:10,17 204:17 238:5,9,12 239:22 253:13 263:10 273:15 278:7 action 16:10 31:16 33:3 33:7,14 49:19 53:17 58:21 157:21 178:12 179:22 251:11 252:15 274:22 277:12 actions 16:5 active 147:14 activities 11:11 48:12 112:8 114:16 116:19 138:10 152:7,8 155:3 155:5 156:2,11 161:13 164:17 165:9 165:17 166:13 167:6 167:16 168:12,18,19 168:22 169:22 170:7 170:11 172:1 177:21 235:10,17,19 236:7 240:1,4,22 243:4 246:1,7 250:1 254:8 261:1,3 262:15 264:21 268:1,21 273:21 274:9,14 275:3 278:17 279:1,2 279:15 activity 48:18 85:14 146:9 152:14 154:15 156:14 159:14,15,18 159:20 160:5 161:15 187:16 231:14 238:16 240:12 241:17 242:12 247:19 253:1 265:2 274:6 275:4 279:13 actors 141:21 202:2 acts 10:18 186:6 actual 3:20 13:6 14:8</p>	<p>15:3,4,8,21 16:11 17:9 18:6 19:13 20:17 ad 16:18 19:4,18 20:10 23:13,14 31:19 41:6 42:6 49:7,10 54:22 55:4 56:1,2,9,15 57:1 57:8,19 63:17,19 64:19,22 65:3,6,20 66:1 67:5,9,22 68:3,4 68:8 69:8 70:5,14,16 71:1 72:3,12 74:20 74:21 75:9,20 76:15 78:21,21 79:5 80:16 81:1,6,9 82:6,9 83:4 83:4,13,16,20,21 85:4,15 86:3 87:5,10 88:1 90:5,12,17 91:1 91:9,15,16 93:21,22 94:3 95:13 96:2 97:14,16 99:14,15,21 100:18 101:14,16 104:4,7,14,18 105:16 105:22 106:21 107:2 107:13,14,19 108:2,5 109:2,3,3,6,7,20,22 110:2,13 111:10 112:4,10,12,15 113:3 113:13,13,16 115:19 123:13 128:6,7 129:4 129:7,11,13,15 130:3 130:4,5,17,17,20 131:5,17 132:5,8 133:10,18 134:12,18 134:20 135:6,11 136:20 137:4 160:2 160:22 173:10 175:12 182:6 183:16 196:14 198:7 199:14 200:5,18 201:12 202:9 257:21 258:12 259:8,11 260:19,22 261:21 262:22,22 263:2,6,21 264:2 265:8,9 266:10,19 267:13 268:2,3 270:15 adapt 268:6 add 132:2 addition 185:18 218:15 additional 192:9 279:2 address 39:3 58:9 66:5 67:13 70:21 77:20 78:15 83:12 98:14,15 108:15,17,22 115:4</p>	<p>115:14 117:1 120:15 135:21 149:11 151:19 158:8 163:14 163:21,22 173:17 192:10 243:1 251:13 267:19 277:19 addressed 38:5 121:17 147:4 150:19 164:13 192:4,14 269:9 275:19 addresses 92:1 109:2 addressing 112:19 122:5 adhere 98:2 114:2 131:18 adjourn 280:2 adjusted 88:9 ads 16:22 17:4 18:12 19:20,20,22 20:3,14 20:18 22:13,15,22 23:7,9,10 24:16 25:4 29:21 30:11 31:2,2,9 31:10,20 32:8,12,14 32:21 34:14,15 36:3 36:17 37:2,11,12,15 37:16 38:9 40:12,18 41:10,13,14,16,19 42:13 43:17 44:3,4,9 44:11,15,15,16 46:15 46:16,17 47:2 48:12 50:13 56:7,10 58:3 59:5 62:21 63:9 65:12,13 66:8,14,18 66:22 67:10,14,20,21 67:22 68:1,4 69:19 69:21 70:2 71:2,4,11 71:14 72:5,6,9 73:1 73:22 74:9,11,17 79:10,11,14 82:15,15 82:22 83:9 85:9,11 86:12,16 92:4,17 93:6,6,11,17 94:7,18 96:14,18,20 97:6,10 97:10,12 99:11 100:1 102:18 103:5 105:4 106:17 108:11,18 110:19 115:8,9 116:13,14 122:11 124:8,19 128:18 131:13,14,21 135:5 135:18 137:10,13,15 138:4,7 140:20 141:4 141:12 142:3 146:5 146:22 149:7,8 151:15 164:7 173:18</p>	<p>175:8,8 176:4,5 178:16 180:19 181:3 184:19 193:9,12 199:9,16 202:10,21 203:9 255:11 271:3,6 272:2,7 276:22 277:7 advance 67:17 86:20 advances 156:20 advancing 131:7 135:13 advantage 184:15 advertisement 33:21 34:6 174:2,9 179:3 180:4 197:19 257:16 258:3 264:16 274:13 advertisements 22:2,8,10 23:5 30:21 32:3 33:4 33:16 34:1 35:6 97:19 99:8 102:16 116:4 121:8 122:2 137:21,21 138:10 153:13 159:21 195:11 202:18 248:3 255:8 273:7 advertising 70:18 92:9 advocacy 65:12 66:9 71:16 90:5 91:15 94:1 113:13 137:11 149:8 164:7 249:20 250:5 advocate 93:17 affect 45:18 124:19 152:15 157:19 243:4 268:4 affirmative 188:2 189:9 AFL-CIO 199:8,15,16 200:16 AFL-CIO's 200:18 African 265:8 afternoon 140:1,9 aggregate 234:18 237:6 269:13 270:16 ago 97:5 186:14 256:18 agree 123:12 171:15 179:10,11 204:14,15 205:10 238:5 263:10 agreed 201:6 259:8 agreement 2:2 226:21 259:18 agrees 59:4 ahead 5:19 6:6 9:19,21 33:1 46:11 63:11 123:11 169:10 251:7 aim 24:14 119:21</p>
--	--	--	--	--

air 60:12 aired 44:4 79:5,11 83:9 86:13 93:7 96:20,22 99:11,21 108:19 113:17 118:15 airing 20:18 66:1 74:22 108:11 110:13 123:22 133:12 airwaves 138:5 159:21 al 1:5,9,13 100:15 101:8,13 118:11 Alliance 96:1 133:7 allow 12:14 26:17 55:14 119:3 192:2 236:16 allowable 255:4 allowed 55:12 69:6 177:21 allows 121:3 altered 276:22 ambiguous 114:4 260:6 262:6 ameliorate 98:10 264:11 ameliorates 266:16 amend 261:22 amended 94:6 amendment 39:2 49:8 49:15 118:12 135:22 142:14,16 162:18 268:15 amendments 27:10 America 60:10 100:10 132:10 American 64:3 84:19 102:3 126:3 136:13 136:17,19 183:15 200:9 236:19 265:8 270:1 Americans 63:22 132:13 America's 95:13,19 amicus 6:19 amount 21:9 47:9,12 47:14 52:11 146:21 165:8,15 169:16 172:7 213:17 217:22 232:3 246:22 251:10 277:10 amounts 77:8 78:10 79:8 140:22 146:8 153:1 156:21 159:11 234:21 236:9,18 252:2,10,21 254:11 254:15,19 255:6,17	271:12,21 275:9 analogous 162:14 211:9 272:5 analyses 41:19 42:13 analysis 66:13 273:9 analyzing 259:14,15,20 and/or 47:17 120:10 216:8 animals 90:14 announces 51:3,5,13 annual 200:10 217:18 218:18,19 answer 5:6,19 6:6 9:20 12:15 13:19 15:9,10 15:11,15 16:11 17:10 26:20,22 30:15 36:6 37:21 42:15 44:1 46:3 57:3 61:3,14 62:5,17 65:9 67:19 68:20 73:7 74:20 75:5 76:21 85:21 88:5 91:7 110:16 111:16,20 113:1 114:11 115:12 117:13 119:5,15,15 120:18 121:4,15 128:11 129:20 133:15 134:17 142:9 145:7 146:15,16 148:8 151:2,3,6 152:5 161:7,20 162:3 162:13,17 163:11 166:20 174:20 175:1 175:19 176:13,14,16 177:7,9 181:15,18 182:14,16,18,21 183:2,7 184:3,12,15 185:10,12 186:9 187:21 188:9,13,20 191:11,17 192:1,2 194:2 196:9 199:4 201:2,18 205:21 206:9 207:4,14 219:17 220:4 222:11 226:10 229:17 235:13 250:2 252:12 252:20 253:5 258:8 260:7 261:20 267:1 278:12 answered 9:17 11:19 14:6 15:12 18:3 28:10,11 29:1 46:11 52:1 59:9 68:13,14 68:15 69:10 76:6,7 76:11 102:22 144:17	156:4 158:14 160:11 166:19 182:17 183:2 183:10 184:3 186:5 187:12 190:4 231:17 244:21 answering 68:19 69:7 107:18 166:16 184:9 188:6 answers 21:12 130:12 162:19 163:3 184:5 184:11 185:20 189:6 189:7 192:22 235:5 anticipated 32:6 277:8 anybody 22:18 32:5 34:18 76:18 171:2 190:1 195:6 212:3 219:9 221:11 anybody's 241:16 anymore 137:12 apart 20:21 41:1 42:2 148:9 239:21 273:14 apartment 209:9 apologize 108:2 apparent 197:16 198:3 appear 121:9 190:11 appearance 8:2,6,9,13 8:18,21 9:4,14,15,16 10:7,16 11:15 12:17 12:20 13:5,12 15:16 17:16 18:1 21:5 26:6 28:8,20 29:4 30:2 45:21 46:9,19 47:5 49:9 50:11,12 51:9 51:21 55:22 56:22 65:5,22 82:10 83:5 110:14 111:9 112:15 114:7,19 115:2 116:12 118:14 120:21 121:11 123:5 124:11 148:17 153:16 155:9 156:10 156:12 178:17 179:5 180:7 182:9,19 183:3 183:11,18 191:6 200:21 234:6 235:11 237:22 238:21 239:13 241:2 242:11 242:14 251:2 252:5 252:20 253:2 258:5 258:15 259:14,20 262:3 263:15 264:12 265:12 266:17 267:12 269:3 270:13 270:14 275:5 APPEARANCES 3:1	appearing 190:10 appears 81:2 94:5 145:3 242:13 applicable 53:20 application 204:14 applied 248:11 applies 58:21 240:1 apply 65:20 88:3 265:16 appointment 221:12 appointments 221:19 appreciate 15:1 62:2 67:19 68:21 72:1 120:18 139:4,5 205:8 approach 32:4 92:10 122:7 138:9 163:14 178:9 184:2,4 approached 206:3 226:6 appropriate 69:12 163:5 274:15 approved 11:5 225:3 Arctic 64:13 76:13 90:12,15 area 43:3 112:20 156:18 181:11 204:21 228:21 areas 61:10 147:3 177:19 178:8,11 179:14,20 192:3 279:1 arena 158:3 arguing 268:6 arises 65:6 Arizona 82:8 Arizonans 82:2 Arizona's 81:20 arm 250:14 arose 13:15 arrived 120:9 articulated 80:4 184:18 aside 8:18 22:20 47:7 74:17 112:1 113:5 217:2 asked 9:17 14:6 15:7 15:12,15 28:10,22 46:11 52:1 69:8 73:2 74:1 76:5 83:1 102:22 156:3 158:13 160:10 185:7 189:15 195:17,20 208:9,17 224:15 asking 12:7 14:3 15:1 20:13,20 23:12 41:3 42:1,4,7,11 43:19	44:7 50:8,11 60:20 65:20,21 69:8,10 74:8 88:22 94:14 107:14 117:18,21 118:1,18 121:20 122:1 123:19 124:2,4 127:17 134:4,9 135:12 139:1 146:11 149:22 150:5,14,18 162:21 166:17 173:13 174:16,18 176:3 177:14,15 181:1 185:4 195:5,6 195:14,21 196:3 205:11 208:21 234:11 244:12 259:19 260:8,19 261:18 273:14 aspects 148:9 242:18 aspersions 203:19 assault 60:8 assert 18:8 187:2 188:11 asserted 187:19,19 assertion 65:8 168:10 188:15 192:20 assessing 262:3 assigned 218:22 assist 225:14 245:17 assisted 250:20 assisting 243:14 association 2:15 112:6 219:17 assume 6:7 56:11 65:2 67:3 82:6 88:7 89:11 95:11 101:4 103:13 132:8 152:14 154:12 183:13 208:1 214:11 217:4 219:18 234:2 237:15 241:16 249:12,13 265:6 assuming 62:5 100:21 266:18 assumption 154:18 233:3 assure 239:7 astonished 34:21 as-a-human-being 21:1 attach 242:11 attaches 270:14 attack 58:3,5 59:5 60:14 123:3 258:20 259:2 269:10 attacked 242:17 attacking 56:13 118:11
---	---	---	--	--

<p>199:10 attempt 7:16 90:4 92:21 189:9 267:18 attempted 91:11 115:14 122:16 135:21 151:9,19 153:5 attempting 66:5 79:13 91:12 93:2 108:21 116:17 234:17 attempts 89:21 attend 209:4 210:13 212:11 215:21 217:20 222:18 223:22 attendance 224:1 attended 206:13 209:21 213:5 216:8 216:10,13 217:19 220:18 221:14 224:19 230:20,22 attention 42:20 63:16 102:4 232:21 attorney 9:19 62:2 attorney-client 204:8 attributable 15:22 16:12 17:9 18:7 19:13 56:1 120:6 atypical 222:9 audiotapes 40:18 August 30:18 Augusta 246:5 author 163:13 authority 122:21 262:14 264:19 authorized 73:18 74:16 auto 64:9 available 167:22 210:16 254:7 avenue 3:6 154:2 236:10 average 40:8 42:21 91:3,6 279:13 avoid 205:11 227:12 254:3 avoiding 252:20 255:3 aware 13:9,14 14:3 15:4,20 17:8 18:5 19:12 20:16,21 28:7 29:3 42:12 64:19 116:22 155:7 159:13 168:7 170:5 199:12 205:17 206:18 210:22 213:9,14 224:9,13 226:13</p>	<p>227:3,5,11 228:15 229:11 231:18 232:8 237:19 243:6,10 245:3,10 awareness 98:16 awful 23:19 a.m 2:5</p> <hr/> <p style="text-align: center;">B</p> <hr/> <p>B 282:8 babies 133:1 baby 132:13 back 9 3,22 10:16 21:4 25:16,18 29:11 34:21 38:17 46:12 50:15 62:9 72:2 74:18 78:13 83:8 86:1 92:15 113:9 114:21 122:6 124:13 128:5 168:6 170:2 172:4,12 179:8 182:1 202:9 213:4 217:18 229:18 230:3 258:4 247:7,22 256:18 260:14 275:8 backed 55:11 back-door 138:9 bad 55:13 162:11 balance 163:22 178:5 balancing 153:6 ballot 109 22 145:3 148:19 239:17 241:1 241:20 242:13 245:21 269:5 ban 57 12 193:8,10 196:13 202:10 254:8 275:11 bank 171:6 banks 145:1 170:20,21 171:1 banned 261:14 banning 154:6 156:19 178:14 261:10 barely 138:6 base 30:1 based 13:11,11 14:8 45:22 136:13 161:18 169:21 bases 124:6 basic 170:11,19 269:11 275:16 basis 11:12 16:10 41:9 52:17 74:13 119:12 120:20 168:9,14 184:18 190:8 223:5 Bates 80:13 84:10</p>	<p>BCRA 36:2 98:9 99:4 107:3 117:7 143:21 144:16 150:11 278:4 bearing 80:13 bears 84:10 BECK 3:12 becoming 71:15 behalf 2:7,14 3:8,16 74:16 172:1 224:20 225:14 252:13 253:19 269:12 belaboring 267:11 belief 11:16 124:10 beliefs 24:22 believe 7:18 14:7 26:10 46:10 53:6 65:22 74:13 79:17 120:6 121:8,21 123:1 124:21 132:14 135:16 136:20 164:18 171:12 174:20 182:20 189:12 199:9 205:15 207:15 211:5 217:7 239:20 240:18 254:15 279:3 believing 120:20 belive 206:3 belt 207:20 bend 64:8 beneath 261:16 benefit 156:20 236:12 237:21 241:18 274:7 benefited 251:4 benefits 144:8 245:18 245:21 benefitting 242:9 best 60:1 136:16 204:21 218:11 258:20 259:1 better 64:3,7,7 95:15 bewildered 78:11 beyond 29:7 44:7,13 75:17 163:19 164:11 172:21 241:14 bid 95:13 big 49:21 81:18 99:10 103:19,20 109:9,10 bigger 84:17 bill 41:2 64:11 103:19 109:9 136:15,18 billion 67:1 billions 100:11 birth 132:17,22 133:5 blanket 119:19</p>	<p>board 80:19 81:13 88:12 94:5 100:6 103:8,13 136:4 boards 81:3,5 84:15 95:11 bombard 30:11 bombarded 34:1 bombardment 35:6 36:2 96:13 bona 131:14 bottom 197:1 257:11 271:11 bought 214:13 brain 42:11 BRE 84:11 break 5:17 54:10 181:20 203:12 232:12 235:7 248:20 270:13 breakfasts 230:4,5 breaks 5:22 237:16 BREGMAN 3:11 4:6 9:17 11:18 12:11,13 13:17 14:6 15:9 17:12 18:8 20:19 23:18 25:11 26:12 28:10,22 30:13 31:4 32:22 36:5 37:19 38:16 41:1,20 42:14 43:19 45:22 46:10 47:15 49:11 51:11,22 53:11 54:9,21 56:3 57:2 59:8 60:15,18 61:6,8,20 62:11,16 65:7 67:6 68:6,21 69:16 73:6 75:3,8 76:5,16 79:1 82:11 83:15 85:19 87:13 88:2,20 90:18 91:5 94:8 96:4 100:21 101:18,21 102:22 104:6,21 107:14,17 110:15 111:11 112:17 114:10 115:11 117:8 118:17 119:14 121:1,13 123:6 126:22 127:22 128:9 129:19 130:7 130:12 133:13,21 134:15 137:1 141:14 142:7 144:13 145:5 146:10 148:3,20 149:18 150:5,15,22 152:3 155:11 156:3 156:15 157:16</p>	<p>158:13 160:10,13 161:3,16 162:16 165:10,18,22 166:15 166:22 172:17 173:13 174:13,16 175:17 176:2 177:8 178:19 179:6 180:8 181:7,19 182:2,11,20 183:5,19 185:6 186:8 190:12 191:10,16 192:1,19 193:14,22 195:14,19 198:2,9 200:22 201:15 202:4 203:11 205:20 207:3 220:3,11,21 222:10 226:9 227:1,22 234:7 235:12 238:1,7,22 239:18 241:4 242:16 246:9 248:20 250:2,7 251:5 252:6 253:3 258:7,17 259:15 260:5 262:5 263:18 265:14,18 266:5,21 267:15 268:13 269:6 273:13 277:20 278:10 280:1 BRENDA 1:22 2:5 Brennan 80:19 brief 6:19 bright 91:16 107:11 125:4 173:1 194:12 bring 54:19 276:7 brings 195:20 broad 202:16 210:17 227:10 broadcast 40:19 73:22 76:15 118:12,15 123:15 125:9 163:18 174:1,9 175:8 178:16 179:3 180:4 181:3 263:1 266:19 273:7 274:11 broadcasting 120:10 126:10,14 151:13 broadcasts 48:18 124:1 Buckley-Valeo 12:20 budget 84:20 100:10 budgeted 95:19 budgets 256:15 building 2:5 279:12,14 bundled 229:11 bundling 229:9 burdensome 108:10 131:16 burning 151:7</p>
--	--	---	---	---

push 49:7 110:2 128:18 129:15 130:3 130:21 business 112:8 220:20 221:13,18 226:7 <hr/> <p style="text-align: center;">C</p> <hr/> C 4:1 282:1 CAFA 70:15 calculation 6:3 California 183:15 257:12,14 259:12 260:2,10 261:3 262:21 263:17 264:14 call 56:18 64:10 84:22 87:6,7,16,19 88:8,12 90:14 94:21,22,22,22 95:21 100:14 106:7,7 136:15 150:8 170:17 209:13 213:7 216:12 231:8 249:4 272:9 called 2:1 4:4 6:10 132:20 216:3 224:21 calling 106:14 170:13 calls 49:11 53:12 76:16 38:2 94:8 133:21 198:9 201:15 208:22 209:3,8 210:2,9,12 211:6 222:17 223:2 224:1 227:1 campaign 7:14,16 8:5 9:12 14:17 16:6 23:8 27:8,12 28:16 30:7 30:12 32:6 37:9 43:13 44:18 47:3,21 48:14 58:11 59:15 66:7,16,20 77:16 82:8,16 85:14 97:5 98:11 99:7 110:20 112:14 160:2 165:16 167:7 168:13 169:17 172:10 187:16 197:9 208:5 224:12 227:13 227:18 228:12,16 229:13 239:4 240:14 242:12 243:3 246:17 247:7 250:5 253:13 253:17 259:4 264:21 266:13 268:21 270:5 271:6 276:10 campaigning 43:8 campaigns 31:21 40:5 1:5,9 48:12 49:10 9:20,22 99:3 102:8	102:11 114:22 124:16 137:22 138:13 171:2 173:3 187:17 237:18 248:4 250:21 253:19 255:3 259:6 270:18,21 271:18,19,22 279:9 camps 200:7 candidacies 225:14 candidacy 154:3 172:2 209:22 candidate 11:3 17:2 19:8 26:4 38:15 44:17 58:16,21 59:1 70:9 75:22 90:2 93:18 94:21 97:11,14 97:15 99:7,9,20 100:20 123:3,3 124:9 134:5 145:2,15,20 152:12,17 154:2 160:1 171:5,17 178:17 179:4 180:5 181:4 182:8 207:1 215:10 226:4,16 237:21 239:15,16 241:1,10,15,18 242:13 243:3,4 245:9 245:13,19,21 246:8 246:10,15 249:22 251:9 257:22 258:2 263:4,13 266:15 273:22 candidates 21:20 29:17 33:7,13 44:11,12 47:22 53:18 59:22 60:2 66:19 71:17 72:14 78:2 80:10 84:4 85:5,14,16 86:17,22 96:15,17 97:4,12 98:2,10 99:2 102:13,15 129:4,18 131:15,20 134:12 139:1 141:3 148:18 154:9 155:10,17 157:14 207:18 214:18 217:1 225:13 225:22 226:3 227:7 230:19 232:10 234:2 236:2,12 239:10 241:3,11 242:8 243:9 243:14,19 245:6 246:21 247:3,12,14 247:18,20 248:11 250:13,17 251:20 255:9,12 258:6	265:12 269:5,12 270:20 277:11 candidate's 57:14 89:15 103:3 145:16 215:13 candidate-paid 31:19 candor 270:12 capacity 20:21 21:1 42:2,4 43:20 149:1 capture 81:9 267:20 captures 131:10 car 170:17 card 219:20 care 56:12 95:18,22 96:1 100:12 career 80:9 careful 79:20 Caring 100:12 cars 64:7 Carvin 3:3 140:8,10 141:19 142:12 143:5 144:19 145:11 147:8 148:14 149:13 150:4 150:9,16 151:20 152:13 155:20 156:8 157:4 158:9,20 160:19 161:6 162:5 164:20 165:13 166:3 166:18 167:2 173:8 173:21 174:15 175:5 176:19 177:6,13 179:1 180:2,13 181:22 182:4,5,15,22 183:8,21 184:7 186:4 186:18 189:1,21 190:16 191:5,12,18 191:19 192:15 193:2 193:6,20 194:19 195:17 196:11,18,20 198:4,15 199:20,22 201:5,20 203:13,15 206:8 207:7 220:7,14 221:10 222:14 226:12 227:4 228:5 234:13 235:21 238:3 238:10,14 239:6 240:6 241:12 243:5 246:14 248:21 249:1 250:8 252:1,11 253:8 257:7 258:13 259:7 259:18,22 260:12 262:17 264:7 265:22 266:9,11 267:5 268:17 270:11 273:16,19 278:1,5	279:18,20 282:6 case 6:20 7:11 12:20 63:2 69:2 111:21 112:1,18 113:2,5,6 113:22 129:2 137:12 143:3 187:5 189:20 197:17 201:18 202:6 221:16 cases 143:9 187:8 251:16 cast 10:12 91:10 134:22 203:19 casual 221:22 categories 73:21 249:14 Caucus 223:4 cause 103:21 187:7 caused 158:11 causes 70:8 CD 54:13 Center 80:20 cents 200:7 certain 62:20 72:14,22 73:21 82:15 83:2 100:3 102:15 105:7 108:7 131:18 177:22 190:6 229:20 238:19 245:9 246:22 260:17 certainly 13:3 16:15 18:20 31:18 36:9 39:6,7 67:2 73:7 99:22 104:14 105:1 111:18 120:8,13 126:6 128:13 137:6 145:10,18 152:10,21 170:7 181:13 192:10 204:11 205:3 209:18 217:5 246:8 254:10 255:10 265:15 271:16 277:17 CERTIFY 281:1 cetera 111:8 chairman 206:4,10,11 206:12 211:21 212:1 212:3,13 231:7,11 challenge 92:22 challenging 194:14 267:22 Chamber 104:3 champion 112:11 chance 43:14 48:3 272:14 CHANEY 3:4 change 13:10 14:8,9,19 35:16,17 37:1 51:4,9	51:20 67:16 88:17 105:22 129:16 130:4 130:7 133:4 236:15 254:1 changed 14:20 30:9 39:7 48:8 87:5 97:7 126:1,2 130:19 171:14 255:2 272:18 272:19 changes 81:20 164:1 272:16 281:4 changing 53:3 channel 157:12 236:5 243:9 channeled 10:4 14:12 153:21 156:22 237:20 238:2 243:7 channeling 236:21 245:12 channels 40:12 83:8 chapter 64:17 244:17 characteristics 113:7 characterization 254:2 chase 127:19 chat 185:1 chatted 140:14 249:2 cheaper 64:15 check 240:13 checked 132:11 checks 50:21 children 110:5 China 200:11,13 China's 200:11 choice 103:21 110:8 188:10 choose 29:18 46:2 57:3 85:21 145:7 146:15 172:19 173:15 chooses 61:8 185:11 chose 123:15 147:4 151:16 162:1 163:22 164:11 186:11 chosen 60:21 Circuit 186:19 circuitous 16:8 77:5 138:7 circumstance 204:16 circumstances 54:5 129:11 130:20 131:3 162:15 233:17 269:19 circumvent 98:1 227:12 247:19 248:7 circumventing 254:21 circumvention 131:11
--	--	--	---	---

242:2 cite 29:9 34:17 186:18 205:22 228:3 231:3 244:17 cited 42:17 118:14 citing 187:7 citings 189:16 Citizens 73:4 111:5 civil 1:6,9 190:1 204:18 clarification 101:2 clarify 6:6 13:13 204:2 205:7 268:13 clause 26:16 46:1 111:12,19 115:11 117:9 118:22 176:3 176:17 177:10 182:12 183:6 186:1,2 187:8 190:7 192:22 clean 11:1,4 29:18 80:7 81:20,21 82:1,4,4 224:21 226:3 cleaner 64:15 clear 14:22 24:6 25:12 61:18 90:1,3 91:19 93:22 101:10 109:8 113:15 116:18 130:2 140:15 162:5 167:13 174:7 184:13 193:4 203:17 217:7 224:16 229:17 249:21 253:9 257:20 clearer 108:5 232:13 clearly 13:22 89:9,13 94:12 96:7 104:12 105:9,12 134:20 157:2 162:20 178:16 179:3 180:4 181:4 185:3 240:1 257:21 272:22 clever 183:19,21 client 174:20 Clinton's 103:19 109:9 closely 176:21 closer 102:9 Club 45:6,12,13 63:18 64:18 72:5 75:9,20 90:11 125:18 Club's 125:8 CMAG 80:20 81:7 CMAGs 81:15 Coalition 136:19 183:14 cognizant 102:20 coincidence 37:13 66:13 71:3,6 79:12	93:9,10 96:22 115:21 coldly 132:15 colleagues 43:12 68:11 69:14 74:10 231:1 colleague's 188:6 collected 32:9 80:19 collective 77:2 83:7 138:17 194:5 collectively 10:13 27:17 35:13 98:8 collects 51:5 80:21 Collins 64:6,10 66:2 70:11,14 72:4 74:19 74:22 76:13 78:22 colloquies 6:2 colloquy 184:19 188:14 Columbia 1:2 2:7 combined 237:15,17 come 10:22 37:14 47:20 85:13 131:13 146:22 165:3 187:4 210:5 220:9 226:8 241:17 246:20 249:14 259:18 276:1 comes 20:10 33:15 58:10 62:20 72:10 75:6 86:5 92:12 120:9 129:21 137:8 155:18 158:17 203:2 227:18 232:19 256:2 comfortable 193:3 coming 14. 15 16:7 220:2 223:18,21 272:8 comment 69:18 comments 72:18 74:10 74:15 75:16 82:21 87:12 89:2 90:10,20 92:16 117:10,19,20 118:2 119:1,3,4 Commerce 104:3 commission 1:8 228:7 281:19 committed 70:7 committee 3:9 31:16 33:4 49:19 53:17 58:22 140:11 197:8 197:10,18 198:6 206:20,21 207:9 208:2,5,15,21 209:7 211:7,10,13 212:9,10 212:17 213:5 214:3 214:16 215:2,8,14,17 215:22 217:21 222:16 224:9,10	229:2 230:9 231:2,8 231:12 232:2,4,8 233:18 244:5,8,8,10 244:18 245:1,1 251:12 252:16 277:13 committees 33:7,14 141:3 197:7 205:13 206:19 207:22 210:19 213:11 215:9 229:5 committee's 207:2 committee-sponsored 214:20,22 common 103:17 109:11 110:3 168:3 170:2,8 171:12 187:7 commonly 173:4 communicate 57:10 71:21,22 106:8 203:3 214:6 communicated 26:14 communicating 105:6 113:20 138:20 159:21 communication 17:6 45:20 46:8 56:20 58:18 75:1 90:6 134:11 146:5 173:12 173:17 174:11 175:13 196:16 198:8 267:10 communications 16:14 17:10 18:5,7,10 19:4 19:14 20:5,15 29:15 37:1 38:14 51:7,17 53:9 74:12 80:6 119:19 120:17 121:17 122:17 123:1 123:16 124:8 136:1 140:16 142:17,19,21 144:5,10 146:19 151:12,17,22 152:10 153:12 157:7 160:8 163:18 164:12 172:13,14 174:3 175:9 194:8,11 272:2 274:11 276:15 279:7 compact 203:9 companies 115:10 126:10,14 company 136:7 company's 125:9 comparatively 256:16 compare 264:9	comparing 263:22 compel 188:20 270:4 compelled 13:10 14:8 28:1 163:8 176:16 187:21 188:22 189:21 196:6 compelling 177:8 186:15 189:13 compilations 44:14 complain 30:10 complained 36:16 complete 5:12 completely 151:3 166:16,16 comport 267:4,8 concede 61:18 62:7 conceivable 190:20 195:18,19 conceived 32:5 concentrated 146:18 153:1 156:18 157:6 271:4 concern 12:17,18 13:1 13:2 35:12 38:4 177:4 192:14 264:11 266:17 267:13 277:5 concerned 8:4 10:19,21 30:20 39:5 40:5 79:22 118:8 concerning 186:12 278:7 concerns 36:20 38:2,20 45:17 90:7 92:1 116:5 125:5 141:20 142:13 273:5 276:17 conclude 131:22 concluded 280:5 concludes 139:3 conclusion 128:21 174:19 175:18 198:10 201:16 concrete 13:6 conducted 80:1 171:22 conduit 247:19 confer 62:12 conferred 62:15 confidence 8:7 9:6 27:15 52:4 77:11 81:22 84:7 86:9,15 135:15 157:20 179:16 234:20 254:4 255:21 275:21 confident 186:2 confine 51:18 confined 51:7	confines 73:2 74:1 confront 255:1 276:3 confused 112:2 166:16 confusing 130:13 confusion 166:21 205:11 Congress 16:4 26:9,13 27:5,6 35:21 94:22 95:3,18 106:7 112:20 113:10 114:14 118:20 136:9 146:12 161:17,21 164:9 176:4 177:12 180:1 190:10 192:8,21 193:17 200:10 204:17 205:19 220:2 226:8 234:8 253:15 255:1 270:4 276:9 Congressional 197:9 206:20 212:8,17 230:18 264:5 Congressman 89:12 92:18 94:22 Congresswoman 136:4 136:14,16,21 199:10 199:13,17 200:12 Congress's 176:7 conjecture 91:8 conjunction 89:2 103:2 164:1 connected 176:22 connection 7:10 26:14 82:8 163:1 195:15 228:16 233:16 consensus 115:15 178:6 192:7 195:4 consider 276:8 considerable 202:15 consideration 41:2 considered 41:22 61:12 65:11 112:20 113:15 234:8 259:2 260:20 considering 42:6 176:10 consistent 36:6 37:5 141:17 146:2 251:8 274:4 278:18 consistently 41:17 164:18 consolidated 1:8 constituencies 203:4 constituency 54:3 146:1 constituents 10:22 30:4 30:10 34:13 36:16
---	---	---	--	---

<p>37:17 38:12,22 45:14 45:16 constitute 19:17 57:7 86:3 107:13 242:21 258:11 constituted 91:15 113:12 168:5 268:2 constitutes 49:15 116:19 175:13 260:17 constitution 261:22 constitutional 111:14 204:22 constitutionality 123:8 construct 66:17 consult 181:10 consulted 186:1 Contact 133:3 contacted 89:14 contacts 222:8 content 37:3 contention 119:12 contents 54:14 content-rich 125:19 contest 38:14 context 43:22 128:20 193:3 205:2 231:13 278:1 continue 62:22 63:8 120:14 133:3 142:18 158:7 177:22 236:17 continued 2:18 3:1 283:1 continuing 89:14 144:15 continuously 19:22 20:7 108:4 contrary 185:3 278:15 contrast 85:17 contribute 208:4,9 215:20 229:12 251:11 contributed 33:9 47:12 contributes 157:9 contribution 197:11 227:12 247:1 273:10 contributions 49:21 50:2 51:19 53:10 112:6 218:4,8 227:15 229:12 250:6 251:9 252:15 254:12,12,13 277:11 contributors 32:17 70:3 216:2 224:14 control 37:3 97:17</p>	<p>98:11 99:2 261:14 262:14 264:19 265:2 268:1 controversial 246:2 conventional 147:1,15 158:18 159:1 170:11 conversation 18:18 212:15 223:16,19 conversations 30:3 34:13 221:2,5,7 convert 144:8 convey 54:3 59:19 93:2 105:3 134:21 135:1 137:5 conveyed 119:11 151:13 conveying 94:19 95:1 128:13 134:1 convicted 55:12,15 Cooper 2:11 4:21 cooperation 279:22 cooperative 188:5 203:20 copy 7:9 core 61:1 85:20 118:22 134:15 162:2 163:7 176:2 202:4 corner 197:2,3 corporate 17:2 19:9 31:3,10 32:13,19 34:15 49:2,6 51:6,17 121:10 122:11 126:11 144:5 146:19 154:20 159:7 163:17 172:6 254:13 corporation 112:5 114:8 116:13 145:19 154:14 179:2 259:13 260:3 262:2 corporations 111:7 112:7 114:15 115:9 115:17 117:1 121:10 122:3 123:2 124:9 141:5 142:6 144:7 147:22 148:16 149:16 150:21 154:15 155:22 159:12,13 164:4,8 191:8 192:17 193:11 194:11 196:1 202:11 correct 6:21 7:8 8:15 24:4 28:21 35:22 43:9,14 44:22 52:13 141:7 143:13 152:2 156:2 161:8 165:17</p>	<p>169:1 175:11 192:18 198:1,2,5,14 201:8,9 208:12 215:15 217:10 225:7 226:2 231:21 234:17 238:17 240:5 261:1 263:11 264:8 265:20 266:4 268:16 272:4 corrections 281:4 correlated 227:7 corroded 234:19 corrosive 9:11 14:16 255:21 corrupt 12:3,4,5,6,9,10 26:10 27:12 37:18 78:14 115:3 270:2 corrupted 7:19 8:1,11 8:17,19 9:1 10:15 11:17 14:1,1,4 119:10,13 120:5 122:1 198:18 corruption 8:2,6,10,13 8:20,22 9:2,5,14,15 9:16 10:7,18 11:15 12:17,21 13:7,14,18 14:9 15:3,5,8,17,21 16:4,12 17:9,14,16 17:17 18:1,6 19:13 20:17 21:5 26:7,8,11 27:5 28:8,20,20 29:4 30:3 45:21 46:9 49:10 50:11,12 51:9 51:21 56:1 57:1 65:5 65:22 78:13 82:10 83:5 110:14 111:9 112:16 114:7,19 116:13 118:14 120:22 121:11 123:5 124:11 148:17 153:16 155:9 156:10 156:12 158:10 178:17 179:5 180:7 182:10,19 183:4,11 183:18 191:6 200:21 234:6 235:11 237:22 238:21 239:13 241:2 242:15 251:2 252:5 252:21 253:2 258:5 258:15 259:14,21 262:4 263:15 264:12 265:12 266:18 267:13 269:3 270:13 270:14 275:5 cost 271:18 costs 245:22 271:2</p>	<p>counsel 2:2 24:3 62:15 89:3 186:2 187:9 204:3,6 counsel's 6:9,19 62:6 count 6:1,2 counting 216:22 country 200:8 248:5 couple 54:13 223:3 course 22:3 23:7 24:16 31:21 41:5 69:4 71:18 72:7 130:10 208:19 court 1:1 5:8 9:7 12:18 12:20 58:13 90:7 91:19 92:12 114:13 122:18 184:8 185:15 189:18,20 190:13 191:2 195:9 Court's 111:4 116:5 coverage 103:16,22 105:8 126:20 covered 18:13 60:22 75:14,18 266:7 covers 239:2 crafting 91:11 create 58:4 82:3 115:2 116:6 148:17 156:10 156:12 178:5 179:5 182:9 183:3,18 200:20 204:9 235:10 238:20 241:1 242:3 242:14,20 258:15 265:11 269:18 created 159:6 168:20 169:8,8 234:5,18 236:19 242:1 275:11 creates 35:11 153:16 153:18 155:9 157:13 182:19 269:17 creating 269:22 criminal 190:11 crisis 100:9 criteria 19:6 20:9,16 49:14,17 57:6 62:20 65:17,19,20 66:18 67:13 71:10 72:16 75:7,13 83:19 85:13 86:1 87:10 88:1,15 89:21 90:10,17,18,19 91:12,13 93:20 113:11 114:3,5 115:17 120:1 131:5,9 210:19 211:2 258:10 258:21 260:17,21 267:3,4,8 268:7</p>	<p>criterion 19:21 critical 24:10 criticizing 199:16 crosses 193:5 cross-examined 187:2 188:3 crumbs 85:3 culminated 149:6 cumulative 79:14 108:17 149:1 curb 149:4 cure 262:11 current 10:14 13:16 15:22 21:13,21 27:12 28:1 31:13,15 39:4 48:7 53:19 67:2,13 70:19 77:5 82:16 92:2 121:22 124:16 151:10 160:7,14 163:15 164:6 179:22 194:9 212:1 251:18 253:17 254:21 255:3 259:3 277:16 currently 63:2 254:14 cut 85:2 87:3,9,21 100:11 242:7 Cutler 3:13 cuts 100:14,15 cutting 50:21 cycle 50:2 257:10 cycles 19:5,5 20:4 cynicism 35:11 38:21 39:10,15 158:1 255:16 273:6,10</p> <hr/> <p style="text-align: center;">D</p> <p>D 4:1 data 278:14 date 210:6 David 2:10 4:19 22:22 day 3:5 43:1 132:16 139:8 145:2 161:2 162:17 173:3 244:14 271:4,4,7,8 272:11 274:3 281:11 days 4:8 16:22 17:4 19:6,7 30:12 36:3 40:19 41:11 43:17 48:19 56:21 58:19 65:3,4 66:2,2 72:12 82:7 91:2 95:12 101:4 103:13 104:9 106:2 107:15 110:1 112:14 113:18 123:4 124:10 128:14 129:2</p>
---	--	---	--	---

<p>132:9 133:12 135:2,8 145:1 162:11 172:15 172:21 174:3,11 180:19,20 181:5,5 182:8 183:17 200:19 240:19 257:10 258:4 268:11 269:4 deal 53:3 127:20 200:12 239:4 Dear 136:7,8 death 133:1 debate 6:2 26:12,16 29:11 30:13 36:5 41:20 46:1 57:2 60:15 61:1,10 67:6 85:20 91:18 111:12 111:19 115:11 117:8 118:17,22 134:16 141:16 145:6 146:11 148:7 150:7,10,12 161:17 162:2,14 163:8,176:3,12,17 177:3,4,10 182:12 183:5 184:14,21 186:1,11 187:8,11,18 187:18 189:20 190:7 191:10,16 192:22 196:6 202:5 204:9 205:20 207:3 220:3 226:9 234:7 235:12 238:1,22 239:18 241:4 242:16 251:6 258:7 263:18 269:6 278:11 decade 275:17 decades 30:9 273:3 decide 103:15 decided 161:22,22 decides 112:10 decision 40:2 91:14 104:1 111:5 186:19 207:12 decisions 207:9,16 227:6 232:2 declaration 7:1,9,13 8:18 13:21 15:20 22:5 25:8,10 26:7 30:2 118:15 119:8 120:4,22 121:12 124:5 185:15 198:16 declarations 50:10 decrease 64:3 deemed 12:21 deems 9:8 deep 12:16</p>	<p>deeply 40:4 defeat 93:18 199:11 defeated 11:3 55:11 defeating 55:21 defendants 1:10 143:8 defenseless 132:14 deficiencies 151:10 179:15 267:20 deficiency 194:9 define 166:6 169:12 defined 19:3 26:2 108:8 267:9 defines 19:17 defining 20:8 144:21 169:14 definite 219:19 definitely 27:13 219:12 definition 17:14 18:12 19:2 20:4 23:16 25:12 74:12 173:11 174:2,10 175:9 196:15 198:7 240:11 260:20 267:14 degree 120:11 271:9 Delaware 132:12,16 Delegates 55:10 deliberating 273:15 deliberations 185:8 deliberator 43:21 delineated 113:10 delivered 132:12,16 democratic 56:8,22 183:16 207:21 240:17 257:12,14 259:12 260:2,10 261:3 262:21 263:14 263:17 265:9 269:2 272:10 275:20 deny 57:9 147:6 164:16 denying 54:2 59:18,19 71:20 129:5 138:19 depend 154:19 dependence 64:4,12 depending 52:4 102:13 133:19 145:9 depends 127:14 145:14 191:7 198:22 214:17 219:7 deposed 4:22 187:1 deposition 1:17 2:1 4:7 5:2,20 16:21 119:9 139:6 174:21 200:3 205:5 280:4 281:2 282:10 283:2 depositions 69:22 70:1</p>	<p>186:22 deprived 166:11 depth 125:6 Derek 3:19 describe 80:8,18 186:4 described 146:7 154:17 171:16 230:9 design 116:17 designate 4:8 designed 16:18 20:11 24:17 37:8 65:12 83:12 96:8 97:1 99:18 104:12 134:4 140:20 141:12 142:4 144:10 161:1 193:12 197:19 265:10 desire 151:7 desk 232:19 despite 15:11 61:9 100:10 detailed 189:13 deterioration 126:18 126:19 determination 113:12 188:12 determine 24:12,20 25:1,1,3 115:18 194:17 Detroit 64:7 develop 36:9 37:5 52:3 71:13 93:19 125:14 developed 33:5 38:6 71:9 81:6 92:10 158:1 163:14,21 179:16 195:3 276:14 276:17 developing 24:15 59:13 122:7 153:7 170:6 development 39:2 97:18 98:5 devote 222:21 devoted 77:9 112:8 155:1 220:18 difference 49:9,21 50:12,18 88:19 94:12 94:13,16 99:10 108:9 115:8 116:12 186:15 260:9 267:18 different 12:15 15:1 18:9 22:10 32:4 33:15,19,21 48:2 49:3 51:1,2,3 63:1 65:21 92:22 94:7 104:18 118:13 121:20 123:19</p>	<p>133:18 141:21 146:13,14 159:19 166:17 184:4 185:22 196:7 213:2 214:10 214:11 215:18,19,21 216:1,2 234:1 246:12 247:2 250:14 251:12 261:19 267:22 differential 184:1 differently 171:11 196:4 difficult 40:1 52:2 78:8 230:21 235:16 264:9 272:13 difficulty 52:6,16,18 202:15 dime 60:10 dimension 31:12 diminish 278:16,20 diminished 275:22 dinner 210:5 211:16 212:14 214:9,10 215:2,3,4 217:12,13 217:14,16 218:20 223:1 dinners 211:19 213:6 214:20,22 216:9,11 217:4,9,18 218:15,18 218:19 220:2,17 221:14 222:3,18 230:6 dip 58:5 59:1 direct 63:15 83:10 113:21 116:7 119:2 197:11 212:12 249:22 262:14 directed 61:10,11 204:3,4 245:8 directly 60:20 141:12 142:19 154:16 156:13 185:7 191:8 226:2 235:6 237:20 246:7 250:21 director 208:20 disadvantage 184:16 201:22 disadvantaged 168:17 disaffected 27:22 135:16 disagree 119:18 123:12 179:10,11 192:6 195:2 204:6,14 disappointed 27:22 135:17 disappointment 39:20</p>	<p>discharge 7:16 disclosable 34:4 disclose 23:8 32:11,14 32:16 38:10 50:3 97:21 disclosed 25:21 26:2 33:10,19 49:20 72:15 77:7 97:22 251:17,21 269:16 discloses 23:14 disclosure 21:19 22:20 23:3,6 24:10,11,14 24:19 31:14 37:6 47:7 58:1 78:6 84:5 115:1 117:4 124:22 125:1 138:11 140:17 discovered 255:5 discovery 185:13,17 186:21 190:2,5 discuss 190:18 193:2 210:8 220:1 221:12 221:18 226:7 discussing 220:19 221:3 discussion 168:16 discussions 220:8 221:19 222:8 disenchanted 27:22 35:11 138:12 disenchantment 39:20 255:17 disenfranchised 135:16 displaced 274:10 disproportionate 11:10 154:8 dispute 65:17 91:18 169:20 248:6 disregard 200:2 disruptive 18:17 disseminated 126:1 271:4 distinction 12:4 13:22 31:1,8 32:21 34:3,14 34:18,19 49:18 79:8 90:1,4 91:17 92:19 93:22 107:11 124:3,3 213:13 214:18 235:17 239:1 248:16 distinctions 50:8 65:11 74:11,14 162:10 213:9 distinguishing 13:20 distort 144:6 distribute 60:4 district 1:1,2 2:7 57:10</p>
---	---	--	--	---

<p>104:8 137:8 264:5 268:4,10 disturbing 98:5 270:7 271:10 273:1 diverse 38:9 diverted 277:6 divide 42:10 divisions 126:13 divorced 273:21 doctor 132:15 document 6:9,15 7:1,7 55:4,8 63:12 73:13 73:17,19 74:4 80:13 84:10 87:15 88:3 89:5,7 95:7 100:5 109:17 136:3 143:11 143:12,15,19 144:2 196:21 197:4 257:18 263:7 doing 13:11 30:19 36:7 106:18 145:10,13 154:13 164:18,21 171:19 189:12 201:13 204:13 205:14 212:13 223:19 230:8 279:15 dollars 9:10 10:4 14:12 16:7 21:17,22 22:13 23:14 29:19 57:21 58:7 67:1 77:4 79:21 83:8 86:12 93:16 96:19 108:13,14,19 110:21 115:22 149:5 153:3 156:6 158:3 172:7 253:22 276:1 domestic 55:15 dominate 9:9 dominating 110:20 donate 142:1 donated 161:12 donation 197:12 donations 33:10 155:7 210:18 211:1 223:15 223:17 226:19 231:12,18 248:8 249:21 272:22 276:14 279:8 donor 218:1 221:17 226:13 245:13,16 donors 32:14 33:10,19 50:21 86:18 156:13 157:15 207:17 224:4 224:10 or 113:21,21 240:14 41:11 268:20</p>	<p>270:15 271:12 273:11 doubled 270:22 271:18 271:19 doubt 195:8 203:8 248:17 dough 84:22 draft 89:21 drafted 202:8 draining 200:9 dramatic 39:17 254:1 dramatically 30:9 39:7 48:8 draw 13:22 31:1,8 34:3 34:19 83:2 90:4 91:16 92:19 94:6 118:20 125:2 162:1 194:15 202:13,17,22 203:2 drawing 65:10 107:11 164:3 172:20 drawn 34:14,18 74:11 74:14 146:14 190:20 192:7,16 194:1,3 196:4 draws 32:20 50:9 drew 91:21,22 118:21 124:2,3 125:4 173:1 173:5 192:5,21 193:21 194:15 203:7 drift 55:2 drilling 76:13 90:16 driving 8:3 dropped 112:18 drowned 279:4 drug 103:16 105:8 dues 51:8 146:20 duly 4:4 140:4 dumpster 132:13 dynamic 47:10,11 97:7 D.C 1:19 2:3,13 3:7,15 43:3 228:21 229:22</p> <hr/> <p style="text-align: center;">E</p> <p>E 4:1,1 282:1,8 earlier 16:2 27:18,20 28:12 107:20 115:22 144:14 151:9 153:3 201:4,6 218:18 237:7 early 168:6 199:8 earmarked 245:2 easier 99:2 EC 175:2 186:12 259:16 education 110:4 112:9</p>	<p>effect 18:14 19:16 71:6 79:14 98:6 99:4,22 115:20 137:7 160:21 172:16 225:4,19 231:19 254:14 262:9 265:1 272:15 273:6 278:7 279:10 effective 105:4 168:11 effectively 164:19 effectiveness 278:8,16 278:20 effects 36:2 effort 145:20 199:11,15 227:12 237:20 efforts 144:22 148:2,16 152:2 153:9,14 156:18 158:12 159:9 171:16 181:3 266:13 egregious 16:5 21:13 21:14 98:15 122:5 157:8 242:18 261:15 eight 70:2 190:13 206:15 216:14,18 217:3 either 12:2 32:16 50:21 91:19 174:22 197:2 203:18 205:4,12,18 210:18 211:1 212:8 218:17 219:21 224:1 226:15 231:20 232:8 233:16 237:4 242:8 244:16 249:21 elderly 100:13 elected 10:11 27:16 35:1 electing 154:1 election 1:8 11:1,5 16:19 17:1 19:7 20:12 21:11,21 22:3 24:16,18 25:21 29:18 29:21 33:18 34:11 35:1,3 36:4 40:20 41:11 43:18 46:16 48:7,20 65:4,15 66:3 66:11 67:2,3 70:20 71:5,7,18 72:11 76:2 77:6,12,13,15,15 78:4 79:6,12 80:8 81:20 83:10,11,22 85:10 86:7 91:2 92:5 92:5,7,7 93:7,12,13 93:15,17 94:18 96:11 96:12 99:22 101:5 102:6,9,21 103:14 104:9,19 105:13,20</p>	<p>106:3,6,10,16,20 107:4,6 108:4,6,20 109:14 123:4 124:10 129:2 131:11 135:3,9 137:8,16 140:22 145:1 147:2 158:4,6 158:6,19 159:2 161:1 164:2 165:16 167:10 169:17 170:7 172:15 174:12 175:16 178:18 179:5 180:19 181:5,6 182:9 183:17 192:13 194:9 197:20 199:11 200:20 224:22 228:7 237:18 238:16 239:8 240:12 240:19 241:17 243:22 245:18 248:8 251:18 253:13 255:10 256:21 257:10,11 258:4 261:13 262:15 268:12 269:4 272:11 274:3 electioneering 16:14 17:5,9 18:5,7,10 19:4 19:14,18,19 20:5,10 20:15 29:15 37:1,16 38:8,13 45:20 46:8 47:2 49:15 51:7,16 53:8 57:8 62:21 65:13 74:12 80:6 82:15 86:3 90:6 91:16 93:21 107:13 113:13,16 114:16 115:19 122:10 130:8 131:5 134:10 136:1 140:16 142:17,19 144:4,9 146:5,18 149:7 151:21 172:13 172:14 173:11,16 174:3,10 175:9,13 194:8 196:15 198:8 258:12 260:18,20,22 265:19 266:7 267:9 268:3 272:1 276:15 279:6 elections 39:18 40:1 48:11 53:22 81:20,21 82:1,4,5 97:8 98:17 108:21 115:20 124:18,20 140:20 141:13,22 142:5 144:11 145:4 148:18 149:9 152:1,20</p>	<p>153:15 154:10 155:18 159:4 172:16 175:15 193:13 237:9 238:13 239:3 240:5,9 242:2 243:2 244:1,3 244:4 245:3 254:2 264:19 265:11 271:1 electoral 81:22 89:17 191:21 202:2,3 249:22 electronic 80:21 elects 60:2 eliminate 55:17 eloquent 15:16 else's 195:6 emanates 15:20 emanating 57:1 embodied 7:14 195:2 Emily's 250:18 emphatically 211:14 empirical 243:6 278:13 employ 64:2 enable 186:21 enacted 83:12 113:10 129:1 enactment 26:15 61:12 68:9 encourage 161:1 269:1 273:11 encouraging 223:22 274:2 energy 64:11,15 enforcement 47:20 70:19 147:1 158:18 159:1 engage 146:9 156:13 159:13,14 160:4 164:17 166:12 168:11,18,22 184:18 235:17 252:4 254:9 278:17 engaged 190:5 274:8 engaging 147:14 England 199:9 enhance 36:11 52:4 enhancing 98:21 enormous 61:2 154:8 248:18 Ensign 85:1 87:7 88:8 88:13,17 94:4 ensure 91:17 99:6 125:3 ensuring 46:13 enthused 279:16 entire 143:11,12</p>
---	--	--	--	---

177:12 202:8 entities 10:5 21:18 153:21 164:10 199:2 203:1 250:14 255:12 entitled 7:1 74:13 164:8 181:13 185:10 entity 262:13 environment 22:13 23:1 70:8 220:6 221:3 environmental 70:7 125:7,19 envision 129:11 equal 60:12 equally 155:21 equate 18:12 equated 17:16 equating 11:20 equivalency 36:10 59:14 71:13 120:9 164:3 equivalent 21:20 24:15 26:4 140:17,21 146:7 185:18 erode 86:15 erodes 77:10 escalated 237:8 271:2 escaping 70:18 especially 31:22 99:20 Esq 2:10 3:3,4,11,12,18 3:19,19 essence 86:14 111:1 254:17 269:16 270:8 essential 84:7 essentially 121:17 130:3 144:21 277:1 establish 108:10 191:1 established 75:12 82:20 114:14 115:17 267:3,8 estimate 169:5 218:11 222:20 227:17 228:11 229:22 230:13 et 1:5,9,13 111:8 evade 77:5 evades 277:15 evading 158:4 evaluate 157:10 evenhanded 141:9 142:2 evenings 221:8 event 209:4 213:16 214:7,12 252:13 events 208:22 209:1,21	210:13 213:5,10 214:15 215:6 216:1 217:6,15 222:1 223:13,21 224:19 225:15 228:19 229:2 229:21 230:9,14,20 230:22 246:21 everybody 34:8 35:5 36:10 49:16 50:5,6 53:22 54:1 71:13 78:3 210:15 everybody's 194:21 195:1 272:8 evidence 10:18 13:6 39:13 188:2 189:10 evidenced 150:10 168:21 Evidently 181:7 evolution 66:8 124:17 evolve 32:6 evolved 30:8 38:6 169:9 236:6,13 273:2 evolves 120:16 evolving 70:18 exact 49:7 exactly 106:17 128:3 225:4 examination 2:2 4:12 140:7 282:3 examined 4:5 74:4 87:15 89:7 140:5 144:2 257:18 263:7 example 23:2 24:7,9 31:17 45:7 46:22 51:3 52:7 74:2 96:19 122:15 125:20 128:18 137:19,19 142:5,18 161:11 170:22 212:13 219:8 233:7 238:20 239:9 241:15 244:22 245:20,22 246:2,18 254:15 256:1,9 266:19 examples 13:6,11 15:3 15:4,8,21 52:20 121:6 268:19 exceed 69:22 exceeding 51:20 exceeds 248:10 exception 135:7 243:1 exceptional 77:8 254:19 exceptions 242:20,22 271:14	excess 208:5 exchanges 244:13 excluding 152:9 exclusively 32:10,18 48:19 exempt 73:3 74:2 264:3 exempted 121:16 122:17 164:12 exemption 89:16 119:19 exemptions 161:5 exercise 103:6 exhibit 6:12,13 7:1,4 54:8,15,16 55:3,5,8 63:11,13 73:13,14 74:18 80:13,14,16 84:10,12 87:11 94:3 95:6,6,8 99:14 100:5 100:7 103:7,8,9 109:2,17,18,20 128:6 132:5,6 133:9 136:3 136:3,5 143:4 183:9 191:4,7 196:19 198:17 199:21 257:6 257:8 262:16 282:12 282:13,14,15,16,17 282:18,19,20,21,22 283:3,4,5,6,7,8,9,10 exhibits 54:13 283:1 exhortation 263:14 exigencies 269:19 exist 16:5 27:5 39:4 40:3 120:15 122:8 187:3 267:20 existed 165:1 170:9,10 existence 187:5 existing 10:19 14:19 67:16 131:11 149:3 158:19 192:4 242:3 248:7 exists 157:18 exorbitant 237:6 expand 212:2 expect 254:6 expectation 36:1 226:20 278:6 expedite 62:8 expend 191:9 expended 21:9 158:16 159:7,12 191:8 expending 158:12 161:14 expenditure 207:16 227:6 232:1 expenditures 144:9	155:8 228:16 235:9 251:3 271:19 276:19 expensive 270:21 experience 80:3 169:21 222:7 232:7 234:4,10 273:20 experiences 205:14 226:5 expert 166:8 190:3 expires 281:19 explain 45:19 46:7 47:8 68:3,7 75:19 186:9 explained 89:9 explicit 105:10 189:6 189:17 explicitly 188:1 exploded 236:8 explosion 149:6 253:18 279:8 exponentially 48:4 77:13 92:6 158:6 expose 129:4 exposed 35:8 71:1 77:12 94:1 132:12 exposure 60:11 express 54:3 57:13 63:1 77:22 78:1 104:12 105:21 108:15 129:6 expressed 180:15 258:19,22 273:5 expressions 89:13 extend 163:18 extended 6:1 194:11 extension 114:17 extensively 47:8 extent 118:8 137:20 210:16 222:6 230:7 231:18 236:12 237:3 269:15 276:16 extenuating 242:22 eyes 58:13 63:21	190:2 236:4 241:22 248:1 255:18 269:14 271:9 274:6 277:9 278:14 factors 46:18 factual 118:4 120:20 122:22 124:4,4,6 failed 85:7 110:18 187:4 failing 110:9 failures 38:1 66:5 fair 58:7 59:1,7 152:17 195:5 212:2 233:3 235:3 238:8 273:4 fairly 210:4 222:8 fairness 200:14 fall 73:1,22 74:11 75:13 82:22 175:8 201:8 240:11 258:9 259:8,19 263:10 270:9 fallen 20:14 falls 61:16 69:9 113:13 130:8 173:11 174:2 174:10 196:15 198:7 259:16 267:14 familiar 16:13 41:18 44:9 72:17 73:5 118:3 126:9 214:4 215:19 218:7 229:9 229:14 237:4 244:9 244:11,13 familiarity 232:15 families 63:21 64:16 far 8:4 33:3 120:11 159:19 208:2 248:10 257:2 fashion 9:10 271:4 faults 92:11 favor 99:17 136:15 favors 105:8 featured 88:15 featuring 109:20 FEC 72:18 73:3,7 74:2 74:10,15 82:21 83:2 87:12 89:9 90:10,19 117:11 118:3 FECA 166:6 FECA's 165:8 federal 1:8 16:19 20:12 21:10,21 24:18 25:20 33:17 34:11 37:9 44:12 46:16 47:21 53:19,22 65:15 66:10 66:20 70:19 77:5
--	---	--	---	--

83:11 84:16,18 86:6 108:21 124:19 131:11,15 140:20,22 141:13,22 142:5 144:11 145:2,3 147:2 148:18 151:22 152:20 153:15 154:1 154:3,9,9 155:9,17 155:17 157:14 158:4 158:19 159:1,4 165:16 166:5 167:4,7 167:9,10 168:13 169:17 170:7 172:11 172:16 175:15 178:17,18 179:4 180:5 181:4 182:8,9 192:13 193:12 197:20 207:1 209:10 226:16,22 227:13 228:7 234:2 236:2,12 237:18,21 238:12,13 238:16 239:3,10,16 240:12 241:1,2,10,15 241:17,18 242:2,8,13 243:3,4,9,14,19 244:4 245:3,9,13,18 246:8,10,15 247:14 247:17,20,21 248:7 251:9,18,20 253:13 253:19 257:22 258:2 258:6 259:6 261:4,9 261:13 262:11 263:4 263:13 264:1,18 265:5,10,12 269:4,12 274:19,20 276:19 277:11 279:9 feel 38:3,19 186:2 240:13 feeling 40:17 53:13 204:20 Feingold 1:13 68:13 132:10 133:2,4,11 134:14,22 fell 183:12 fellow 43:12 63:21 felons 55:12 56:18 felt 11:9 fide 131:15 field 58:5 63:5 142:20 fight 55:19 100:15 fighter 110:3 figure 25:6 166:9 168:9 169:10 171:16 193:7 75:10 ures 256:17	file 6:19 69:21 filed 189:3 fill 80:5 final 66:13,16 128:21 finance 7:14 8:5 9:12 11:2 14:18 27:12 28:16 30:8 32:6 48:14,18 58:11 59:15 60:2 79:20 82:17 122:14 146:22 170:6 259:4 270:5 276:10 financed 10:1,20 40:6 80:1 98:7 114:20 131:14 137:13,15 138:14 151:15 164:7 202:10 240:9 247:10 255:12 270:2,18 271:16 274:18 finances 29:17 financing 23:11 27:8 28:1,2 39:18 79:17 124:18 135:18 138:7 138:9 225:5,19 253:17 255:3 259:6 find 92:11 189:17 232:20 fine 4:11 12:12 177:14 203:5,13 269:8 finish 60:19 109:1 finished 61:5 136:10 firm 4:20 first 4:4 23:3 27:9 34:22 35:2,4 56:6 68:10,16 69:1,2,14 87:22 96:11 110:11 141:15 143:6 179:22 202:9 248:12 249:18 252:12,20 253:16 260:15 262:19,21 263:22 270:4 276:10 277:1 firsthand 126:5 212:5 fit 161:17,22 five-minute 118:11 203:12 fixate 69:20 flaw 164:14 flawed 85:8 110:18 124:13 155:14 201:4 flaws 38:5 39:4 67:13 98:13 122:6,8 149:3 150:17,18 163:15 179:21 flies 261:16 flipped 166:2	flooding 200:9 floor 55:10 117:22 188:19 flying 71:15 focus 67:22 74:20 83:3 117:20 123:15 146:18 147:4 159:16 186:13 214:21 215:16 217:17 218:19 focused 102:8,10 176:15 178:4 194:7 194:10 235:6 focuses 120:4 127:19 266:15 Focusing 215:12 folder 69:21 folks 209:12 229:11 follow 211:6 following 63:12 73:13 90:8,12 95:6 100:5 103:8 109:17 132:5 follows 4:5 140:6 follow-up 184:3,20 267:12 forced 7:15 200:7 forefront 99:7 foreign 136:10,12,15 136:18 Forget 68:4 forgot 222:15 form 18:16 47:1 113:20 116:1 119:2 225:5 237:17 251:15 254:20 255:7 272:21 277:12 279:6 formal 51:15 format 5:6 81:13 former 234:22 forth 19:21 88:21 89:1 90:10 117:9,10 149:21 150:11 163:1 181:7 forthcoming 61:22 204:13 fortune 58:5 59:2 forward 144:18 189:9 for/vote 97:11 found 130:13 177:8 190:14 foundation 127:22 156:15 179:7 202:5 founded 62:7 four 11:20 81:1 136:10 162:9	frame 20:1,11 169:5 173:6 174:5,6 268:8 272:3 framework 116:7 Frankel 3:18 6:8 187:13 189:5 190:9 frankly 34:21 147:19 159:19 218:5 248:16 free 203:7 240:13 frequently 43:5 206:13 frivolous 176:21 front 73:8 fueled 234:19 279:7 fulfill 87:10 88:1 full 5:12 24:14 80:22 132:17,22 fully 23:14 177:19 203:21 functioning 18:11 fund 32:14 49:2 53:8 57:18 58:3 141:4 201:14 207:10,10 215:14 235:18 242:1 277:7 fundamental 113:3 135:21 179:21 267:18 fundamentally 135:15 138:2 funded 59:5 funding 22:2 25:5 32:2 38:10 78:5 86:10,19 95:21 110:8 140:22 146:8 148:12 199:1 225:22 fundraiser 232:13 fundraisers 214:15 fundraising 208:14 211:22 212:18,19 214:16 224:17 225:13,18,21 226:5 228:19 229:2,21 230:8,14,16 233:2 249:2 funds 19:9 32:19 33:20 46:14 50:16,16 51:6 51:17,18 54:4 57:12 58:17,22 59:20 71:12 72:14 78:5 80:9 84:5 98:19 116:20 117:5 121:11 122:11 129:3 138:22 144:6 146:19 148:1 149:16 150:20 161:14 191:8 192:5 192:12 197:12,13,18	200:19 208:5,10 236:11 245:17 249:5 256:2,6 fund-raised 251:2 funneled 157:1 164:14 255:7 further 11:21 140:5 194:13,16 195:11 202:14 279:21 future 19:5 63:22 64:2 64:16 120:14,16 136:19 157:10 163:22 178:10 183:15 192:11 194:17 275:15 G G 4:1 gaping 120:15 gas 64:7 gather 269:20 gathered 252:19 gathering 217:20 general 16:22 17:3 19:7,9 28:8 31:1,3,8 31:10 32:13,19,20 34:15 39:11 44:13 51:6 65:4 66:3 72:11 76:2 94:2 101:5 102:21 103:14 105:20 106:3 107:4 108:3 121:10 122:3 127:17 135:9 172:15 174:12 180:19 181:5 189:7,11,15 191:13 191:20 197:8 200:19 201:21 226:18 232:6 245:11 257:10 258:4 259:20 generalized 268:5 generally 41:8 43:5,10 109:4 122:18 125:13 161:9 173:2 188:19 206:2 208:19 211:12 212:7 218:22 219:21 221:8,22 223:21 225:15 251:15 268:19,20 275:6 generation 95:14,19 generic 240:14 242:12 266:13 268:21 273:10 276:20 George 49:7 110:2 128:18 129:15 130:3 130:21
---	--	---	--	---

<p>Georgia 264:14 getting 11:13 33:22 84:22 86:1 113:9 147:14 153:8 159:17 160:17 169:19 181:9 247:22 254:17 274:2 274:5 279:13 get-out-the-vote 245:22 Gingrich 263:2 264:4 264:13 265:7 give 5:12 12:15 46:19 47:4 55:20 59:4 62:12 90:8 95:2 110:14 112:15 121:11 123:4 136:9 141:11 143:1 163:3 169:4 178:17 185:16 195:1 209:4 210:1 213:20 214:9 216:4 224:3 227:20 228:3 229:4,22 230:13 234:9 241:7 249:21 250:13 268:19 279:18 280:1 ven 40:2 50:14 60:12 111:19 119:4 154:13 180:20 181:17 193:1 210:11,12 211:15,17 217:21 226:13 245:1 245:9 251:14 275:16 281:3 gives 45:20 46:9 49:1 82:2 85:8 103:21 110:8,19 180:6 giving 53:2 61:2 120:21 185:12 203:21 210:7 214:2 227:11 239:15 247:20 go 5:5,19 6:6 9:19,21 11:21 29:18 33:1 46:11 48:20,21 59:2 61:7 63:11 74:17 103:21 109:11 123:10 144:17 164:11 169:10 170:17 186:10 187:10 188:16 193:19 195:11 202:9 209:6 215:13,17 230:2 241:14 245:12 247:7 251:7 252:13 272:10 275:14 l 106:13 s 34:6 49:3 60:7,20</p>	<p>85:2,19 86:14 87:9 87:20 98:22 99:4 118:21 138:15 150:12 163:7 226:2 234:8,15 275:19 going 15:13 16:21 18:16 20:19 67:4 69:22 72:1 92:15 99:1 116:20 131:18 136:9 137:17 138:12 145:22 158:7 171:4 182:16 183:1 190:21 205:5 221:4 226:18 236:17 238:19 272:22 274:17 275:15 good 4:17,18 82:3 140:9 161:10 162:10 196:22 207:12 GOP 140:11 201:11 210:18 246:3 Gore 60:7 63:4 100:15 101:8,13 118:11 governing 140:21 government 11:11 67:17 82:3 84:17 103:19,20 109:9,10 121:18 151:16 governmental 13:3 115:5 131:7 143:20 government's 86:20 135:13 governor 232:14 233:8 233:11,13,14 258:1 graduate 136:8 grand 189:21 190:10 190:17 Grant 3:19 granted 144:8 268:5 269:20 grapple 255:20 276:3 grassroots 144:20 147:14 148:1 149:17 150:21 152:1,7,8,14 159:17 160:5 274:6,9 274:15 279:2,13 gray 204:21 great 5:16 greater 28:15 67:4 120:11 177:3 237:3 greatest 95:13,19 123:20 153:4 179:15 179:20 202:18,19 grip 64:1 grisly 133:3</p>	<p>gross 276:14 ground 5:5 279:14 grounded 33:6 grounds 127:1 141:16 group 47:13 64:22 130:21 216:12 249:4 249:20 250:11,12 251:3 groups 22:10 29:21 45:6 53:7 80:7 140:19 141:10 142:1 146:5,9 215:18,19,21 216:1,7 218:1 221:18 249:16 250:20 252:22 growing 255:16 270:7 273:1 grown 48:4 77:13,17 92:6 158:5 growth 279:8 gubernatorial 11:2 225:7,11 239:15 guess 25:15 44:7 69:17 127:17 134:9 156:9 183:1 194:20 198:16 216:15,20 218:12 240:2,10 253:6 261:8 267:17 273:4 275:17 guise 37:15 65:13 gun 55:17,17</p> <hr/> <p style="text-align: center;">H</p> <p>H 2:10 22:22 282:8 hair-split 42:10 half 55:8 67:1 hand 34:5 52:21,22 277:9,14 handed 6:9 262:18 handgun 55:15 handguns 55:13,16 56:18 hands 84:22 hanger 240:15 241:11 270:15 271:13 hangers 268:21 273:11 happen 9:4 10:21 24:19 106:11,19 124:21 131:1,3,4,6 220:13 243:20 255:20 happened 92:6 207:6 221:7 245:6 happens 59:6 164:14 happy 235:3 238:10 hard 52:11,11 53:17</p>	<p>57:20 58:6 85:6 136:11 141:4 213:10 215:20 223:20 228:19 229:7,12 230:13 256:14,17 277:13 harder 63:20 97:4 100:14 Harry 85:1 87:6 88:8 88:12,17 92:19 94:3 Hatch 95:15,20 96:3 99:14,16,16,18 Hatch's 95:12,20 head 49:4 51:8 headquartered 246:4 headquarters 245:5,19 246:7,12,18,21 247:2 247:4,5,17 hear 54:21 heard 41:4 170:1,8 171:13 279:4 hearing 41:8 heart 31:12 34:7 86:8 98:22 116:8,15 138:16 234:16 235:19 259:4 275:19 heightened 114:7 held 12:18 215:8,10 231:1 help 37:1 95:20 98:9 100:16,16 145:20 184:9 208:14 224:1 226:21 229:6 243:9 245:12,13 246:6,7,10 247:14 helped 249:3 helpful 101:1 166:19 188:5 201:22 helping 43:12 243:18 245:15 helps 99:6 245:18 246:11 Helstoski 189:19 Herald 11:8 28:13 29:10 Herb 133:2 hesitate 216:15 hey 59:4 high 39:15 high-donor 216:12 high-tech 136:7 hints 187:5 history 84:19 117:10 117:15 149:20 150:3 163:2 166:8 180:10</p>	<p>180:12 189:8 190:4 239:22 241:5 hoc 190:4 hold 246:20 holds 124:18 holes 120:15 home 43:6 44:12 90:13 95:18,22 96:1 100:9 100:12 126:7 170:18 195:20 homes 171:9,9 hone 120:19 honest 213:1 honestly 204:1 HONORABLE 1:17 hope 36:1 99:5 193:15 196:8 host 202:12 229:1,5 hotel 132:12 hour 190:6 200:8 223:1 hours 5:21 6:3 18:20 43:1 162:9 186:14 223:1,3 House 2:4 55:10 103:18 109:12 150:13 212:9,21 215:3 231:20 houses 170:13 171:8,8 House-Senate 217:11 huge 34:3 94:15 97:22 248:1 hugged 63:20 human 132:14 hung 253:11 husband 233:10 hybrid 275:1 hypothetical 23:12,18 23:21 24:5,6 37:19 49:12 50:14,20 51:4 51:22 53:2 56:3 90:8 90:9 119:5 hypothetically 266:18</p> <hr/> <p style="text-align: center;">I</p> <p>idea 14:13 22:1 105:6 166:7 168:2 207:11 207:13 218:14 identical 50:13 129:15 131:19 identifiable 17:1 19:8 157:8 263:13 identification 31:18 identified 6:13 7:4 29:5 54:16 55:5 63:13 65:15 73:14 75:2</p>
---	---	---	---	--

79:7 80:14 82:14,16 83:18 84:12 85:22 91:14 95:8 100:7 103:9 109:18 113:8 121:12 131:10 132:6 136:5 143:4 153:19 154:5 157:6 163:21 164:5 177:19 178:8 178:11,16 179:4,14 179:20 180:5,16 181:4 192:3,12 196:19 199:21 241:22 257:6,22 260:16 261:8 262:16 282:10 283:2 identifies 72:12 75:22 identify 20:9 75:21 77:1 86:18,19 89:13 94:20 98:13,15 106:5 106:16 113:6 122:10 129:7 138:6 149:2,10 150:17 151:9,17 152:8 153:6,8,10 163:16 213:13 260:15 276:6 identifying 71:7 85:12 86:5 90:2 93:12 identity 50:4 207:17 ignore 78:17 104:2 II 72:19 84:20 148:10 151:4 176:14,22 177:1 ills 262:12 image 128:14 imagine 118:21 123:7 161:20 imbalance 178:9 immaterial 24:8 93:3 117:11 179:12,17,18 immediate 83:21 178:12 immunity 187:7 impact 29:16 77:3 83:7 83:10 107:7 108:18 133:18 135:3 145:21 192:13 195:8 202:19 272:16 imperfect 91:22 impetus 11:13 implicated 184:22 implied 206:21 implies 231:13 importance 18:1 important 7:17 10:9 13:5 23:4 24:10,20	25:22 27:14 30:5 36:12 39:3 84:6 98:20 102:4,20 104:2 127:21 274:6 impose 114:15 115:16 164:9 imposed 146:8 impossible 176:20 183:22 impression 204:10 improper 186:10 improve 138:18 improved 110:4 improving 259:5 inaccurate 228:4 incessant 35:6 96:13 inch 132:17 inches 132:21 incident 108:16 include 206:19 240:14 included 117:15 120:1 264:1 including 48:19 153:22 157:1 197:9 inclusive 269:20 inconsistent 52:5 increase 126:15 276:21 increased 272:2 increases 254:19 256:21 increasing 126:15 incredibly 132:15 incumbent 60:6 indicate 30:6,17,19 99:19 indicated 16:2 28:14 46:22 153:3 166:14 206:5,14 indicating 11:8 indication 107:4 137:20 207:6 indications 29:8 indirectly 237:21 250:21 251:4 individual 22:12,14,19 22:21 23:13 42:4 47:13 50:21 51:19 53:10 59:6 60:2 71:1 71:20 72:13 77:22 85:12 93:18 99:20 103:2 106:5 116:14 138:16,20 172:8 213:15 214:18 215:6 215:13 216:22 219:11 251:9 254:12	268:10 individually 10:12 27:17 35:13 98:8 individuals 32:12 47:18 71:7 93:12 117:3 119:22 120:12 227:19 individual's 59:21 83:19 induce 206:22 industry 64:9 infant 132:17 infer 184:9 inference 94:7 188:8 infinite 189:14 influence 7:20 9:11 14:17 16:19 20:11 21:8,10 24:18 33:17 34:11 37:8 46:15 48:13 65:14 79:6,13 81:19 82:2 83:22 94:11 96:8 97:2 98:18 102:17 105:13 107:5 108:6 134:4 140:20 141:13 142:4 144:10 145:3 151:22 152:11,20 192:13 193:12 197:19 198:19 202:18 203:10 226:21 229:4 231:14 236:2 265:10 influenced 70:16 74:22 76:14 102:16 157:15 influences 86:6 152:6 175:14 influencing 25:20 53:21 66:10 93:14 94:16 135:4 137:7 141:22 149:9 172:16 informal 221:8 222:1,7 226:20 information 119:11 125:11,14 126:1,7 214:10 informed 64:21 111:21 125:11 146:17 156:17 183:2 infringe 77:21 infringing 203:6 infused 14:12 92:8 114:22 infusion 9:9 276:1 initiate 110:7 initiated 29:11 initiative 261:21	inordinate 271:8 inquiry 68:17 insidious 160:3 insist 133:4 instance 34:17 41:6 122:16 155:16 220:5 instances 10:6 12:7 13:14 14:4,9 16:3 17:8 18:6 19:13 20:17 21:4 25:4 206:1,7,17,18 212:7 221:16,21 222:1,4 240:4 243:10 Institute 82:5 institution 35:13 194:5 194:22 instruct 26:21 61:13 62:16 151:2,5 163:10 176:12 181:15 183:6 191:11,17 196:9 202:6 instruction 182:13 instructs 9:20 integrity 9:6,12 10:10 27:15 34:7 36:11 77:10 84:8 99:12 108:12 138:15 157:3 157:11 234:20 intended 19:3 21:16 39:8 65:14 105:13 108:5 128:15 129:9 129:17 130:5 135:1 137:5 203:18 277:18 intending 108:1 intends 134:20 intent 66:10 98:12 intention 194:21 226:14 interaction 205:12 interactions 212:8 interest 7:20 12:19 13:3 22:7,8,11,16 23:2,17 24:7,9,13,21 25:7,9,13 26:3 45:6 86:20 115:5 131:8 135:14 151:16 153:6 191:21 198:19 interested 29:15 56:7 94:19 279:16 interesting 22:17 31:11 97:8 interests 9:8 11:10 28:15 45:10 67:17 80:11 81:18 82:2 141:10 143:21	149:22 150:11 152:11 157:12 191:14 198:20 236:22 interim 4:10 interject 20:20 Internet 117:7 118:5 118:13 119:11,20 120:7,8,12,16,21 121:6 125:22 interpose 68:11 69:15 interpret 173:14 interpretation 89:1 101:11 160:14 interpreted 75:15 interrogatories 143:2,8 184:2 189:2,6,10 190:5 interrogatory 185:12 185:20 187:22 interrupt 5:9 intervene 7:3,10 intervened 189:4 intervening 143:8 204:18 Intervenors 1:14 3:16 intimate 177:2 intimately 151:5 intricate 244:12 introduce 190:17 introduction 188:2 invitation 68:22 invite 68:18 invocation 182:12 invoke 111:11 184:14 185:2 190:7 invoked 162:14 186:3 invoking 204:7 involved 5:2 11:13 32:2 39:1 53:21 93:8 141:22 147:12 151:5 177:20 193:5 216:6 219:15 230:14 242:9 249:22 270:19 274:1 275:6 279:1,3,14,16 involvement 177:2 irrelevant 176:22 isolated 108:16 issue 18:2 37:15 47:7 59:4 65:12 66:9 78:13 90:5 91:15 93:3,21 94:20 97:6 104:2 105:11 106:9 113:12 125:7,11,15 137:11 146:17 149:8
---	---	--	---	--

<p>164:7 172:12 206:5,6 249:19 251:13 259:14,21 260:14 262:13 269:10 272:2 275:8 276:22 277:7 issues 58:8 75:1 98:14 102:12,20 125:19 126:4 127:21 147:5 164:1 206:3 210:9 220:1 226:7 276:6</p> <hr/> <p style="text-align: center;">J</p> <p>J 1:17 2:1 3:18 4:3 140:3 282:4 JACK 3:4 January 105:14,16 Jeffords 200:3 Jersey 132:11 Jim 103:15,19 104:1,5 109:2,4,5,10 job 100:14 136:9 jobs 136:17 200:9 John 1:12 80:17 83:14 85:1 87:7 88:8,12,17 94:4 109:21 128:8,15 130:18 233:7 nt 215:3 217:11,15 Jones 3:5 233:8 judge 272:14 judgment 38:13 75:1 194:5 jury 189:21 190:10,17 Justice 80:20 justify 143:21</p> <hr/> <p style="text-align: center;">K</p> <p>K 2:12 keep 15:13 82:3 95:22 100:15 200:13 211:19 218:5 key 71:4 105:11 106:9 108:20 109:15 252:20 278:21 kicks 107:3 kids 110:9,10,11 killed 132:18 killing 132:20,21 kind 79:5 99:8 112:7 146:6 148:1 159:8 160:4 163:3 199:3 215:12 216:4 235:4 236:13 247:19 250:18 265:7,9 272:10 273:10,22 75:4 276:19</p>	<p>kinds 142:18 162:10 168:22 171:20 218:2 218:9 240:22 247:13 247:16 279:15 Kirk 2:11 4:21 knew 130:19 219:11,13 know 5:10 6:5 10:8 16:6 22:19 23:11,19 31:4 32:1 33:2,3 34:20 35:9,9,15,19 37:11 39:14,14 40:17 41:14,16 46:14 47:17 47:21 48:6,15 50:17 50:19,20 53:13 58:12 59:17 65:1 69:1 71:11 72:20 73:10 75:5 76:17 79:19 85:6,10 86:9 91:6 97:16,20 118:1,6,7 125:22 126:13,17 127:11 128:3,17,20 137:16 138:3,6 140:14 155:1 160:3 160:15,16,18 166:18 166:21 168:5,7 188:8 194:7 203:5 205:22 206:1 207:14,19 208:1,3 209:13,16,17 212:12 213:12 214:6 214:13 215:1,4,5 217:16 218:13 219:1 219:3,4,5,6,7,9 222:6 222:9,10,12 227:22 228:17 229:19 233:16 237:15 240:15 244:7 245:15 246:3 247:10,10 248:12,17,19 249:11 250:2,4,6 256:1,5,16 257:3 265:16 266:6 275:15 knowing 23:19 24:11 25:3 47:18 53:16 125:21 126:8 216:18 229:20 knowledge 16:3 21:3 41:10 125:16,17 170:9 187:16 226:19 227:14 240:21 243:15 273:17 known 112:11 209:19 212:12 knows 33:8 48:11 53:22 78:3 95:15 110:3 129:8 149:22</p>	<p>know-how 64:3 Kohl 133:2,4</p> <hr/> <p style="text-align: center;">L</p> <p>label 200:6,13 labor 159:14 173:3 176:5 196:1 200:7 271:7,8 lack 127:22 156:15 179:6 lacks 202:5 laid 114:3 land 55:18 landscape 255:2 Langhauser 3:19 language 83:1 large 47:19 126:11 213:17 224:9 255:17 269:15,21 272:21 largely 276:13 larger 199:15 222:3 largest 81:8 224:3 late 132:20 165:3,7,14 167:11 169:9 199:8 latest 48:6 latitude 61:3 launches 60:8 law 4:20 11:1 15:2 21:16,21 33:6 47:21 49:13 50:8,9 55:18 57:5 58:20 60:16,22 61:13 65:16 66:6 81:20 86:2 96:17 112:21 113:9 114:3,6 118:19,20 119:21 128:22 131:9 141:1 141:17 152:9 157:22 158:19 159:2 160:8 160:14 163:5 164:10 166:5 167:4,7,10 168:13 174:17,18 177:18 179:17 185:3 187:7 188:17 189:18 194:4 204:22 224:22 225:19,21 227:13 234:16 239:2 241:21 243:2 251:8,13 254:21 260:16 267:8 272:15 laws 11:5 14:19 67:16 70:20 71:17 77:6 80:8 125:3 147:2 158:4 164:2 194:10 239:5 247:21 248:8 251:18</p>	<p>lawyer 76:20 111:13 lay 86:2 leader 95:20 leaders 186:20 187:4 leadership 231:5 leading 102:5,21 125:9 185:8 189:20 learn 125:6 126:3 leave 22:20 113:5 181:20 leaving 8:17 45:1 47:7 217:2 led 185:5 222:4 left 85:3 left-hand 197:2 left-over 208:10 legal 6:8,19 132:18 144:7 169:19 174:19 175:18 187:9 198:9 201:15 legislation 10:2 11:13 13:10 26:15 27:8 29:12,13 45:17 52:7 52:14 55:11 56:17 57:5 58:10 62:19 65:16 66:6 68:9 69:11 70:20 77:20 91:11 106:2,22 114:17 115:15 119:21 122:9 123:9 137:6 147:5 148:5,5 148:6,9 149:12,19 153:7,8 154:5 163:6 179:16 188:21 189:3 193:16,17 194:4 195:21 202:8 205:19 220:9,9 234:16 235:2 235:6,20 241:21 258:11,19 260:16 264:2 267:19 268:7 268:14 275:10 276:10 277:18,21 278:2,3 legislative 11:11 16:10 20:22 41:22 42:17 117:10,15 149:19 150:2 163:2 180:10 180:12 186:6,20 187:4 189:8 190:4 210:9 219:15 220:1 220:19 221:5,13,18 225:8,10,16 226:7 231:14 239:22 241:5 273:21 legislator 42:5 69:4</p>	<p>162:22 176:3 188:20 226:22 231:19 legislators 60:22 149:20 legislature 171:18 176:10 legitimacy 24:22 legitimate 12:22 length 8:9 17:22 46:1 140:15 lengthy 184:19 lessen 254:4 lesser 177:3 letter 89:9 117:16 119:18 232:13 letters 224:20 let's 22:21 32:8 42:20 45:11 48:17,20 49:2 51:4 53:3 54:9 56:15 57:22 58:2 60:6,6,11 61:15 63:11 80:12 87:5,7 88:13 90:11 100:4 105:15 108:3 109:22 111:3 112:1,4 112:8,9 129:7,13 132:4,8 144:14 159:16 197:17 202:9 213:4 214:21 215:16 218:19 229:22 241:16 265:6 level 39:15,19 63:5 154:1 172:10,11 205:18 214:5 218:4,7 237:4 256:13 261:5,6 261:9 262:11,12 264:16,20 265:3 274:19,20 276:19 278:9 levels 214:11,11 216:2 218:5 261:11 liability 115:10 licensed 121:18 122:20 licensing 55:18 lies 64:9 life 73:4 100:13 111:5 132:14 light 23:4 146:4 207:15 224:21 261:22 likeness 83:20 90:2 likewise 141:6 limit 214:2 limitation 21:19 252:18 limitations 5:20 114:15 115:2 165:9,16 197:14,22 251:19</p>
--	---	---	---	--

252:16 limited 26:17 34:5 49:20 79:11 106:5 114:1 115:9 131:2 135:9 138:21 160:17 212:20,21 252:16 limits 227:13 line 68:17 87:6 91:16 91:21,22,22 107:11 125:4 172:21 173:1,5 190:20 193:21 194:1 194:3,12,15 202:13 202:17 203:2,5,8 206:15 212:6 271:11 lines 83:2 118:20 125:2 146:14 162:1 192:5,6 192:7,16,20 193:5 196:3 linked 227:7 list 110:6 170:16,16 209:12,14 211:15 213:1 224:3 241:16 249:13 250:15,18 listed 143:20 150:11 listen 40:7,10,11,13,14 40:15 41:15 62:4 listened 72:3 listener 78:22 91:3,6 96:3 99:15 100:19 101:8,12 109:5 128:7 136:21 listening 40:11 70:13 186:16 221:8 listens 74:21 listing 92:19 lists 224:6,12 literal 73:1,22 74:12 82:22 literature 233:2,12 litigate 205:3 litigation 190:1 204:18 litigation-related 204:5 205:1 little 172:9 205:10 228:13 live 33:7,8,13,14 36:10 86:21 96:16 100:2 lives 37:9 50:5 living 49:16 50:6 54:1 272:8 lobbying 205:18 lobbyist 219:14,18 229:1 lobbyists 229:5 local 81:19 155:6 171:5	232:9 233:20 238:20 located 247:2 location 215:11 locations 246:12 locks 55:16 long 164:19 216:19 longer 271:5 look 70:22 77:1,14 92:3 92:4 163:15 180:11 197:5 219:20 230:3 231:4 271:11 looked 63:21 153:12 207:8 256:12 273:8 looking 78:9 106:12 119:16 151:17 232:7 263:21 267:2 loophole 55:17 153:19 154:15 255:5,5 277:6 loopholes 157:8 loosen 64:1 lose 103:22 losing 98:11 lot 23:19 41:12 48:17 136:12 171:13 207:18 218:13 233:1 Louisiana 3:6 low 200:7 lunch 206:6 223:6,8 luncheons 230:6 lunches 206:13 224:4 lying 56:16,19 LYNN 3:11 <hr/> <p style="text-align: center;">M</p> <hr/> M 3:14 magnitude 242:4 mail 113:21 mailing 160:22 mailings 246:20 268:22 273:11 Main 249:13 250:9 Maine 11:6 27:19 28:15 29:13 39:16 40:2 43:3,4,6,13 63:18 64:17 79:16 80:3 140:12 171:19 199:9 224:17,20 225:6,12,21 228:21 233:22 243:16,21 246:3 247:11 256:10 Maine's 27:20 80:7 major 79:7 121:9 126:10 147:5 149:3 149:11,15,21 150:17 150:18 194:9 224:13	237:7 247:10 248:4 256:20 majority 66:14,15 makers 157:22 making 34:7 37:4,7 60:18 91:14 154:18 169:20 202:7 205:1 208:22 221:11 manifestation 97:9 manifested 38:7 39:16 66:22 124:16 167:12 167:20 248:4 manila 69:20 manner 27:16 79:22 141:12 142:4 157:13 manslaughter 132:19 manufacture 64:7 mark 6:22 55:3,9 56:16 59:12 63:11 80:12 84:9 100:4 103:7 109:16 132:4 136:2 196:18 199:20 marked 6:11 54:8,13 73:12 95:5 109:1 128:5 257:8 market 129:14 markets 81:8 200:9 mass 246:20 Massachusetts 73:3 111:5 massive 9:9 46:20 78:10 234:21 251:14 255:6 270:3,16 275:12,22 279:5,7 Matheson 103:15,20 104:1,5,20 109:3,4,5 109:10 matter 4:20 10:2 15:2 26:1 50:18 58:14 79:5 85:1 87:8,20 112:3 115:7 116:11 122:22 123:15 138:16 172:11 179:11,12 201:21 235:19 243:6 255:19 259:11,17 260:1,7 262:1 264:16 matters 62:8 102:4 221:5 maximum 159:22 McCain 1:12 68:14 80:17 83:14 109:21 112:11 128:6,8,15 130:5,17,19 McCain's 82:7	McConnell 1:4 143:9 231:22 MCFL 73:3 mean 8:1,17 9:2,15 13:18 22:7 25:8 28:19 44:4 47:9 77:8 87:3 107:8 127:11,14 141:17 153:20 204:11 205:3 208:10 223:6 233:6 240:15 249:17 262:9 268:14 meaning 145:15 198:21 206:10 means 60:3 69:16 77:5 80:21 122:15 124:14 147:15 170:6 meant 25:6 measure 93:20 mechanisms 47:21 70:19 147:1 158:18 159:1 media 63:6 121:17 122:20 127:18 Medicare 95:17,21 100:11,14,15 medium 268:9 mediums 120:11 Meehan 68:15 meet 19:6,20 20:15 23:16 45:5,8,11,12 221:12 223:4,12 meeting 45:13 181:14 216:7 meetings 223:15 member 38:19 51:20 53:10 68:7 95:3 161:19 190:10 members 26:9,13 27:5 27:6,11 32:10 35:20 48:22,22 49:4 51:8 51:19 133:7 150:1 160:9 187:20 204:16 205:19 223:22 membership 111:6 112:5 146:3 160:17 203:4 memberships 159:19 mentioned 28:12 222:15 231:12 237:6 258:1 mentions 264:13 merely 75:18 message 54:3 57:10 59:19 60:4 97:5 99:2 99:3 105:3 109:8	134:2 136:18 137:5 138:20 151:18 messages 98:11 met 20:4 219:11 methods 147:18 Michael 3:3 140:9 Michigan 109:22 110:3 mileage 64:8 million 22:13 23:14 46:22 48:5,5,21,22 49:1,3,5,6 67:2 95:18 137:14 170:4 228:14 237:7,10 253:20,22 millions 10:3,3,3 14:11 14:12 16:7 21:17,17 21:22 77:3,3,4 83:7 86:11,12 93:15 96:19 103:22 108:13,14,14 108:18 110:21,21 115:22 137:14 149:5 153:2 156:6,21 158:3 million-plus 92:8 114:22 mind 105:21 155:8 183:17 200:20 235:10 237:22 239:13,19,21 242:14 251:1 252:5 253:1 258:3,16 263:15 269:4,8 minds 181:15 227:2 minimum 217:6 minor 158:2 minute 53:4 279:18 280:1 minutes 81:9,10 101:21 misrepresents 97:14 missing 80:4 253:6 misunderstood 53:1 MITCH 1:4 mitigate 36:2 mobilization 144:21 146:6 148:2 149:17 150:21 152:1 158:12 159:8 moderate 250:12 moment 62:6,12 86:13 99:13 143:22 257:15 263:5 Monday 1:20 2:3 money 7:16,20 13:15 14:5,14,15,15 15:22 17:11 18:4 21:9,15 22:7,8,14,16 23:2,9 23:15,17 24:7,9,13
--	--	--	--	---

25:7,8,10,19 28:5 32:2,9,17 38:8 39:22 40:1 46:17,20 47:1,1 47:9,11,12,14,19 48:4,10,21 49:2 52:11,11,19 53:8,17 58:15,16 59:5 60:5 66:15,15 77:8,18 78:10 79:9,9,18 80:11 81:18 92:8 93:16 97:22 98:1 111:7 116:1 122:15 123:22 124:14,17 135:18 137:14,15 138:8 141:4,10 142:1 142:3,15 146:6,21 147:13,17 149:4 153:1,17,21 154:6,8 154:13,22 155:1,7,14 155:15,16,16 156:1 156:11,13,20 157:15 158:2,2,11,16,21 159:6,11 161:12 163:16 164:13,19,21 165:1,2,15 166:5,6 166:10,11 167:5,15 167:21,22 168:4,5,6 168:8,12,19,20 169:8 169:12,14,16 170:2,6 170:14 171:12 172:6 173:12 174:11 175:7 175:14 178:15 180:6 182:7 183:16 193:9 193:11 196:13 197:6 197:20,21 198:6,19 199:5 201:14 206:22 207:17,18 209:4 210:13,18 211:1 213:7,10,10,14,16,18 214:7,12 215:20,20 217:22 223:15,17,20 223:21 224:4,9 225:10,15 226:19 227:8,11 228:15,19 229:7,12 230:13 231:12,18 232:4,9 233:18,21,22 234:12 234:18,21,22 235:15 236:5,9,18,22 237:6 237:7,10,18,20 238:6 239:14 240:4 241:22 242:5,11,19 243:7,9 243:12,13,17 245:2,3 45:12,13,15 246:2,6 48:1,13,18 250:13	251:12,14,15 252:2,3 252:10,14,17 253:10 253:10,10,12,18 254:7,7,11,15,18,20 255:7,17,22 256:3,6 256:13,14,14,15,20 257:4,13 260:2 261:4 261:6,9,14,15,19 262:20 263:16 264:20 269:3,11,22 270:19 271:17,21 272:6,21,21 274:19 275:6,11 276:14,21 277:13 279:5,6,8 moneys 51:5 157:12 165:8 215:13 months 47:3 66:16 106:20 107:2 108:3 Morgan 3:18 morning 4:17,18 17:22 22:6 140:15,19 162:17 163:9 183:12 184:6,11,20 186:5 187:15,22 motion 7:2,10 motivation 8:3 185:4 186:6 motivations 150:12 185:7 moving 101:18 103:5 multiplicity 96:20 138:4 multitude 116:2 murder 132:19 Myrick 199:10,13,17 200:12 <hr/> N <hr/> N 4:1 282:1,1 NAACP 259:13 260:4 262:3 name 4:14,19 22:15 83:19 89:15,19 90:2 92:18,20 93:4,5,13 94:15 106:6,16 112:18 118:11 123:4 140:9 216:4 233:4 241:16 268:10 names 134:11 211:16 naming 124:9 narrow 77:21 78:2 86:4 87:1 national 2:14 3:9 60:11 64:13 76:14 81:19 90:12,13,15 133:7	140:10 153:22 173:10,22 174:8 175:6 180:6 182:7 197:7,8,9,17 198:6 205:13,18 206:11,12 206:19 207:8,22 210:19 211:7,10 212:16 213:11 214:3 224:8,10 232:8 233:18 237:2,5,11,13 237:16 242:10 243:18 244:5,7 245:1 248:10,14,18 256:2 256:12 257:3 278:9 nations 64:1 nationwide 156:7 269:13 nature 19:3 222:7 261:15 nearly 185:18 necessarily 10:17 69:1 147:17 215:8 necessary 25:16 34:19 178:6 need 8:4 14:7,9 15:2 38:5 50:3 55:16,16 55:17 99:19 100:16 115:4 141:4,20 174:22 185:2 190:18 276:2 needed 63:22 192:4 needs 40:3 79:18 95:19 negative 36:3,17 37:2 56:10 81:18 101:16 109:3,6 134:21 135:2 204:9 262:8 270:17 negatively 265:7 neither 111:13 150:9 150:13 never 19:3 21:16 56:17 170:1,8 171:13 233:3 new 48:22 63:21 88:1 114:6 131:9 132:11 199:9 251:13 newborn 132:13 news 43:1 126:13,20 127:6 newsletters 113:21 newspaper 124:1 262:22 266:10,20 newspapers 121:9 122:4 123:2,14 124:8 268:22 News's 125:19 Newt 263:2 264:4,13	265:7 nine 70:2 nomination 82:9 nonpolitical 81:12 nonprofit 260:10 nonwaiver 187:19 normal 44:8 northern 247:11 Northrup 136:4,14,16 136:22 Northwest 2:12 3:6,14 Notary 2:6 281:17 noted 136:1 281:4 notwithstanding 258:14 not-for-profit 111:6 112:5 259:13 260:3 262:2 NPR 40:12 NRA 4:20 32:9 48:17 50:22 51:3,4,15 52:7 52:10,18 53:6,16 55:11,19,21 56:1,10 56:11,14,15,17,17,19 56:20 57:9,17 58:4,6 58:14 59:2 60:8,9,11 80:13 118:10 NRA's 60:13 62:19 NRCC 212:16 nuanced 54:6 122:7 number 1:6,10 30:11 45:8 71:2 80:13 84:10 95:1,2 106:7,8 106:14 133:6 143:19 143:20 152:15 153:4 159:22 187:8 200:1,2 216:17 228:3 231:3 273:5 282:10 283:2 numbering 196:21 numbers 77:14 128:19 228:9 numerous 90:14 nursing 95:17,22 96:1 100:9,12 <hr/> O <hr/> O 4:1 282:1 object 9:20 18:22 68:6 objection 11:18 12:11 13:17 15:9 17:12 18:9 23:18 25:11 26:12,19 28:22 30:13 32:22 36:5 37:19 38:16 41:20 42:14 43:19 45:22 49:11	51:11,22 53:11 56:3 57:2 59:8 60:15,19 62:6 67:6 68:11,17 69:3 75:3 76:5,16 85:19 88:2 94:8 111:11 114:10 117:8 118:17 121:1,13 123:6 126:22 133:13 133:21 137:1 141:14 141:15 142:7 144:15 146:10 148:3,20 149:18 150:22 152:3 155:11 156:3 157:16 158:13 160:10 161:3 161:16 166:15 172:17 173:13 178:19 179:6 180:8 183:5,19 191:10,16 192:19 193:14,22 195:14 200:22 201:15 202:4 205:20 207:3 220:11,21 222:10 226:9 227:1 234:7 235:12 238:1,7 238:22 239:18 241:4 242:16 246:9 251:5 253:3 258:7,17 260:5 262:5 263:18 265:14 266:21 267:15 269:6 273:13 278:10 objections 18:16 19:1 62:3 65:7 82:11 91:5 96:4 104:6 110:15 112:17 119:14 128:9 129:19 134:15 144:13 145:5 152:3 175:17 182:11 252:6 objective 34:10 37:10 89:17 93:8,14 obligation 38:3,20 239:4 obliged 141:5 observation 204:5 observations 189:11 205:15 obvious 34:10 93:14 obviously 8:3 28:3 30:5 37:3 39:15 48:1 49:20 58:11 63:5 91:8 93:1 94:15 98:12,13 99:17 102:15 103:1 105:6 105:19,20 108:20 109:14 111:17 115:3 115:21 117:15,19
--	--	--	--	---

<p>119:17 120:11,14 122:12,14 123:21 133:8 134:11 135:1,3 137:4 138:12 145:14 145:22 146:18 149:10 151:14 153:2 153:5 154:4 156:17 157:9,19,21 158:7 163:14 170:3,5 172:10 180:15 193:4 193:17 194:3 202:12 203:21,22 205:14 234:15 236:8,11 239:2 240:8 241:22 248:10 251:13 254:14 258:1 262:7,8 262:12,14 264:2,2,13 264:15 268:5 277:16 occur 106:10 177:22 occurred 11:4 243:11 275:17 277:2 occurring 135:2 occurs 106:22 264:17 offer 104:22 127:3 145:8 175:19 239:22 offered 186:16 offhand 29:7 218:16 231:3 office 2:5 6:9 44:20 45:9,10 59:7 60:1,3 72:13 106:14 171:17 188:13 210:14,15,20 263:4 officeholder 38:18 207:1 226:16 officeholders 10:10 35:14 77:1 155:10 157:14 236:3 258:6 264:18 265:13 offsetting 130:4 off-year 239:8 243:2 Oh 143:12 216:3 oil 64:4,12 90:16 oil-producing 64:1 okay 5:11,15 40:17 53:5 61:7 69:17 87:4 125:12 140:13 144:3 167:19 183:12 200:4 236:20 242:6 257:19 263:8 266:9 old 214:2 old-fashioned 171:10 Olympia 1:17 2:1 4:3 4:16 7:2 64:6 140:3 282:4</p>	<p>once 7:15 266:10 272:15 ones 35:16 42:18 44:7 72:20 215:16 247:10 249:11 255:11 one's 203:7 one-minute 181:19 ongoing 204:18 open 35:18 opens 189:13 operate 174:17 operates 174:18 operating 71:14 operative 107:12 opinion 12:8 21:16 23:16 26:9 51:10,21 69:12 88:19 104:21 105:22 107:5 108:4 109:3 111:21 114:9 117:6,9,11 123:7,10 126:18 127:2,4,8 128:7 129:16 130:4,7 130:17 146:17 148:22 156:16,17 177:15,16,17 178:14 179:17,18 195:9 234:5 252:8 258:19 258:22 267:18 270:17 opponent 56:8,13,16 87:8,19 88:18 opportunities 12:22 opportunity 25:2 35:4 40:15 96:10,13 oppose 133:5 opposed 12:9 42:5 43:20 60:9 92:18 184:10 193:10 215:14 227:19 237:13 244:4 266:14 266:19 268:22 opt 226:3 order 4:8 125:3 154:20 organization 47:14 57:12 58:19 59:18,20 60:5 71:20 77:22 86:17 93:1 94:19 97:17 105:8 111:3,7 113:19 114:2 131:17 138:19 202:1 249:4,7 249:10 252:3,14 organizations 22:9 38:9 47:17 53:20 66:19 73:4 84:4 94:17 96:16 97:19</p>	<p>138:5 194:12 203:2 organization's 129:5 original 9:3 21:16 28:4 277:7,18 Orrin 95:15,19 ought 100:2 261:10 outcome 16:19 20:11 24:18 25:20 33:17 34:11 37:9 48:13 53:21 65:14 66:10 79:13 84:1 93:15 96:8 98:18 102:11 105:13 107:6 124:19 134:5 135:4 152:6 203:10 268:4 outfit 80:21 outlined 57:5 131:9 outraged 132:11 outside 29:21 80:7,11 107:8 113:17 141:10 146:22 201:7 249:4 259:9 270:10 overall 47:14 245:17 overbreadth 92:13 116:6 overcome 82:1 overhauling 58:10 overly 131:16 overreach 91:13 overreaching 90:4 91:20 107:10 125:5 overt 105:5 overwhelming 66:15 79:8 owned 126:10</p> <hr/> <p style="text-align: center;">P</p> <hr/> <p>P 4:1 PAC 32:9,16 49:3,5 50:3,22 52:19 57:18 227:15 231:5 PACs 31:2,9 34:15 53:9 227:18 page 7:6 8:1 55:7,9 63:16,19 73:16 74:3 90:20 92:15 143:15 143:18 197:4 paid 17:2 19:9 22:21 31:2,2,9,10 32:3,8 34:14,15 64:17 80:20 82:4 95:22 104:2 121:9 122:2 123:2 124:8 133:6 136:18 144:5 175:13 180:5 183:14 195:12</p>	<p>200:15,18 257:11,13 260:1 262:20 263:16 paper 73:7 224:12 paragraph 7:13 88:21 88:22 119:8 121:12 263:3 parallel 202:22 parameters 270:9 parents 110:9 126:11 part 30:3 38:1,18 59:15 66:4 67:5,8 68:3,5,8 80:4 83:4,19 85:7,17 110:17 117:7,14 119:11 120:6 124:10 155:14 178:21 199:14 201:3 206:9 209:2 235:5 partial 133:5 partial-birth 132:20,22 participant 5:3 participate 59:16 202:1 208:22 252:22 participated 35:3 38:15 205:15 249:3 participating 34:22 37:7 66:20 78:4 98:17 participation 187:17 211:22 particular 29:14 47:13 57:10,11,14,15 58:9 68:8 69:4,8 77:19 83:3 93:2 96:14,21 111:21 125:7 126:2 129:11,14 145:20 146:1,17 148:12 152:12 160:1,1 194:14 202:9 239:4 268:4,10 particularly 102:19 185:3 196:22 242:4 parties 2:8 140:11 141:11 142:1,15 147:6,13 153:22 154:11,13,19 155:2,6 155:8 156:12 157:2 157:13 159:9 164:4 164:15,16 165:4,7,14 166:4,8,9 167:4,14 168:10,16 175:7 178:15 181:3 191:9 191:14,21 192:17 193:10 195:12 196:2 197:6 198:20 203:1 226:20 227:6 233:19</p>	<p>233:22 235:15 236:5 236:10,21 237:2,3,11 237:16,17,19 238:19 242:10,12 243:8,13 247:3 248:9,10,13,15 251:15 254:6 255:7 256:2,5,19 257:3 272:7 274:1,5,8,16 278:8,17,18,21 279:11,14 Partnership 249:13 250:9 parts 42:11 party 145:12,12,15,16 153:14 158:11,22 161:11 169:22 171:7 171:19 172:5 173:10 173:22 174:1,9 175:14 176:4 180:6 182:7 183:16 196:14 197:8,10 205:13,17 206:2,4,12,19 207:2 211:1 212:12 224:17 224:18,20 225:10,16 226:1,6,14 227:11 234:1 235:9 236:6 237:2,4 238:6 239:14 243:18 245:2,12 246:18 247:5 256:3 256:10,13 257:12,14 259:12 260:3,11 261:3 262:2,21 263:17 266:14 276:19 party's 268:1 pass 178:7 276:9 passed 27:7,19 103:17 109:12 130:22 167:11 177:18 178:2 194:4 195:21 225:2 patience 139:4 Pause 181:21 279:19 pay 60:10 84:18 140:19 246:22 paying 142:3 193:9 peace 95:14 pending 5:18 181:10 182:3 205:19 220:9 221:13 226:7 people 10:9 11:5,9 12:19,21 24:11 27:20 28:14 30:17,19 35:7 39:5,20 40:2 45:8 55:14 67:14 78:10 79:16 102:8 115:3</p>
---	---	--	---	--

<p>126:3 135:15 151:18 152:15 153:4 159:22 160:9 161:1 170:12 170:13,14 209:4,15 209:20 213:6 217:21 219:1,7,22 222:2,17 226:6 227:2,11 236:19 241:19 247:18 266:13 269:1 270:1 271:2 273:11 274:2 279:3,16 people's 152:11 perceive 27:13 85:7 91:9 94:11 96:7,9 109:7 perceived 7:18 8:11,14 12:3,5,9 13:22 28:15 96:9 115:3 119:10,13 120:5 121:22 236:1 258:5 262:8 perceives 47:5 78:14 157:18 percent 11:9 28:14 77:17 percentage 227:18,21 256:1,13,14 reception 8:12,16 10:8,22 17:19 26:8 27:4 50:10 78:12,15 78:18 79:15 98:6 101:17 120:6 134:18 157:13,18,22 158:10 176:9 234:19,22 236:4 242:4,21 253:15 255:16,18,20 262:9,10 269:17,18 269:22 270:3 272:6 275:12,18 perceptions 11:15 perfect 276:5 perfectly 132:18 performance 110:5 231:19 perils 204:7 period 22:4 24:17 33:18 34:9 37:13,14 41:13,14 46:21 54:6 58:18 62:22,22 65:13 67:11 71:5 72:11 76:1 78:3 83:21 86:5 86:6 87:1 93:11 96:15,21 97:1 100:2 105:12,19 106:5,19 106:22 107:12,19 108:8 109:15 110:21</p>	<p>113:14 114:1 115:19 122:12 129:1,22 131:15 134:3 135:5,7 135:8,10,10 137:9 138:22 153:3 169:3 173:2 201:7,13 202:20 203:9 periods 271:5 permanent 200:11 permission 30:15 54:18 permit 56:18 198:6 permitted 5:17 24:2 62:3 76:21 permitting 89:11 perpetual 203:1 person 89:13 197:11 208:20 219:14,22 257:22 279:13 personal 20:20,22 42:1 43:20 58:3,12 59:2,6 59:12,21 79:1 83:15 104:21 114:12 117:11 123:7,10 127:2 128:11 134:17 149:1 169:21 208:4 234:9,10 235:13 241:6 252:8 273:20 personally 44:2 99:5 123:1 125:10 153:7 persons 89:14 person's 93:4 pertaining 6:18 36:14 36:22 pertains 129:10 162:20 perusing 263:2 pervading 138:5 pervasive 137:22 151:11 152:22 pervasiveness 242:18 phenomena 273:1 phenomenon 271:10 philanthropist 59:3 philosophy 146:2 phone 144:22 170:21 171:1,5 209:3 210:9 211:6 222:17 224:1 phrase 198:21 240:15 243:7 phraseology 170:2 pick 170:17 Pickering 3:13 picture 67:21 80:5,17 81:1 pictured 265:8 pictures 133:8</p>	<p>pie 84:17 88:14 piece 55:11 58:9 84:17 106:2 118:11 137:6 233:11 Pioneers 216:3 place 29:20 39:6 210:7 placed 143:3 170:15 251:19 places 43:5 64:13 231:2 placing 106:14 Plaintiff 2:14 3:8 143:9 Plaintiffs 1:6 plan 64:15 103:17,19 103:20 109:9,10,12 plans 64:2 plate 213:20 play 278:21 played 54:20 279:12 playing 58:4 63:5 108:20 142:20 please 4:14 5:10 6:5 9:19 25:16 45:19 46:7 55:7 60:19 62:9 80:5 87:13 103:11 143:19,19 177:7 199:20 210:5 257:15 263:6 pleasure 55:20 plow 190:21 Pogue 3:5 point 18:11 37:4,4,10 38:7 42:18 47:17 54:7,12 64:22 70:17 72:10 78:19 79:6 83:20 104:13 108:7 111:8 115:13 116:17 120:12 126:8 134:1 138:21 155:13 166:11 167:3,8 192:11 194:14,20 195:1,2,10,20 196:12 205:1 228:10 232:18 240:11 242:7 256:18 261:8 263:1 265:5 pointing 75:8 204:7 points 262:19 267:22 policies 207:2 policy 51:15 55:13 102:4 115:7 116:11 161:10 162:8,21,22 185:9 201:22 206:6 206:13 208:4,6,7 210:8 223:6,8 224:4 250:14 political 10:5,9 15:22</p>	<p>16:22 21:18 30:11 31:9,9,16 33:3,7,13 36:3,17 37:2 39:11 49:19 53:17 57:18 58:21 81:11 114:16 115:8,9 116:19 120:17 124:8,12 141:3,11 142:1,15,21 144:6,9 145:12,15,16 153:21 160:2 173:10 174:1,9 175:7,14 178:15 180:6 181:2 182:7 187:15 191:9 191:13,14,20,22 192:17 193:9 195:12 196:2,14 197:6,8,10 198:20 199:2 200:6 202:22 203:1 205:13 220:6 221:3 248:9 251:11 252:15 262:2 274:1,5,8,16 277:12 278:8,16,18,21,22 279:17 politicians 84:21 poll 28:13 polling 270:17 polls 28:7 29:3,9 39:13 152:16 170:12,15,18 population 123:21 151:14 portion 131:22 portions 220:18 Portland 11:7 28:13 29:10 position 5:22 27:20 28:4 35:16 57:14 69:15 70:15 72:4 76:13 93:2,4 94:20 95:2 97:15 103:3,15 104:13 105:7,11 106:9 114:12 124:17 125:14 137:5 176:20 183:22 219:6 positions 102:13 118:12 positive 101:14 104:14 128:14 264:16 279:10 possess 114:19 possibilities 120:13 126:6 possibility 131:6 possible 18:22 159:22 188:5 221:2 232:16 232:17,19 244:1</p>	<p>possibly 76:17 212:5 post 190:4 225:9 pot 49:1 potential 205:11 251:1 258:5 264:12 265:11 266:17 potentially 142:22 156:10 245:5 pots 48:21 Powell 186:19 power 82:3 precedent 117:2 164:10 precisely 159:8 preclude 16:4 predicated 122:2 predict 275:14 predominant 124:17 146:21 preface 205:10 prefer 264:15 preference 99:20 206:5 206:16 preferential 210:13 226:15,22 premises 209:10 prepared 39:21,22 40:4 89:2 preponderance 66:14 67:10,20 71:4 85:9 93:6 106:17 135:17 137:13 prescribed 84:3 129:22 131:5 137:9 201:7,13 prescription 103:16 105:7 present 2:7 3:18 73:19 120:20 132:16 255:10 presented 204:1 President 60:7 63:4 90:14 91:4 presidential 77:15 224:12 271:1 President's 215:4 217:13,16 press 11:7 28:13 29:10 187:6 pressure 64:8 126:15 presume 198:13 213:16 213:17 214:12 presuming 31:17 268:2 presumption 202:8 pretty 116:7 170:20 221:9</p>
---	---	--	--	---

<p>prevail 46:19 178:1 prevailing 259:3 prevalence 13:15 14:5 prevent 13:4 previous 244:1 previously 54:14 140:4 203:18 primary 17:4 19:7 56:8 56:22 57:11,15 58:19 65:4 66:2 72:12 82:7 93:8 110:2 113:18 128:14 135:8 163:13 180:21 181:6 189:8 225:12 principal 204:17 print 121:8,16 125:2 160:22 161:5 262:22 263:9 264:3 266:1 printed 122:17 164:12 prior 16:22 17:4 19:6,7 20:3 21:12 40:19 41:11 43:18 48:19 56:21 66:2,3 83:9 91:2 95:12 103:14 106:2 107:2,3,15 108:3 112:14 124:10 132:9 165:14 168:14 168:15 169:12,14 178:18 179:4 201:12 204:2 235:5 277:8 prisoners 200:6 privilege 61:19,19 62:11,14 65:8 69:3 75:4 82:12 121:2,14 128:10 133:14 137:2 146:11 148:21 150:8 151:1 155:12 158:13 161:17 162:20 172:18 175:18 176:17 178:20 180:9 181:11,12 182:13 183:6,20 185:14,20 186:20 187:2,6,20 188:11,16 189:19 192:20 193:14,22 201:1 204:8 220:3,12 220:22 240:1 252:7 253:4 265:14 266:22 273:13 278:11 privileged 187:14 probably 147:3 217:4,5 217:6 223:3 228:13 243:22,22 248:18 278:2 probation 200:13</p>	<p>probe 74:13 problem 22:19,20 31:13 38:2 66:4,21 67:5,9 68:4,5 70:5 75:19 76:3 77:2,19 78:9,16 83:1,4 85:18 86:14 111:1 115:4,14 116:9,16 124:15 135:20,21 137:18 153:18,19 159:5 175:18 176:9 181:2 190:19 236:19 242:4 242:11 254:18 258:21 261:9 269:11 269:16,22 270:3,16 272:5,6 275:18 276:2 problems 77:1 122:13 149:11,15 163:20 164:5 173:5 179:10 180:17,13 242:1 259:3 procedure 133:3 135:1 process 9:6 10:9,11 28:17 34:7 36:11 37:8 39:11 48:15 59:17 77:10 79:16 82:1 98:21 99:12 108:12 144:6 157:3 191:15,22 202:2,3 205:16 219:15 220:1 234:20 produced 54:14 profits 126:15 127:19 profound 98:6 profoundly 271:15 prohibit 89:14 113:19 113:19 238:5 prohibited 142:15 160:21 165:7 166:4 167:4,15,17,18,21 201:13 prohibiting 161:13 prohibitions 197:14,22 proliferated 149:5 248:3 proliferation 97:18 110:19 158:5 promise 95:22 100:16 promotes 60:9 promoting 22:15 112:9 prompted 188:14 Prop 128:19 130:22 proper 188:9,15 properly 61:16 186:3 proportion 123:20</p>	<p>Proposal 110:6,6,10,12 proposed 186:21 proposition 109:21 propounded 190:2,2,3 prospective 19:2 prosperity 95:14 protect 23:1 49:7 110:7 245:14 protected 4:10 61:4 protection 70:8 protective 4:8 protects 187:20 provide 25:12 26:18 91:13 113:1 142:20 162:19 206:22 209:14 provided 7:10 15:8 20:5 163:9 providing 17:14 185:17 210:20 211:2 213:6 provision 173:17 198:12 199:7 provisions 130:9 173:16 175:1,2 186:12 195:22 259:16 265:19 266:8 pro-choice 133:20 249:12,18,19 250:16 pro-environment 23:1 pro-life 133:7,19 public 2:6 7:17 9:8 12:19 14:13 17:19 22:1 23:10 24:20 25:1 27:11 28:2,9 29:19 30:3,7 31:1,8 32:20 33:8,22 35:10 35:10 39:11,17,18 46:13 47:5 48:3 50:17,20 55:13 59:17 60:1,3 63:6 71:1,10 77:11 78:14 79:16 80:9 85:10 92:1 94:2 98:16 102:14,18,19 110:8 115:7 116:11 116:22 129:8 138:2 138:12 156:20 157:2 157:11,18 158:10 161:10 162:7,21,22 185:9 201:22 225:5 225:19 234:6 248:17 259:5 270:17 273:6 273:10 281:17 publication 268:5 publicly 11:2 public's 8:7 9:6,11</p>	<p>14:17 27:15 52:4 78:11 79:15 84:7 86:9,15 98:6 102:4 135:14 157:19 179:15 234:19 254:4 255:16,21 262:10 275:21 published 11:8 28:13 pull 183:9 purchase 170:16 pure 113:12 purely 238:20 purport 80:22 purported 66:9 149:8 purpose 65:2 67:14 77:9,18 105:21 106:15 108:15 116:3 116:21 128:15 135:4 148:13 156:22 158:15 172:15 276:22 277:7 purposes 16:20 25:20 56:11 79:18 103:11 144:16 149:18,21 150:6 154:1 159:3 234:1 238:13 243:14 243:18 244:3 245:5 pursuant 2:2 purview 146:22 put 50:9 67:20 73:8 99:19 106:6 110:11 112:1 113:6 117:19 118:2 155:6 189:9 puts 118:10 132:22 putting 74:17 170:12 176:19 183:22 237:14 p.m 139:6,7 140:1 280:4</p>	<p>53:14 56:12 59:9 60:1,20 61:15 62:5,9 62:17 65:2,21 67:15 68:12 69:12 72:2 76:3,8,10 78:20,20 81:14 82:20 87:22 88:5 93:1 94:14 102:7,17 103:12 104:18 107:17 111:16,16,18 118:4 119:6 120:3 121:21 123:19 124:4,7 129:10 134:10 137:10 141:8,15,18 143:6,18 144:1 148:8 151:3 152:22 156:9 158:16 161:21 162:13 163:7 165:19 165:21 166:1,17,19 166:20 167:1 171:4 172:20 173:7,19 174:22 175:1,4,16,22 177:1,7,9 181:10,16 182:1,3,4,14,16 183:2,13 184:21 185:6 186:7 188:2,4 192:2 194:2 196:8,10 199:4 201:18 203:22 207:12 220:4 224:15 232:6 235:18 236:15 239:8 19 240:3 241:9 245:11 253:7 254:22 259:20 262:4 264:17 267:7 274:17 questioned 190:13 questioning 5:21 26:17 131:22 181:11 188:18 189:14 questions 5:14 7:21 38:21 61:3,9,11 68:14,15,16,19 69:6 69:7 74:8 103:12 130:11 139:4 144:16 148:3 162:17 174:21 176:15,17 183:10 184:4,5,10,10 185:11 186:5,12 187:10,13 187:15,21 188:6,14 188:20 189:1 190:6 190:22 202:12 205:12 279:21 quick 221:9 quickly 18:21 quite 13:21 18:17 109:8 162:5 168:18</p>
---	---	--	--	--

<p>193:3 quo 236:16,17</p> <hr/> <p style="text-align: center;">R</p> <hr/> <p>R 4:1 races 207:10 225:8,11 225:16 233:20 238:20 radar 71:15 158:17 261:16 radio 40:7,10,16,18 41:10,15,19 42:13 63:19 70:16 76:15 120:10 123:22 151:13 257:16 261:21 274:13 raise 7:16 21:17 22:18 48:20,21 52:10,18 53:8 58:6,15,16 59:20 60:5 80:11 154:22 177:2 202:12 227:7 232:3 238:15 249:5 251:1 252:5,14 252:21 253:1,14 256:20 258:4 263:15 269:3 ised 32:17 48:10 69:3 77:4 79:9 83:8 93:16 98:1 116:1 124:14 146:21 156:22 158:17 207:18 234:22 236:10 237:11 242:5,11,19 248:1 253:18 254:18 254:19 256:6 261:4,6 262:13,20 263:16 264:20 269:12 271:21 272:6,21 274:19 275:12 279:5 raises 49:4 237:22 275:2,5 raising 53:17 149:4 153:20 158:11 225:10,15 229:6 236:11 238:6,18 239:14 240:4 251:9 252:2 275:6 ramifications 102:11 ran 32:12 56:15,20 75:20 199:8 201:7 233:10 ranking 231:8 rape 90:15 rely 23:6 137:12 onal 184:18</p>	<p>reach 120:11 153:4 reaches 123:20 151:14 reaching 119:22 reaction 63:9 read 25:16,17 62:9,10 87:14 117:22 143:19 167:1 176:1 182:1 186:7 198:13 256:17 256:22 281:1 reading 79:1 83:15 88:22 198:12 reads 7:13 55:9 63:19 80:16 81:17 84:15 95:13 100:9 110:2 132:10 136:7 real 53:3,4 reality 78:16 255:18 realized 63:22 really 15:19 18:16,22 23:10 31:22 32:1 50:7 53:11 65:12 67:22 75:17 80:5 82:20 99:11 116:18 117:18 120:3,19 124:2 129:10 141:17 151:18 160:12 162:3 177:4 179:20 186:8 206:7 207:20 217:17 218:12 224:13 273:2 realm 48:2 92:12 122:20 reason 5:10 10:1 45:15 68:8 74:8 148:15 161:10 162:12,22 184:9 207:15 261:18 261:20 266:3,6 reasons 17:13 60:21 143:2 163:1 180:20 188:17 reassert 62:11 Reavis 3:5 recall 40:22 41:6 42:16 42:18 45:3 65:1 72:22 73:6 148:11 172:4 199:7 206:7 211:11 212:14 213:1 213:3 217:11 218:4 220:16 221:1,6,11,15 221:16,21 222:3,5 223:14 224:5,6,7 228:2,9,17,18 230:2 230:7 231:22 232:20 232:22 243:20 247:8 256:18 266:5 receive 197:11 226:21</p>	<p>251:21 254:10,14,16 277:12 received 224:6 243:13 receives 277:13 receptions 216:8,11 218:3,9,17 221:14,17 221:20 230:6 231:2 246:20 Recess 54:11 102:1 203:14 248:22 280:3 recessed 139:7 recharacterization 15:11 recipient 229:15 243:17 recipients 237:1 245:17 recognition 276:18 recognized 164:6 recognizing 38:4 recollect 232:17 recollection 73:20 74:5 119:3 171:20 recommend 192:9 reconvened 139:7 record 4:15 5:8 6:11 15:10 20:22 25:13,17 41:22 42:17 62:10 100:10 130:2 136:14 166:7 176:1 187:10 191:1 200:11 203:16 205:7 231:4 records 230:3 247:8 redirect 142:3 redirected 141:11 redress 157:22 194:10 reduce 64:12 81:12 114:19 reelection 43:11 reengaged 274:9 refer 16:21 17:1 35:20 178:16 181:3 189:7 257:21 reference 119:9 123:3 188:10 217:8 263:2 263:12 265:6 referenced 120:22 218:18 references 74:19 85:16 182:8 referencing 8:12 169:3 referendum 11:2 27:18 27:21 225:3 referred 8:10 21:12,15 27:18 28:9 201:4 referring 19:8 21:14</p>	<p>47:10 57:17 72:21 75:10 88:11 89:11 128:3,5 180:4 199:6 199:13 264:4 refers 26:7 179:3 237:10 reflect 25:13 28:7 29:4 reflected 15:10 133:9 177:17 194:18 reflects 89:5 reform 8:4 13:4 27:8 29:14 66:7 110:4,4 110:10 112:9,11 253:16 276:10 reforming 178:13 179:9 reforms 7:14 refresh 73:20 74:5 119:3 Refuge 64:14 76:14 90:13,16 refusal 188:3 refused 174:20 refusing 64:8 184:3 190:11 regard 72:19 238:12 regarded 202:16 203:6 regarding 221:5 regardless 155:15 regards 30:7 registration 144:22 155:3 240:18 regs 75:15 regular 110:7 223:5 regularly 223:12 regulated 34:4 117:7 121:18 122:19 164:13 166:6 253:11 253:12 regulation 21:19 141:9 141:21 142:2 181:2 277:2 regulations 72:19 115:1 140:18 261:17 Reid 85:1 87:6 88:8,12 88:17 92:19 94:4 related 141:8 relates 185:7 relating 57:1 136:4 187:15 relative 202:2 relevance 126:22 relevant 123:8 188:11 199:3 rely 69:5 177:9 181:12</p>	<p>186:3 remains 124:7 194:16 remark 13:13 204:3 remarks 204:3 remember 199:15 206:17 219:8 271:6 remembers 150:2 remotely 162:14 repeat 25:14 27:1 31:5 46:4 151:8 175:21 182:4 repeating 144:14 rephrase 166:1 reported 1:21 228:6 reporter 5:8 25:17 62:10 176:1 reporting 127:15 197:14,22 represent 4:19 45:9,14 45:16 63:17 66:22 140:10 240:12 257:9 257:20 representation 169:20 representative 68:15 104:20 172:2 representatives 45:5 45:12 103:18 109:12 represented 67:9 represents 178:9 219:17 Republican 3:8 82:9 140:10 171:19 205:17 206:4,10 207:9 210:19 211:7 211:10 212:17 223:4 223:11 224:8,10,18 224:20 225:9 226:14 232:8 233:18 234:1 240:17 241:15 244:5 249:12 250:12,16 256:10 269:2 Republicans 249:18 265:7 268:6 requested 25:17 62:10 176:1 213:15 217:20 requesting 208:13 requests 185:13 require 21:18 52:8 147:17 157:20 required 21:20 23:8 38:9 49:20 58:20 71:16 85:14 96:16 97:21,22 98:2 131:18 178:12 251:21 requirement 52:13,15</p>
---	--	---	---	--

<p>53:18,19 requirements 26:4 33:13 34:9 50:6 57:7 59:14 78:2 84:3,6 86:2,22 108:10 114:5 197:15,22 260:22 requires 181:2 requiring 117:4 reservation 188:1 reservations 189:5,17 resigned 79:19 resolution 6:10,18 respect 18:3,4,15 23:6 39:17 57:14 69:14 72:17 105:7 106:9 114:16 120:16 121:6 125:2 134:22 148:9 151:4 157:8 162:18 173:15 184:2,5,8 195:11 196:1 270:1 272:6 respective 2:8 respects 7:19 8:19 9:1 10:15 respond 38:20 58:7 59:5 62:19 63:4 67:7 82:13 96:5 111:19 137:3 172:19 186:22 189:10 responded 201:11 responding 56:2 91:19 185:13 response 52:5 60:13 88:20 276:13 responses 143:7 185:17 187:22 189:2 responsibilities 7:17 responsibility 10:13 138:17 261:11 264:17 274:21 responsible 64:2 98:19 157:21 240:8 274:18 responsive 35:18 38:3 57:19 186:11 restate 196:8 restates 152:4 restore 95:21 100:15 135:14 restored 81:22 restoring 84:7 restrict 62:18 restricted 252:18 restricting 161:10 277:10 restriction 142:16</p>	<p>251:10 restrictions 24:15 29:20 33:5,6,9,12 49:17 60:13,16 63:3 98:2 115:16 131:12 131:19,19 164:9 169:17 172:5,10 247:20 248:11 251:19 254:3 255:4 261:17 277:15 result 95:4 255:6 274:10 275:22 resulting 111:9 results 46:15 83:10 86:6 97:9 110:4 resume 136:8 resumed 140:4 return 279:11 returning 99:13 reveal 193:1 reversal 27:19 28:3 39:17 reverse 11:4 review 44:16 45:1 73:9 89:4 143:22 200:10 238:11 257:16 263:5 reviewed 40:18,21 42:12 43:16 44:3,14 reward 200:11 re-election 43:8,15 71:8 76:1 85:12 93:13 95:13 132:9 133:12 134:3 214:19 215:14 228:8,12 233:15 266:16 Ridge 186:19 Rifle 2:15 right 6:19 19:19,20 20:3,6,13 21:7 24:2 25:2 29:6 44:21 46:13 50:5,17,19 59:17 65:19 71:11 85:10 87:3 89:8 105:15 123:11 142:22 165:2 169:13 208:11 216:5 233:12 240:10 244:19 246:1 246:17 247:15 248:12 249:19 252:19 253:14 255:11 257:2 261:18 265:21 267:11 271:22 276:12,16 277:22 rights 49:8 203:22</p>	<p>right-hand 197:3 rise 45:21 46:9 47:4 82:10 85:8 110:14,19 112:15 120:21 121:11 123:4 RNC 206:20 211:16,17 211:21 212:3,11 217:14 233:2 275:2 role 108:20 274:4,16 278:18,22 roles 279:11 room 181:20 rooms 272:8 rough 169:5 222:20 227:17 228:11 roughly 214:15 216:13 256:2 round 202:11 route 29:18 154:7 routes 16:8 138:7 routinely 200:8 rubric 131:14 rule 191:13,20 221:22 rules 5:5 34:8 36:10,14 36:22 37:10 71:14 78:1 86:22 140:21 146:7 200:9 run 16:22 17:4 19:4,14 19:22 20:7 22:12 29:21 38:14 41:10,13 41:14,16 43:17 44:10 48:17 49:6 50:13 51:16 56:9 57:18 59:22 65:3 67:10 71:4 72:5,6 74:18 76:1 82:6 83:21 91:1 93:11 95:12 97:6,10 97:12 100:1,22 101:4 103:13 104:7 105:14 105:16 106:18,19 107:2,5,15 108:2 109:7,13 110:1 112:4 112:10 115:8,9 122:4 123:1 124:8 129:13 129:16 130:20 131:17 132:9 135:6 135:11 141:12 142:18 172:14 173:10 174:1,9 175:8 175:15 178:15 180:19 181:3 182:6 183:17 193:9,11 196:14 199:16 200:19 201:12 202:14,21 203:10</p>	<p>213:10 233:13 239:9 239:10 257:9 259:12 260:3 262:1 running 44:20 56:9 57:20 59:7 63:18 64:22 72:13 93:6,13 94:17 105:11,19 107:19 118:5 128:18 135:5 160:22 164:22 179:2 214:19 232:14 233:8 264:14 268:3 268:11 runs 22:22 90:11 112:13 Russ 133:2 Russell 1:13 2:4</p> <hr/> <p style="text-align: center;">S</p> <p>S 4:1 282:1,8 sacrificed 95:16 sacrifices 64:13 safer 64:15 safety 60:9 sake 6:11 108:11 sat 219:10 satisfy 88:15 90:9,17 125:4 save 136:16 saw 44:8 146:20 161:17 161:21 266:10 saying 44:13 50:10 51:16 52:10,12,21 54:4 57:19 67:12 72:10 84:2 86:21 92:20 100:1 113:5 114:1 128:19,22 129:7 130:14,16 138:21 140:18 170:9 236:20 241:9 245:16 269:21 274:18 275:18 says 8:19 22:21 60:8 88:12 90:12 174:18 185:19 197:7 200:5 238:12 265:8 scale 275:13 schedule 218:6 231:4 246:20 scholar 111:14 school 110:8 schools 110:9 scope 62:20 70:1 75:6 113:17 147:5 188:17 scrap 200:10 screen 81:2</p>	<p>script 210:1 scripts 40:18 43:16 44:3,4,15 45:2 se 223:17 sea 190:20 search 81:7 second 49:8 55:7 63:16 63:19 118:12 197:4 198:17 209:2 217:19 263:3 secondly 69:3 264:4 seconds 81:1 secret 270:21 Section 197:5 sector 151:14 securing 226:15 see 14:9 35:4 37:22 43:14 61:16 86:11 114:11 119:18 127:15 135:17 138:4 143:14 161:9 176:16 197:7 200:15 205:9 233:3 257:11 270:20 271:3 272:5,15,17 274:12 279:10 seeing 22:3 66:7 255:9 seek 77:20 151:18 153:8,10 186:21 209:3 seeking 188:19 seeks 202:1 seen 6:15 29:7,8 43:22 44:4,11 81:3,14 158:5 224:11 233:9 236:8 255:6,11 sees 35:10 segment 81:10 selective 190:8 selectively 184:14 187:11 204:7 Senate 2:4,4 6:8,10 35:2 38:19 68:7 117:22 150:13 172:3 178:7 186:1 187:9 206:13,16 208:3,8 214:15 215:3 223:4 231:20 Senator 1:4,12,12 4:14 6:16 7:2,6 8:8 15:16 16:16 17:21 18:18,21 41:21 50:1 54:18 55:22 56:6 61:21 62:2 63:15 64:10,19 66:2 68:13,14,18 69:7,19 70:11,14</p>
--	---	--	--	--

72:4 73:17 74:6,9,19 74:22 76:13 78:19,22 80:18 81:4 82:6,7,19 84:14 85:4,15 87:8 87:17,19 88:11,18 92:20 94:22 95:1,3 95:10,12,15,20 96:3 99:14,16,16,17 100:18 102:3 103:11 109:20 111:17 112:10 117:13 120:3 123:18 130:16 132:2 132:8,10 133:11 134:21 139:3 151:5 162:8 176:15,19 183:22 184:8,13 185:10 186:17 188:4 188:8 189:13 193:1,3 193:4 196:21 200:2 203:19 215:10 231:9 231:22,22 257:8 279:20 Senatorial 206:21 207:9 208:2,5,14,21 209:7 211:7,13 212:9 213:5 214:9,20,21 215:2,7,9,17,22 217:15,21 222:16 230:9,19 231:1,7,11 232:2,4 244:8,9,18 244:22 Senators 64:5 133:2,3 188:10 208:4,14,21 210:22 211:2 214:19 215:7 222:9 223:11 232:3 Senator's 61:18 187:16 188:12,16 send 136:8 sending 160:22 232:13 sends 233:2 seniors 100:11 103:16 103:21,22 sensational 126:21 127:9,12,16 sense 103:17 109:11 110:3 114:12 146:12 152:9 177:5 193:8,15 193:18 213:21 256:9 266:12 278:6 sensed 271:3 sent 224:19 separate 15:19 78:20 81:1 250:14 272:14 September 1:20 2:3	63:20 series 32:8 69:19 183:10 serious 38:4 39:4 98:13 115:4 122:8,13 163:15 164:5,14 178:5 179:9 180:16 180:18 242:1 267:19 served 143:8 229:5 274:14 SESSION 140:1 set 19:21 88:20 89:1 90:10 117:9,10 149:21 150:11 163:1 170:14 181:7 200:10 seven 5:20 6:3 18:20 severely 28:4 168:17 sham 272:2 276:22 shameful 200:6 share 36:20 150:15 198:11 245:22 246:21,22 247:3 shared 246:19 247:12 sharing 245:5,19 shed 23:4 short 54:9 115:19 153:3 187:2 shorter 81:10,10 shorthand 112:2 235:22 shortly 83:22 85:9 93:7 94:18 99:21 106:10 106:16 108:19 109:14 show 54:19 55:17 56:6 60:8 68:1 69:19 73:19 152:16 161:1 196:17 274:3 showed 64:20 75:15 showing 63:8 83:19 137:19 shows 270:17 Shriver 55:9 56:12,16 58:2 Shriver's 56:8 59:12 side 45:1 61:16 67:22 113:6 Sierra 45:6,12,13 63:17 64:17 72:5 75:9,20 90:11 125:8,18 signature 7:6 73:16 143:15 signed 74:15,16 significant 8:6 9:5 12:18 17:18,19 21:8	23:4 33:17 67:16 151:10,15 153:20 216:17 256:20 259:3 significantly 7:19 198:18 similar 17:3 32:12 89:12 159:5 171:20 similarly 53:7 59:3 simple 184:20 188:13 -197:17 simpler 261:7 simply 142:2 simultaneously 161:13 sit 94:4,5 218:20 244:16 site 125:8,18,20 sites 118:5 125:9 sitting 42:12 96:10 204:16 situated 53:7 59:3 situation 98:10 189:22 275:2 situations 177:22 six 68:11 108:3 sixth 88:11 size 248:8 254:11 skepticism 35:12 38:21 slightly 104:17 121:20 smaller 217:20 SMONSKY 1:22 2:6 snapshot 88:14 Snowe 1:17 2:1 4:3,16 6:11,13 7:1,2,4 54:8 54:16 55:5 63:11,13 64:6,10 73:12,14 74:18 80:14 84:12 87:11 94:3 95:8 99:13 100:4,7 103:8 103:9 109:2,17,18 128:6 130:17 132:6 136:3,5 140:3 143:4 143:7 151:5 176:15 191:7 196:19 199:21 203:19 257:6 262:16 262:18 282:4,12,13 282:14,15,16,17,18 282:19,20,21,22 283:3,4,5,6,7,8,9,10 Snowe-Jeffords 39:2 73:2 74:1 135:22 142:14,16 162:18 163:13 268:15 277:21 snuffed 132:15 soft 13:15 14:5 15:22	17:11 18:4 21:15 38:8 47:1 48:4 77:17 79:9 92:8 93:16 116:1 122:15 124:17 127:19 135:18 137:13,15 138:8 141:10 142:1,15 147:13 149:4 153:17 153:20 154:6 155:1,7 155:14,15,15,16 156:11,13,19 157:15 158:2,11 164:13,19 164:21 165:1,2 166:5 166:10,11 167:5,15 167:21,22 168:5,6,8 168:19,20 169:8,12 169:14 170:2,5,13 171:12 173:12 174:11 175:7,14 178:15 180:5 182:7 183:16 193:9,11 196:13 197:6,20 198:6 199:5 201:14 206:22 207:17,18 210:18 211:1 213:7,9 213:16,18 214:7,12 215:20 223:15,17,20 224:4,9 226:19 228:15 231:12,18 232:3 234:11,18,22 236:5,21 237:10,17 237:20 238:6 239:14 240:4 241:22 242:19 243:7,9 245:12,13,15 248:1,13 251:12,15 252:10,17 253:10,18 254:7,20 256:3,6,13 256:17 257:4,13 260:2 261:4,6,9,14 261:15 262:20 263:16 269:2,11,22 271:17 272:6,21 274:19 275:6,11 276:14,20 279:6,8 solely 187:15 solicit 197:10,18 solicitation 208:13 210:5 solicitations 233:6 234:5 solicited 210:12 soliciting 232:9,11 somebody 170:5 171:10 194:13 210:11,12 219:14	232:14 255:5 somebody's 268:3 someplace 224:7 sorry 136:9,11 244:2 sort 11:12 81:11 128:20 141:8 154:6 154:17 155:3 210:6 224:2 225:17 236:21 245:6 247:1 254:17 272:8 275:1 sorts 173:18 sought 149:2,10 150:17 150:19 190:3,7 194:10 197:18 229:12 253:16 soundly 11:3 source 14:14 22:1 24:11 25:5 32:1,19 48:11 86:19 140:21 146:8 165:8,15 166:12,21 169:16 189:8 194:9 198:22 235:16 275:9 sources 38:10 50:16 51:18 78:4 86:10,10 97:21 124:15 154:20 154:22 155:18,19 157:1 163:16 168:4 192:5,12 199:1,3 235:22 237:12 261:19 276:2 so-called 65:11 80:19 81:12 141:4 149:7 164:6 speak 5:7 27:6,7 59:12 59:13 61:9 80:6 99:5 99:9 130:11 157:17 171:2 177:12 194:21 195:6 222:13 speaker 114:8 speaking 18:22 20:2 67:19 73:10 109:21 256:16 speaks 148:6 special 7:20 9:8 11:9 22:7,8,16 23:2,7 24:7,9,13,21 25:7,9 25:13 26:3 28:15 45:6,9 64:13 81:17 82:2 141:10 144:7 157:12 191:14,21 198:19,20 236:22 species 90:14 specific 10:18 13:11,14 15:21 16:3 18:6
--	---	--	--	--

<p>19:13 20:8 21:4 22:11 24:17 29:9 33:18 34:9,17 37:12 41:6,6 42:18 44:4 49:14 57:6 63:9 65:13,17 67:11,12 69:4 71:9 72:15,20 74:9 78:21 86:1,4,13 88:4 89:21 91:12,13 93:20 95:3 105:3 112:20 113:11 114:4 116:21 121:5 122:7 127:18 131:15 134:2 134:22 137:6 173:5 188:18 199:7,14 206:1,7,17 209:1 212:7,13,15 220:8 221:21 223:2 228:9 233:11 252:16,18 258:21 260:17 268:8 specifically 17:1 19:8 22:4 29:6 61:11 93:5 102:14 112:19 221:6 223:20 specificity 244:20 247:9 specifics 159:10 specified 19:6 20:16 58:18 75:7,13 87:11 90:20 110:20 113:14 122:19 129:1 135:9 174:6 258:10,18 specifices 62:19 specify 49:13 specifying 89:19 speculate 53:12 94:10 96:6 216:18 228:1 250:7 speculation 32:22 38:16 49:12 76:17 94:9 133:22 227:2 speculative 37:20 speech 6:2 26:12,15 30:13 36:5 41:20 45:19 46:1,7 57:2 60:15 61:1,10 67:6 85:20 111:12,19 115:11 117:8 118:17 118:22 134:15 141:16 145:5 146:10 148:7 150:7,9,12 161:16 162:2,14 163:7 176:2,12,17 177:3,3,10 182:12 183:5 184:14,21</p>	<p>185:22 186:10 187:8 187:11,13,18 189:20 190:7 191:10,16 192:22 196:6 202:5 203:7 204:8 205:20 207:3 220:3 226:9 234:7 235:12 238:1 238:22 239:18 241:4 242:16 251:5 258:7 263:18 269:6 278:10 speeches 221:9 spend 39:22 43:2,4 47:18 145:6 197:13 197:18 198:6 233:19 235:15 238:16 245:3 257:3 spending 14:14 23:10 25:19 95:17 239:14 275:7 spends 22:15 23:13,15 spent 46:17,20 47:1,2 47:14 48:10 66:15 123:22 153:2 162:9 228:12 230:8 242:12 253:19 272:7 sphere 265:6 spoken 47:8 sponsor 22:9 23:5,13 97:16 112:13 113:7 sponsored 33:4 37:12 37:14 66:18 86:16,17 96:15 111:4 116:13 116:14 123:14 146:19 211:20 215:7 215:9 216:1 255:8 sponsoring 23:9 25:4 46:15,16 71:11 85:11 96:18 99:8 159:20 sponsors 116:22 204:17 sponsorship 86:11 248:2 sporadic 40:9,15 spur 279:2 STACY 3:12 staff 125:13,17 211:3 211:22 212:3 stake 106:13 115:5 stance 39:17 stand 140:4 standards 54:1 70:15 100:3 264:1 stands 200:13 start 4:6 209:2 229:22 243:16 271:7 276:5</p>	<p>started 68:19 119:9 starting 87:6 Stat 197:3 state 4:14 10:22 11:9 39:18 40:3 45:17,18 81:19 82:21 140:11 145:12 153:14,22 154:13,19 155:2,6,8 156:11 157:2,12 158:11,22 159:9 161:10 164:4,15,16 165:4,7,14 166:4,8 167:4,14 168:10,16 169:22 171:18 172:2 172:3,5,10 173:9,22 174:8 175:6 180:6 182:6 189:10 199:18 201:11 205:13,18 206:2,2 210:18 224:17 225:8,9,10,16 226:6,14,19 227:6,11 232:9,15 233:8,19,19 233:22 234:2 235:9 237:2,4,13,17,19 238:5,18 240:5,9 241:10,19 242:11 243:8,13 244:4 245:2 245:12 246:13 247:3 247:14,17 248:13 256:2,5 261:6,11,11 261:21,22 262:12,13 262:13,15 264:6,19 264:20,20 265:3,5 266:15 268:1,11 272:7 275:3 276:19 278:9 stated 8:22 17:13 121:21 123:11 149:19 206:21 statement 9:4 30:1 52:17 92:15 122:1 124:5,6 188:7,9,18 238:8 statements 117:21 states 1:1 2:4 38:19 126:2 199:10 239:3 275:3 281:3 stations 81:8 statistics 48:6 status 236:16,17 statute 19:16,17 20:2,8 75:14,18 83:11 177:17 178:1 179:13 179:19 181:8 194:18 195:3 196:17 239:2</p>	<p>259:1 264:10 265:17 266:6 statutorily 201:7,12 statutory 267:14 stay 45:11 stealth 71:16 93:22 stem 272:22 step 39:22 238:4 stood 55:9 133:12 stop 56:19 175:2 stopped 266:9 stories 127:18,19,20 story 33:15 80:19 81:3 81:5,13 84:15 88:12 94:5 95:11 100:5 103:8,12 136:4 200:6 straightforward 116:8 143:17 210:4 street 2:12 3:14 30:19 249:13 250:9 strictly 250:5 strike 16:12 36:15 118:9 129:12 striving 70:21 71:19 strong 270:17 struck 7:15 stuck 58:6 studies 41:18 42:13 46:21 136:11 273:9 278:14 study 92:3,3 stuff 23:20 subject 26:19 118:18 118:19 140:21 146:7 158:22 165:8,15 169:16 172:5 181:11 185:20 187:18 188:15,21 197:13,21 submitted 72:18 185:15 subquestions 189:14 Subscribed 281:11 subsequent 221:19 subsequently 221:12 substantial 58:3 220:18 276:8 substantially 275:22 substitute 274:14 substituting 129:15 sudden 184:21 suffice 16:9 41:12 48:7 256:19 272:20 sufficient 14:19 15:17 suggest 39:14 180:11 194:13 203:19</p>	<p>204:12 205:3 278:14 suggesting 202:10 232:1 261:10 suggestions 192:10 suggests 134:12 sum 154:8 213:14 237:7 248:18 sums 46:20 47:19 98:1 153:20 158:2 237:6 248:2 251:14 256:20 272:21 supplement 190:3 support 7:2 28:2 80:10 92:8,13 93:17 103:17 103:18 109:9,11 110:6 128:15 129:17 152:9,16 154:3 207:1 234:2 supported 56:17 69:11 95:16 110:21 193:16 supporting 48:12 78:5 82:4 116:3 138:6 supports 129:6 154:9 suppose 44:1 89:3 118:6 131:1 supposed 107:18 Supreme 111:4 189:18 sure 11:20 22:18 34:7 37:5,7 41:4 53:13 73:10,11 107:21 130:2 141:18 142:10 143:1 144:14 160:15 171:22 204:5,14,15 215:1 217:14 219:17 225:4 229:15,16 241:8 248:19,21 249:6 272:12 surfaced 271:16 surplus 84:20 surpluses 100:10 surprised 126:16 surprisingly 187:3 survey 11:8 Susan 64:6 suspect 92:22 172:21 suspenders 207:20 swallow 84:16 sweeping 89:20 172:22 202:16 switch 172:12 205:9 213:4 229:18 240:10 sworn 4:5 140:5 185:15 281:11 synonymous 25:9 system 7:17 8:5 9:1,12</p>
--	---	--	---	---

10:1,14,19 11:16 12:2,8 13:1,4,16 14:4 14:8,10,18 16:1,6 21:13 26:10,11 27:8 27:12,15 28:1,6 29:14 30:8 31:13,15 32:7 35:11,17 37:5 38:1,5,18 39:5,21 48:9 52:3 58:11 59:15 60:2 66:4,7 67:13 78:14 82:17 84:8 85:8 86:9 92:2 98:7,13,22 110:18,18 116:18 119:10,12,17 120:5 121:22 122:6 122:14 124:12,13 135:15 138:2 149:3 151:10 153:19 154:17 155:14 157:20 163:15 164:6 170:14,19 178:13,22 179:22 192:4 198:17 201:4 234:17 236:13 236:16 242:3 251:22 253:17 254:4 255:14 259:4 270:1,6,19 271:16 272:18,19 273:2 275:20 277:10 277:14,14,17 278:22 279:17 systematically 48:14 systemic 38:1 66:21 system's 179:9 T T 282:1,1,8 table 213:15 214:13 218:20,22 219:2,5,10 219:22 Tabloid 127:12 tag 87:6 92:17 take 4:7 5:17,22 8:11 15:6 39:21 54:9 69:15 87:13 89:4 101:21 103:16 105:7 112:6 140:15,18 142:13 143:22 149:14 152:19 157:21 163:4 170:17 170:17,18 172:6,7 178:10 181:19 186:22 203:11 207:21 228:6 233:1 238:4,18 239:12 47:13 248:20	257:15 261:19 263:5 267:12 taken 19:16 39:6 72:4 180:1 274:21 takes 84:17 160:20 272:15 talk 8:9,20,21 9:16 11:14 17:22 84:21 talked 211:21 212:18 220:6 268:18 talking 14:11 49:19 59:21 62:21 63:6 108:13 117:3,4 131:7 135:13 137:14 153:2 156:6,21 158:2,3 159:20 162:9 167:7 169:11 171:1 177:16 192:20 214:8 223:18 242:8 252:10,17,17 253:10,20 254:5 265:18 272:20 277:21 278:2 talks 206:16 tangential 10:17 target 145:22 targeted 22:4 24:17 34:9 54:6 71:10 77:21 87:1 92:10 105:12 122:12 134:3 258:10 275:10 targeting 268:9 tautological 134:10 taxes 84:18 85:2 87:10 87:21 taxpayers 39:22 79:21 teacher 110:7 technical 136:11 technically 82:22 technology 64:3 teenagers 132:11 telephone 95:1,2 106:7 106:8,14 170:20 208:22 television 35:5 42:20 42:22 43:7,11,15,17 44:3,5,8,9,12,14 48:18 56:21 81:2,8 118:16 120:10 123:22 151:13 274:13 tell 13:18 24:3 56:19 64:11 79:17 85:1 87:8,19 90:15 100:14 103:19 104:1 109:9 118:10 127:15	136:16 156:19 159:10 162:3 186:9 200:12 216:16 218:13,16 257:12 269:7 term 8:1,17 9:2 16:13 16:17,21 17:5 22:6 25:7,9 28:19 170:2 229:9,14 terminology 7:22 168:3 170:8 171:13 253:12 terms 17:19 21:9 26:2 50:19 59:14 77:17 83:5 91:9,10,14 93:3 94:11 107:11 118:2 118:14 123:13 140:16 142:14 143:6 144:20 153:1 173:6 178:12 180:16 203:6 205:14 222:7 236:9 236:18 243:2 251:20 261:16 262:3 263:22 271:11 terribly 48:9 138:3 test 91:17 125:4 testified 4:5 50:9 140:5 190:12 testify 187:1 testifying 60:17 testimony 5:13 22:6 152:4 185:14,16 186:16 189:22 190:17 203:21 205:4 281:3 testing 110:7 266:5 text 80:22 257:17 thank 64:5 101:2 139:5 205:6,8 279:20,21 thing 42:5 118:18,19 176:4 178:1 195:22 196:2 197:12 210:6 215:12 216:4 224:2 225:17 245:6 247:1 272:9 273:22 things 41:8 60:21 61:1 61:12 75:13 150:12 162:6,11 171:20 172:8 178:3 191:1 212:11 213:2 218:2 247:13,16 268:20 270:9 think 9:4 10:14,17 11:18,22 14:16 24:6 24:8,19 26:10,13 27:11 29:6 30:7	31:12 32:5,20 34:6 34:18 36:14,22 37:4 37:17 38:12 39:10,19 45:3 48:1,2 53:14,20 58:9 61:13,16 65:5 66:17 67:15 68:7 69:9 70:13,14 71:10 72:2,3 74:20,21 75:14 76:10,12,12,18 78:8 81:5 82:9 83:13 84:6 85:4,10,15 86:4 86:8,13 88:5,20 89:8 91:1,6,22 92:11,12 94:2 96:2 97:7,8 98:4 98:9,20 99:1,6,10,12 99:18 102:3,7,15 103:1 104:4,16 107:17 108:9 109:8 110:13 111:8 112:2 112:14 114:13 115:7 115:13 116:7,11,15 116:16 119:16 120:8 123:11 127:18 128:14 132:1 135:12 137:19 140:19 143:14,17 145:1 147:12,19 148:15 150:7,7 153:14 154:4 154:18 155:5,13 159:3,5,20 160:20 162:1 163:5,5 165:2 165:10 166:15 174:21 177:2 179:21 181:6,14,17 182:2,18 184:12 186:8 188:7,9 190:12 191:6,13,20 193:8,15,19,21 194:1 201:6,21 204:13,20 205:9 207:14 211:12 212:7 213:12,13 214:2 217:12 218:10 222:6,15 224:15 225:20,20 230:21 231:17 233:11 234:15 235:15 242:6 242:7,17 246:1,9 247:6,6,8,18,22 248:5 253:15 254:1 254:22 255:15,20 258:14 260:14 262:9 263:9 265:10 267:15 268:18 271:9 272:13 273:22 274:4,6,15 276:8 277:17,18 278:1,15,21,22 279:1	thinking 176:8 266:9 thinks 231:14 third 132:21 186:19 Thompson 2:10 4:11 4:13,19 6:14,22 7:5 9:18 11:22 12:1,12 13:8,21 14:2,21 15:14,18 17:20 18:15 19:11 21:2,6 22:22 24:1 25:15 26:5 27:3 28:18 29:2 30:22 31:7 34:12 36:13 38:11 39:9 41:3,7 42:7,9,19 44:6 46:6 47:6 48:16 49:22 51:14 52:9 54:7,12 54:17 55:3,6 56:5 57:16 59:10 60:17 61:5,7,17,21 62:1 63:7,14 65:18 67:18 68:10 69:13,17 70:3 73:11,15 75:11 76:9 76:19 79:3 80:2,12 80:15 82:18 83:17 84:9,13 87:2,18 88:10 89:10 90:19,22 92:14 95:5,9 97:3 100:4,8 101:1,3,20 101:22 102:2 103:4 103:10 104:8,10 107:16,21,22 109:16 109:19 111:2,22 113:4 115:6 116:10 117:17 119:7 120:2 121:7,19 123:17 127:5 128:4,16 130:1 130:10,15 132:4,7 133:17 134:6 136:2,6 139:3 282:5 thought 39:3 61:2 118:6 122:20 166:1 176:7 178:11 193:18 199:15 244:21 258:20 259:1 thousands 133:1 threatened 100:12 three 11:19 185:19 215:5 217:9 250:20 268:9 tide 273:1 time 5:7,18,19 6:1,3 12:14 19:5 20:1,10 22:4 24:17 27:9 33:18 34:10,22 35:2 37:13,14 40:22 41:3
---	---	---	---	--

<p>41:13,15 42:21 44:8 46:21 54:6 56:4 58:19 60:12 61:15 65:14 67:11 68:16 69:2 71:5 72:7 73:20 78:3 79:6,11 84:19 86:5,13 87:1,13 89:4 89:6 93:12 95:17 96:11,15,21 97:1 100:2 105:12 106:6 106:18 107:1 108:8 109:15 113:14 114:2 115:19 120:13,20 129:2,14,22 131:16 134:3 135:5 137:9 138:21,22 153:4 166:22 168:15 169:5 169:12 173:6,12 174:4,5,6 175:7 176:18 190:22 191:3 196:14 198:8 203:9 210:7,16 216:19 220:19 222:16,16,21 222:22 230:8 232:1 232:18 234:1 236:14 253:16 254:2 263:3 266:16 268:8 270:4 271:5 272:3 276:11 279:21 times 11:20 15:7,13,15 31:22 129:13 135:6 185:19 190:13 206:4 211:12 273:5 timing 71:6 Title 72:19 148:10 151:4 176:14,22 177:1 today 5:13 7:22 16:6 18:20 24:2 30:2 42:12 47:8 48:2,5,15 60:8 117:16 133:4 137:22 168:8 273:5 today's 5:20 16:20 told 106:1 tone 36:17 37:2 top 55:8 110:5 200:1 topic 223:15 total 196:13 totality 67:21 71:2 77:2 78:9 83:6 92:5 98:14 119:17 237:5 271:14 totally 17:21 277:15 tough 127:20 218:12 tours 30:19 track 211:20 218:5</p>	<p>trade 200:8,12 traditional 147:18 173:2 272:9 traditionally 39:12 transcribe 5:8 transcript 281:2,2 transfer 197:12 244:6 transferred 233:21,22 transferring 232:9 transfers 233:18 234:5 244:12,18 256:3 275:2 transformed 255:14 trapped 110:9 treasure 90:13 treasures 17:3,3 31:3 31:10 32:13 34:16 122:3 159:7 treasury 19:9 32:19 49:2,6 51:6,18 121:10 144:6 146:19 148:1 149:16 150:20 200:19 treat 4:7 122:14 136:13 treated 4:9 26:3 treats 196:4,5 tremendously 237:8 trend 270:7 271:10 273:1 274:12 trends 275:16 trial 187:1 190:11,18 trick 239:7 tried 116:6 125:4 151:3 176:14 178:5 277:19 trigger 49:14 55:16 57:6 86:3 260:21 triggers 114:5 trimester 132:21 trouble 42:3 troubling 57:18 98:4 138:1 true 59:22 76:22 155:21 156:5 173:9 175:6 206:1 207:19 207:21 214:1 278:15 truly 93:21 94:19 try 5:7,9 6:5 9:13 12:13 19:10 46:3 61:15 130:12 158:7 162:17 166:22 186:11 191:3 trying 18:18 25:6 42:10 52:3 58:6 70:4 75:17 91:16 107:10 113:6 120:19 124:5 135:14 166:9 168:9 169:10</p>	<p>171:15 188:4 193:2,7 194:20 195:10 217:12 235:1,7 240:10 242:6 245:14 246:1 247:6 266:12 270:12 Tuesday 223:7,9 tune 96:18 149:5 tuned 102:19 turn 26:6 42:20 55:7 125:8 143:18 turned 138:13 turn-out 152:15 TV 44:14 45:2 81:10 125:9 126:10,14 271:3 two 11:19,20 13:20 32:21 38:8 42:11 43:1 47:2 48:20 49:10 52:20 81:9,10 94:7 101:21 106:20 131:21 132:11 186:14 215:5 217:4,4 217:8,15 219:7 230:12,17,22 250:14 262:19 268:8 273:3 two-year 106:19 135:7 135:10 type 32:2 33:21 48:11 68:12,17 73:4 75:20 76:15 92:9 131:17 223:19 249:7 265:2 277:15 types 22:2 23:5,7 24:16 31:20 32:3,21 33:5 33:16,19 40:13 41:16 46:14,18 50:16 54:4 57:11 58:17,22 59:14 66:8,18 68:14,16 71:12 72:5,6,14 73:1 79:10 83:9 84:5,5 93:17 94:18 96:14 97:10,19 98:19 99:10 116:3,20 117:4 124:18 129:3 131:13 137:21 138:22 151:12 164:9 235:17 236:11 262:15 274:14 typical 222:8 typically 209:15 218:20 219:1 220:2 249:15</p>	<p>200:17 240:20 ultimately 79:19 110:20 124:19 277:19 unacceptable 64:14 unaccountable 155:18 unaffected 80:7 unambiguous 116:8 unclear 107:18 108:2 142:8 undeniable 255:1,15 undermine 8:7 27:14 99:12 157:2 undermined 179:15 277:16 undermines 9:5 77:9 157:11 underscore 179:21 underscores 39:19 understand 6:5 8:8,10 17:21 47:10 50:1,7 51:12 61:20 65:19 67:14 72:1 78:8,19 78:21 82:19 99:15 100:18 101:7 104:15 104:18 106:12 120:3 123:18 124:6 141:15 142:9,10 143:2 158:21 165:18,20,22 174:22 175:3 176:11 180:18 181:9 184:17 196:12 199:19 236:20 238:15 240:3 241:9 242:6,7 265:5 267:6 276:16 understanding 4:9 12:14 16:16 30:14 39:5 42:3 70:4 90:6 111:15 112:22 116:5 119:5 121:3 147:21 148:4 160:7 165:6 167:14 174:8,17 188:16 198:11 201:10,17,19 238:9 243:12 277:2 understands 33:22 138:2 understood 6:7 80:8 168:15 235:4 252:12 undisclosed 10:6 16:8 25:8 26:2 154:7 159:6 unduly 157:14 unequal 142:20 unequivocal 189:18</p>	<p>unequivocally 229:20 uneven 58:4 unfortunate 97:9 unfortunately 265:1 unidentifiable 155:19 unidentified 156:1 uniform 141:21 union 17:3 114:8 122:11 144:5 145:20 146:20 154:20 159:7 160:9,21 161:12,14 163:17 176:5 179:2 unions 114:15 115:17 117:2 141:5 142:5,17 144:7 147:22 148:16 149:16 150:20 154:14,14 155:21 159:14,16 160:4 164:4,8 191:8 192:17 193:11 194:11 196:1 202:11 United 1:1 2:4 38:19 126:2 universe 20:14 70:18 unlimited 10:5 16:9 33:20 47:19 77:6 251:16 252:2,9,21 253:9 unregulated 9:10 10:5 16:9 33:20 47:19 77:6 147:22 149:15 150:20 153:17 154:7 155:22 159:6 161:11 167:5 168:12 254:20 269:15 276:1 unrestricted 58:13 251:16 269:15 275:9 unusual 204:16 upcoming 106:1 220:19 upheld 9:7 12:20 125:3 uphold 122:19 upper 197:2,3 urge 129:17 130:5 162:2 185:1 urges 128:7 urging 78:22 83:13 85:4 91:3 96:2 99:15 100:19 101:7,12 104:4,19 105:2 109:4 130:18 133:10 134:13 136:20 223:22 usage 168:3 use 16:21 17:5 33:19</p>
---	--	---	--	--

13 79:18 89:12,15 93:5 105:2 122:11 138:22 144:7 147:17 147:22 148:12 149:15 150:19 161:11 165:15 168:12 170:13,21 175:7 197:20 211:1 233:7 234:17 237:18 243:7 246:15 248:2 uses 58:2 80:9 238:19 utterly 176:20 190:19 U.S 104:3 <hr/> <p style="text-align:center">V</p> <hr/> v 186:19 vague 91:20 114:4 142:7 260:5 262:6 vagueness 92:13 116:6 value 197:13 variety 157:1 168:4 189:14 various 10:4 29:8 162:10 171:9 218:5 254:8 venture 216:15 e 63:2 244:17 version 94:6 versus 85:17 223:20 256:14 vetted 46:1 viability 278:7 Vice 60:7 63:4 Victory 57:18 video 54:19,20 118:5 videotapes 43:17 44:15 45:2 view 9:11 10:10 14:17 24:12 89:5 101:14,16 104:13 105:9 106:9 122:18 123:13 128:1 128:12 133:10 134:21 135:2 141:9 144:4 150:15 151:21 160:1,13 172:13 175:12 176:7 180:3,9 180:14 182:6 185:22 187:10 194:15 195:1 195:2 198:19 240:21 241:6 263:19 273:8 275:4 viewed 78:16 91:2 72:22 234:5 83:13 85:5,7	91:9 104:4,19 128:8 129:18 133:11,19 134:13 136:21 viewing 44:8,13 views 102:14 105:10 180:15 185:8 195:6,8 259:5 Vinik 3:19 violates 200:8 violence 55:15 violent 133:1 Virginia 239:8,14 virtually 21:18 187:14 virtue 94:14 219:5 vital 110:10 voice 11:10 28:16 voices 28:16 279:4 volume 255:22 261:17 269:14 271:8 272:1 273:6,9 274:11,12 275:9 276:21 277:7 volumes 269:11 279:5 voluminous 71:1 voluntarily 163:9 185:11 189:2,3 voluntary 51:8 111:6 112:5 volunteered 190:1 volunteers 147:18 170:15 171:9 246:19 vote 64:15 78:22 83:14 85:5 91:3,10 94:12 94:16 96:3 97:11 99:15,19 100:19 101:12 104:5,19 105:2,5 106:1 109:5 110:11 128:8,19 129:18 130:6,18 133:5,11 134:13,21 136:14,17,21 144:22 146:1 147:7,15,16 148:17 152:11 153:9 154:15,21 155:2 156:1 157:9 159:12 159:17 160:5,18 161:12,15 164:17 165:9,17 166:10,12 167:5,16 168:1,12,17 168:19 170:12,14,19 172:1 200:12 225:17 235:10,15 240:17,17 241:14 245:4,20 247:1 252:4 253:1 263:14 265:9 266:13 269:1,2 272:10,10	273:12 274:2,5 276:20 voted 79:16 81:21 133:2 150:1 176:8 voter 81:22 130:6,18 144:20,22 146:6 148:1 149:17 150:21 152:1 155:2 158:12 159:8 170:16 240:18 voters 96:14 137:7 voter's 170:16 votes 10:12 153:15 178:6 voting 64:6 101:8 vs 1:7 <hr/> <p style="text-align:center">W</p> <hr/> W 49:7 110:2 128:18 129:15 130:3,21 wages 200:7 wait 60:19 waive 185:21 189:19 waiver 26:18 30:15 46:2 162:19 189:20 190:14 waives 185:13 waiving 240:1 walk 235:4 want 5:12 8:16,20 11:16 12:13 15:13 18:4,21 25:14 29:21 61:17 62:5 64:5 67:20 68:6 70:22 71:22 74:17 83:3 85:2 87:9,20 109:6 109:13 111:12,16 112:22 114:18 117:19 119:2 124:22 128:17,20 130:2,21 131:13 143:14,21 148:8 162:3 175:1,19 176:6 177:9 182:1 183:9 196:17 201:2 203:17 204:2 205:2 216:18 219:16,19 229:16,19 232:20 234:9 236:15 241:8 253:11 262:18 263:1 269:7 wanted 7:21 66:6 93:19 125:6 202:13 205:7 wants 22:12 48:17 112:10 131:17 War 84:19 warrant 14:19	Washington 1:19 2:3 2:13 3:7,15 43:3 84:21 85:2 87:9,20 133:6 wasn't 141:18 170:8,9 189:22 watch 42:21 43:7,10 94:3,4,6 127:6 271:3 way 4:7 9:9,13 10:1,19 21:10 25:3 28:5 30:6 40:5 47:18 53:15 54:6 70:6,15 71:15 77:21 96:9 98:7 103:20 109:11 114:20 122:2,13,19 125:21 126:1,3,8 136:13 138:13 144:15 149:9 155:6 158:4 159:11 171:10 172:4,9 174:17,18 176:7 185:12 195:18 195:20,21 196:5,5 203:18 204:11,20 205:4 207:16 210:19 212:22 214:7 223:11 225:21 227:6 234:3 235:8 237:21 238:2 242:1 248:4 249:17 254:18 255:2 258:20 259:2,5 271:15 275:14 276:5 ways 14:13 38:8 113:20 116:2 147:13 154:21 196:7 wealth 58:3,12 59:6,13 59:22 wealthy 22:12 116:14 117:3 Web 125:8,9,18,20 week 40:8 42:21 weekends 43:2,4,6 weeks 40:9 66:16 102:5 102:20 weight 83:7 welcome 55:19 went 172:21 185:4 186:5 219:9 225:19 246:6 weren't 61:1 211:16 wholly 273:20 wide 151:14 widely 7:18 8:11,13 119:10,13 120:5 121:22 Wildlife 64:14 76:14	90:12,15 willing 26:18 Wilmer 3:13 Wilson 258:1 win 82:8 window 107:3,8 wish 26:20,21 65:9 132:2 194:22 196:7 249:13 250:15 wishes 62:13,17 117:13 withhold 206:22 witness 4:4 5:3 12:16 14:7 17:15,18 21:3 23:21 25:18 26:14 27:1 28:12 30:17 31:5 33:2 36:8 37:22 38:17 41:4 42:16 44:2 46:4,12 47:16 48:3 49:13 52:2 53:15 55:1 57:4 61:2 61:8,14 62:13,15,17 62:18 65:10 67:8 73:9 74:4 75:6,9 76:7 76:20 79:4 82:14 83:18 85:22 87:15,16 88:7 89:7,8 90:21 91:8 94:10 96:6,13 103:1 104:9 105:1 110:17 111:13,20 113:2 114:13 115:13 117:14 119:2,16 121:5,16 123:12 127:4 128:2,13 129:21 130:14 133:16 134:1,20 137:4 139:5 142:10 144:2,17 145:9 146:16 148:4,11 149:2,20,22 150:16 151:2,6,8 152:6 155:13 156:5,16 157:17 158:15 160:12,16 161:4 162:2 163:10,12 165:11,12,20 172:20 173:19 174:14 175:3 175:21 176:12 177:11 178:21 179:8 180:11 181:17 182:13 183:6 191:11 191:17 192:3 194:3 198:13 201:3,19 202:7 204:10,12 205:22 207:5 220:5 220:13 221:1 222:12
--	--	---	--	---

226:11 227:3 228:2 234:11 235:14 238:2 238:11 239:1 240:2 241:8 242:17 246:11 250:4 251:8 252:9 253:6 257:18 258:9 258:18 260:8 262:7 263:7,21 265:15,20 267:2,17 268:16 269:9 273:18 277:22 278:3,13 282:3 witnesses 190:2,3 204:4 witnessing 31:21 35:5 77:12 women 250:16 won 56:12,13 wondering 195:12 242:10 263:12 word 17:14 words 12:2 105:3 196:22 work 136:12 147:19 154:10 209:6,13 218:21 worked 147:20 worker 136:10,15,18 136:19 183:15 workers 136:12,13,17 working 159:18 works 82:1 225:21 world 53:3,4 84:19 95:15 worse 137:17 190:9 236:18 275:16 worth 22:13 86:12 137:15 156:6 wouldn't 40:10 101:14 109:6,13 122:18 126:16 133:20 193:16 201:8 216:17 224:13 229:16 238:20 246:7 258:11 263:20 278:20 written 15:10 88:3 119:1 wrong 48:9,14 103:20 109:10 138:3 271:15	year 11:7 35:3 55:10 63:18 77:16 84:16,16 96:12 105:14,16 106:19 110:1 133:1 137:16 172:2 174:3 175:15 178:18 179:4 202:11 214:3,15 215:5 217:4,5,9,13 218:15 222:21 223:2 242:13 256:21 271:1 years 14:20 27:9 36:18 38:6 39 7 48:4 81:17 84:20 95:11 97:5 126:20 127:10 136:11 149:6 167:3,8 180:1 206:15 212:4 216:9,14,19 217:3 218:10 230:12,17,22 239:9 248:14 253:16 270:5,21 271:20 276:11,18 278:19 279:12 year-around 193:8 youngsters 255:8	97:5 100:5,7 126:20 127:10 129:13 212:4 216:20,21 217:4 218:10 248:14 271:20 282:21 10,000 213:22 100 282:21 101(a) 197:5 103 282:22 109 283:3 11 92:16 103:8,9 109:2 282:22 11th 190:6 116 197:3 12 109:17,18,20 128:6 130:17 185:19 283:3 12th 63:20 12,000 213:22 12:40 139:6 120 240:18 13 132:6 200:7 283:4 132 283:4 136 283:5 14 136:3,5 183:9,9 191:7 283:5 140 282:6 143 283:6 15 143:4,7 283:6 1500 2:12 16 196:19 283:7 17 199:21 283:8 18 257:6,9 283:9 19 48:5 262:16,18 283:10 196 283:7 1970s 164:22 169:9,22 170:3 171:17,21 1971 27:9 167:11 1973 35:4 1974 27:10 167:11 1978 167:12 169:15 1980 48:5 170:4 1980s 170:3 1989 11:1 27:21 199 283:8 1992 271:1 1994 35:2 1995 199:8 1996 11:4 28:13 29:11 34:21 96:9 253:20 257:9 263:3,14 265:9 1998 81:21 84:18 1999-2000 230:1	2 7:1,4,6 63:19 73:16 282:13 20 96:11 281:12 2000 60:7 77:16 82:9 101:5 110:1 137:16 228:8,12 230:10 257:1 271:2 20001 3:7 20005 2:13 2002 1:20 2:3 257:1 2003 239:16 20037 3:15 202-224-3121 64:11 133:6 22 143:15 240 253:21 2445 3:14 247 186:19 25 14:20 27:9 180:1 253:16 257 283:9 262 283:10	535 149:20 54 282:14 55 282:15 56-44 11:3,6
	Z		3	6
zenith 102:5			3 54:8,15,16 282:14 30 1:20 2:3 17:4 19:7 56:21 58:19 65:3 66:2 72:11 82:7 84:20 110:1 112:13 113:18 128:14 129:2 180:20 181:5 270:4 276:11,17 30-day 62:22 135:8 193:10 323 6:10 197:5 350 253:21 3520-2001 186:20 365 174:3	6 73:13,14 87:11 143:18 282:12,17 60 16:22 19:6 30:12 36:3 40:19 41:10 43:17 48:19 65:4 66:2 91:2 95:12 101:4 103:13 104:9 106:2 107:15 123:4 124:9 132:9 133:12 135:2,8 162:11 172:21 180:19 181:4 200:19 257:10 258:4 268:11 60s 168:6 60-day 20:1 62:22 72:11 76:1 105:19 107:3,8 135:5 193:10 202:20 61 172:15,22 174:11 62 172:22 63 172:22 282:16
\$			4	7
\$10,000 213:20 \$100 46:22 \$15 95:18 \$19 170:4 \$2 228:14 \$20,000 214:3 \$200 32:10,13 33:11 50:2,5 \$25 49:1,1,4,5,6 50:21 \$35 51:8,20 \$500 67:2 92:7 114:21 137:14 237:7,10 253:20			4 7:13 55:3,5,8 119:8 121:12 200:1,2 282:5 282:15	7 80:14,16 282:13,18 70 11:8 28:14 182:8 183:17 70s 165:3,7,14 167:11 168:6 172:4 71 167:13 73 282:17 74 167:13 75 81:8 78 167:13 79 167:12,14 169:15
0			5	8
001223 84:11 02-582 1:10 02-874 1:7 09579 80:13			5 63:11,13 74:18 143:20 282:16 5:15 280:4 50 167:3,8 50,000 119:22 500 48:5 77:17 253:21 501(c) 249:4 252:3 501(c)(4)s 249:6 51 3:6 52s 249:7	8 84:12 94:3 282:19 80 282:18 82 197:3 84 282:19 86 233:14
X				9
x 1:3,15 97:14 172:7 233:8 281:7,16 282:8	I			9 95:6,8 99:14 282:20 9:30 2:5 90 233:15 92 77:16 95 199:8 282:20 96 199:8 225:3,9
Y			2	
Y 97:15	1 6:12,13 110:6,6,10,12 128:19 130:22 132:17 197:7 282:12 1:30 139:7 140:1 10 4:8 74:3 88:22 90:20			