

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Senator Mitch McConnell, et al.,)	
)	
)	
Plaintiffs,)	
v.)	
)	
Federal Election Commission, et al.,)	
)	
Defendants,)	
and)	Civil Action No.:
)	02-CV-582 (CKK, KLH, RJL)
Senator John McCain, Senator Russell Feingold,)	<u>ALL CONSOLIDATED CASES</u>
Representative Christopher Shays, Representative)	
Martin Meehan, Senator Olympia Snowe, Senator)	
James Jeffords,)	
)	
)	
Intervening Defendants.)	

DEFENDANT-INTERVENORS' EXCERPTS OF REPLY
BRIEF OF DEFENDANTS
(Redacted Version for Public Distribution)

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INTRODUCTION

After two rounds of briefing, the positions of the parties pose a rather stark choice:

If plaintiffs are right, then the Constitution condemns the Nation to endure a campaign finance system that is rife with influence-peddling, ridden with loopholes that mock existing law, encourages evasion on a massive scale, and causes over seventy percent of the American people to believe their government is corrupt. The First Amendment renders Congress impotent to solve these problems, say the plaintiffs, even if an unanswered “perception of impropriety . . . jeopardize[s] the willingness of voters to take part in democratic governance.”¹

If defendants are right, then Congress has the power to protect the integrity of federal elections and federal officeholders from the insidious assaults of actual and apparent corruption, to reinvigorate longstanding bans on the use of corporate and union money in connection with federal elections, to close loopholes in longstanding (now increased) contribution limits and in the presidential public financing system, and to restore respect for the law by abandoning unworkable and easily evaded distinctions that have had some currency in the life of the law but have had no viability in the real world life of American politics.

To sustain the Bipartisan Campaign Reform Act (“BCRA”), this Court need not venture beyond established constitutional jurisprudence. Existing jurisprudence amply supports the conclusion that Congress has acted constitutionally in limiting soft money, sham issue ads, and other abuses. And the legislative history, as amplified by the substantial adjudicative record, leaves no question that these abuses exist and that they pose serious problems which must be addressed if “confidence in the system of representative Government is not to be eroded to a disastrous extent.”²

¹ *Nixon v. Shrink Missouri Gov’t PAC*, 528 U.S. 377, 390 (2000).

² *Buckley v. Valeo*, 424 U.S. 1, 27 (1976).

A bipartisan majority of Congress, after years of effort, has responded by producing a sensible set of reforms to restore citizen confidence in government. Because Congress acted in an area where it is uniquely expert, the Court owes substantial deference to Congress's findings and its judgment about how best to accomplish its objectives.