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House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, July 17, 2012, at 12 noon.

Senate

MONDAY, JULY 16, 2012

The Senate met at 2 p.m., and was called to order by the Honorable CHRISTOPHER A. COONS, a Senator from the State of Delaware.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal God, who keeps us in Your love, forgive us when we give our best to the wrong things. Keep us from becoming annoyed and angry about things which in our calmer moments we know do not matter. Give our lawmakers this day the wisdom to know what is important and what is unimportant so they will never forget the things that truly matter. Help them, Lord, to never let the things that do not matter to matter too much. Give them in all their duties Your help, in all their perplexities Your guidance, and in all their dangers Your protection.

We pray in Your great Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable CHRISTOPHER A. COONS led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. INOUYE).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 16, 2012.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CHRISTOPHER A. COONS, a Senator from the State of Delaware, to perform the duties of the Chair.

DANIEL K. INOUYE,
President pro tempore.

Mr. COONS thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

DISCLOSE ACT OF 2012—MOTION TO PROCEED

Mr. REID. Mr. President, I now move to proceed to Calendar No. 446, S. 3369, the DISCLOSE Act.

The ACTING PRESIDENT pro tempore. The clerk will report the bill by title.

The legislative clerk read as follows:

Motion to proceed to Calendar No. 446, S. 3369, a bill to amend the Federal Election Campaign Act of 1971 to provide for additional disclosure requirements of corporations, labor organizations, super PACs, and other entities, and for other purposes.

SCHEDULE

Mr. REID. Mr. President, at 5 p.m., the Senate will proceed to executive session to consider the nomination of Kevin McNulty to be United States District Judge for the District of New Jersey.

At 5:30 p.m., there will be two rollcall votes. The first vote will be on confirmation of the McNulty nomination. There will then be 10 minutes of debate prior to a cloture vote on the motion to proceed to the DISCLOSE Act.

MEASURE PLACED ON THE CALENDAR—H.R. 6079

Mr. REID. Mr. President, I am told H.R. 6079 is at the desk and due for a second reading.

The ACTING PRESIDENT pro tempore. The clerk will read the bill by title for the second time.

The legislative clerk read as follows:

A bill (H.R. 6079) to repeal the Patient Protection and Affordable Care Act and health care-related provisions in the Health Care and Education Reconciliation Act of 2010.

Mr. REID. I now object to any further proceedings on this matter.

The ACTING PRESIDENT pro tempore. Objection is heard. The bill will be placed on the calendar under rule XIV.

THE DISCLOSE ACT

Mr. REID. Mr. President, Thomas Jefferson, one of our greatest Presidents, once said,

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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The end of democracy . . . will occur when government falls into the hands of lending institutions and moneyed corporations.

Campaign finance reform protections we have in place—and have had for many years—have solved the problem Jefferson talked about by limiting political spending by corporations. Then out of nowhere came the Supreme Court to issue its Citizens United opinion, rolling back a century of work to make elections transparent and credible.

The result of Citizens United has been a flood of corporate, special-interest campaign spending by shadowy front groups with questionable motives. Not since the days of Teddy Roosevelt, a Republican who put a stop to unlimited corporate donations, has America seen this kind of out-of-control spending to influence elections.

Democrats and the majority of Americans believe the Supreme Court got it very wrong with Citizens United. Anonymous spending by so-called nonprofits, often backed by huge corporate donors or a few wealthy individuals, used to make up 1 percent of election spending. This year it will make up well over half of the spending. There is no question Citizens United opened the door for big corporations and foreign entities to secretly spend hundreds of millions of dollars to influence elections and undermine the fairness and integrity of the process. Let us look at Nevada. Through the first part of this year, more money has been spent per capita on TV ads in Nevada than in any other State in the country. Most of the ads have been funded by anonymous groups flush with cash from these huge oil interests, Wall Street, moneyed interests, foreign gambling interests, and other interests seeking greater influence in Washington.

Voters in Nevada and across the country deserve to know who paid for these ads. We have proven it is possible to remove the veil of secrecy from outside money and make the process more transparent. We have done that before and we need to do it again. We can require large political donors to disclose their identities so voters can at least judge their motivations for themselves.

Requiring large donors to disclose their entities is not a new concept. In fact, my counterpart, Senator MCCONNELL, and many of his Republican colleagues, have supported this in the past. The legislation today before the Senate—the DISCLOSE Act—would require disclosure of donations in excess of $10,000 if they are used for campaign purposes.

The bill treats all political entities equally—whether unions, corporations, business associations, or super PACs. And contrary to Republican claims, this legislation would not require organizations to turn over membership rosters or lists of grassroots donors. Rather, it would prevent corporations and wealthy individuals from using front groups to shield their donations from disclosure.

Yet my Republican colleagues, with rare exception, have lined up against this commonsense legislation. Their newfound opposition to transparency makes one wonder who they are trying to protect. Perhaps Republicans want to shield a handful of billionaires willing to contribute nine figures to sway a close Presidential election.

If this flood of outside money continues, the day after the election 17 angry old White men will wake up and realize they have just bought the country. That is a sad commentary. About 60 percent or more of these outside dollars are coming from these 17 people.

These donors have something in common with their nominee. Like Mitt Romney, they believe they play by their own set of rules. Mitt Romney has refused to release his tax returns. I think everybody in America now knows that. From the one and only return we have seen, we know Mitt Romney pays a lower tax rate than most middle-class families. We know he has a Swiss bank account. We know he takes advantage of tax shelters in the Cayman Islands and tax shelters in Bermuda. But we can only guess what new secrets would be revealed if we could examine a dozen years of his tax returns. His father, George Romney, set the standard for Presidential elections. He released 12 years of tax returns so Americans could evaluate his record for themselves. His son should also let his records out so we can evaluate his record for ourselves.

Even nominees for Cabinet posts are required to release 3 years of tax returns and declare financial holdings worth more than $1,000. Romney's refusal to be open and honest would disqualify him from even being a Cabinet secretary. And his penchant for secrecy makes Americans wonder: What is he hiding?

Thomas Jefferson famously argued: Democracy depends on an informed electorate. If that is true—and I believe it is—it stands to reason disclosure can only strengthen our democracy. But don't take my word for it. As my friend Senator MCCONNELL has said, ''Disclosure is the best disinfectant.''

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

THE DISCLOSE ACT

Mr. MCCONNELL. Mr. President, later today Senate Democrats will show where their legislative priorities truly lie.

At a moment when the American people are reeling from the slowest economic recovery in modern times, and just 5½ months away from the culmination of tax hikes and spending cuts already being referred to around the world as America's fiscal cliff, Senate Democrats want us to waste our time on the DISCLOSE Act, a bill that has only two discernible purposes: to create the impression of mischief where there is none, and to send a signal to unions that Democrats are just as eager to do their legislative bidding as ever.

Think about it. We have had 41 straight months of unemployment above 8 percent. It has been more than 3 years since the Democratic Senate passed a budget, but this is what they want to do.

For months Republicans have been urging Democrats to do something about the approaching fiscal cliff now, before it is too late. The American people don't expect us to see every crisis that comes around the corner, but they should be able to expect us to do something about the problems we do see and that we know are coming. Yet last week President Obama signaled that he and his campaign advisers think it is good politics to keep the threat of these looming tax hikes on everyone right on the table as supposed leverage in an effort to raise taxes on nearly 1 million business owners right now.

As the Washington Post reported this morning, not only do Democrats in Congress agree with him, they are ready and willing to go right off the fiscal cliff if they don't get their way. In their near fanatical crusade to inflict even more pain on American businesses, Democrats are now openly admitting that they plan to wait until this debate reaches full throttle and Americans are panicked about the outcome to do anything because they think it will make it more likely they will get their way. And if they don't, then so be it. They are ready to accept the economic and fiscal consequences. They see a crisis coming, and they don't want to waste it.

The Congressional Budget Office has said that not doing anything and walking off this fiscal cliff would lead to a recession. The IMF chief says it would threaten the global economy. Yet Senate Democrats today are announcing they are perfectly ready and willing to accept all that if Republicans don't allow them to raise taxes on the very businesses we are counting on to create the jobs we need.

This is what passes for governance among Democrats these days: Put the American people up against a wall, pick their pockets, and then hope that in the midst of the scuffle they will blame it—and the recession that would follow—on the Republicans.

Now, let's make no mistake. What the Democrats are proposing today is an entirely avoidable high-stakes game of chicken with the single-minded goal of taking more money from those who earn it for government to waste. The President made it very clear over the

weekend that he doesn't think entrepreneurs are responsible for their own success. They owe it to the government. Successful entrepreneurs owe their success to the government. That is the attitude driving everything this President and his Democratic allies in Washington are doing right now. Their one-point plan for getting America back on track is clear: You earn, we take. And if they don't get to impose it, then they will welcome a recession.

They are so single-mindedly focused on taking the earnings of others for themselves and spreading it around—in the President's famous phrase—that they are recklessly ignoring any proposal to prevent the coming crisis in order to achieve it.

Last week Senate Republicans proposed a legislative solution which ensures that no one sees their income tax go up—no one—at the end of the year, legislation that creates a path for the kind of fair, broad-based comprehensive tax reform members of both parties claim they want and which would give individuals and businesses the certainty they have been asking us to give them since the very beginning of the administration.

We could have passed this completely reasonable proposal last week and put the anxiety of millions of Americans at ease with a single vote, but Democrats, of course, refused. They would rather keep the crisis unresolved, keep it looming out there on the horizon. They think it gives them a political edge. They think it is good politics. And they should be ashamed. They should be ashamed.

Consider this: It has been nearly 1 year since the President demanded $500 billion in automatic cuts to defense at the end of this year. Yet with the date now fast approaching, we still don't know how he intends to handle it. The President's campaign wants people asking whether his opponent is hiding something on a 10-year-old tax return. How about what this President is actually concealing about his plans to slash defense? With just a few months to go before these cuts devastate communities all across the country, the President has yet to outline his plans.

Republicans in the House have already passed, and Senate Republicans have proposed, concrete plans to avoid these devastating cuts to our national defense. Our uniformed military deserves the certainty that their operations, training, support, and weapons systems will be fully funded. Meanwhile, the President hasn't demonstrated the least bit of interest in this issue—no interest whatsoever. He hasn't said a thing. He is apparently more interested in blowing smoke about his opponent's tax returns than in talking about the tax hike he actually plans to impose on the very businesses we are counting on to create the jobs Americans need—not some other day but right now.

He would rather spend his time raising unfounded suspicions about a guy whose entire professional career has been a dress rehearsal for bringing order to a government that has become so bloated, so inefficient, and so bureaucratic that it is crying out for the kind of leadership and reform Democrats simply refuse to provide. He would rather attack a guy who has succeeded at just about everything he has ever done than propose a solution himself. And the reason, of course, is perfectly clear: Washington Democrats are worried he might succeed at reforming government too. They don't want to give him the chance.

Think about it. The economy is flat on its back, millions are struggling to find work, and Democrats aren't outlining a solution. They are plotting about how to take advantage of it to advance an ideological agenda most Americans oppose and to cast doubt about anybody who poses a serious threat to the crony-capitalist bureaucratic favor factory right here in Washington.

Where the rest of us see the worst economic recovery in modern times, Democrats see another opportunity to use a crisis to grow the government, and that is what they are focused on—not on providing hope and relief for already struggling Americans but providing more tax dollars for the government to waste and misdirect. In the meantime they will waste our time with bills like this one which they know will not pass but will give them a chance to make a fuss about a problem that doesn't exist—and blow a kiss to the unions for good measure.

But if we are going to have to vote on proceeding to this bill, I would like to take a moment to explain why it is not only exhibit A in how completely irresponsible Democrats are being right now, but why it is such a terrible idea in itself.

First, a point on process. When the history books are written, the 112th Congress may well be known as the Congress of irrelevant committees—the Congress of irrelevant committees. There once was a day when committees held hearings on bills, debated them, offered amendments, and reported them out for full Senate consideration. Now it is find a bill, put it on the calendar, move to proceed, file cloture, lose, and repeat. That is today's Senate. Committees are not being used to generate good legislation. In other words, they are viewed as an obstacle to overcome in the effort to make a point in front of the cameras on the Senate floor. The latest such effort is the DISCLOSE Act, a bill aimed at doing something about people exercising their first amendment rights to participate in the process.

My question is, do something about what? Do something about races which previously would not have been competitive but now are? Do something about individuals and organizations criticizing unpopular positions and policies? Do something about groups advocating on behalf of their members to promote or oppose the very positions for which their members joined? As George Will has pointed out, the political process is not a private club with the parties and the candidates controlling membership. Under the Citizens United decision of 2010, independent groups are now able to speak, again, under the first amendment regardless of who, when, and about what they are speaking. This is something Democrats should be celebrating, not excoriating.

The Founders envisioned a nation in which speech would be promoted as widely as possible. That is what the first amendment is all about, particularly when it comes to the political process. The purpose of this legislation is totally clear. After Citizens United, Democrats realized they could not shut up their critics so they decided to go after the microphone instead by trying to scare off the funders. As Senator SCHUMER put it during debate on an earlier version of this bill, '' . . . the deterrent effect should not be underestimated.'' That was Senator SCHUMER on the real purpose of this bill: ''The deterrent effect should not be underestimated.''

Just as with the DISCLOSE Act of 2010, this amounts to nothing more than member and donor harassment and intimidation and is all part of a broader government-led intimidation effort by this administration. There are parallel efforts going on at the FCC, the SEC, the IRS, the DOJ, and the White House itself to silence its critics.

The creation of a modern day Nixonian ''enemy's list'' is currently in full swing and, frankly, the American people should not stand for it. As I have said before, no individual or group in this country should have to face harassment or intimidation or incur crippling expenses defending themselves against their own government simply because the Government does not like the message they are advocating. But that is what we are seeing.

My own view has always been, if you cannot convince people of the wisdom of your policies, then you need to come up with some better arguments. Instead, the left has resorted to tactics such as the pending legislation. This legislation is an unprecedented requirement for groups to publicly disclose their donors, stripping a protection recognized and solidified by the courts. As a result of this legislation, advocacy groups ranging from the NAACP to the Sierra Club, to the Chamber of Commerce, all of which already disclose their donors to the IRS, would now be forced to subject their members to public intimidation and harassment. Why? For supporting organizations and groups whose goals they agree with.

Predictably, unions are exempted from the kind of disclosure Democrats now want to impose on everybody else. The so-called stand by your ad provision in an earlier version has done a

David Copperfield and entirely vanished.

I am not advocating for the provision but simply to note its absence, which proves the primary goal of this bill is not good government or transparency but targeted speech suppression. That is what this is about—targeted speech suppression.

I have to give the authors credit, whoever they are. They actually list labor unions as a covered organization in the bill. However, through an elaborate scheme of thresholds and triggers, they might as well have saved the ink, since unions are largely given a free pass by this bill, despite the fact they are, by far, the biggest players in political campaigns in our entire country. No one else comes close—almost all of it, of course, on the Democratic side.

As the Wall Street Journal reported last week, labor unions spent a total of $4.4 billion on campaigns from 2005 to 2011, a staggering amount of money and perfectly within their rights, I would add, under the first amendment.

Let's be clear. The other side may be able to whip the media up into a lather over the increased participation of individuals and groups that do not like the direction this President has taken our country, but the big money is coming from the left in the form of mandatory dues to labor unions. To the left, big money from individuals and corporations is a problem. But the nearly $800 million spent by unions in 2008, oh, that is just fine and dandy—as long as nearly 100 percent of it goes to their own campaigns.

As supporters of this legislation have readily admitted, the real target of this bill is to protect themselves from criticism over their wildly unpopular policies and positions. This is precisely why this legislation has been opposed by business groups from coast to coast and opposed by everyone from the NRA—which is key voting this vote—to the ACLU, to the U.S. Chamber of Commerce. I greatly appreciate all the effort these folks have put into educating and advocating on this issue.

I will certainly do everything in my power to protect the first amendment rights from DISCLOSE, the sequel, and I ask my colleagues on both sides of the aisle to join with me in voting no. We have many serious problems in this country. Too much free speech is not one of them.

Democrats can call this bill whatever they want, but they cannot conceal its true intent, which is to encourage their allies and discourage their critics from exercising their first amendment right to speak their mind. If Democrats do not like the level playing field ensured by the first amendment and reaffirmed by Citizens United, they should do a better job convincing the American people of the wisdom of their policies and focus on real problems instead of inventing ones that do not exist. To this point, I once again urge our friends to put the political games aside and do something now about the fiscal cliff that is approaching before it is too late. Our Nation has been mired in an economic coma for years. More people signed up for disability last month than found a job. The number of Americans on food stamps continues to climb. It is all about to get worse, and we have a President who is on a single-minded crusade to punish business owners even more.

Republicans have proposed serious, concrete ideas for addressing the problems we face, but we cannot do any of it if the President and his Democratic allies in Congress refuse to join us. Unfortunately, that is where we are. Democrats have made their priorities perfectly clear and, sadly, the American people they were elected to serve appear to be very much at the bottom of the list.

I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

The Senator from Rhode Island.

ORDER OF PROCEDURE

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Senator from Arkansas now be recognized to deliver remarks regarding a casualty from his home State—for which I will take this opportunity to send my condolences and the condolences of the people of Rhode Island—and at the conclusion of his remarks that I be recognized.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BOOZMAN. Mr. President, I thank the Senator for yielding me a few minutes.

The ACTING PRESIDENT pro tempore. The Senator from Arkansas is recognized.

HONORING OUR ARMED FORCES

SERGEANT MICHAEL STRACHOTA

Mr. BOOZMAN. Mr. President, we are aware that our freedoms are not truly free and our soldiers give the greatest sacrifice in freedom's defense. The sacrifices of Americans in uniform and their families embody the courage, honor, and patriotism that we must always remember.

Today I am here to pay my respects to Army SGT Michael Strachota, an Arkansas soldier who sacrificed his life for the love of this country in support of Operation Enduring Freedom.

Sergeant Strachota graduated from Pine Bluff High School in Pine Bluff, AR in 2002. In 2007 he enlisted in the Army and was assigned to the 96th Transportation Company, 180th Transportation Battalion, 13th Sustainment Command at Fort Hood, TX.

Sergeant Strachota was aware of the dangers he faced having served a previous deployment to Iraq in 2009. His family says that Michael was proud of his job and recalled to Arkansas newspapers how excited he was about his position and how he wanted to pursue a new direction in the military as an Army Ranger or pilot.

Sergeant Strachota's family said he was known for his friendly, out-going, and generous nature and his love of the outdoors and riding motorcycles. Most of all he was devoted to his family. He delayed his R&R to be home for his son's birthday on July 5th.

Sergeant Michael Strachota answered the highest call for this country. He is a true American hero. I ask my colleagues to keep his wife Lauren, son William and the rest of this family and friends in their thoughts and prayers during these difficult times. I humbly offer my sincerest gratitude for his selfless service and patriotism for this Nation.

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island.

Mr. WHITEHOUSE. Mr. President, I rise to speak about the DISCLOSE Act of 2012, legislation that will shine some much needed light into the flood of secret money that is now polluting our elections. I would like to open with thanks to Senators CHUCK SCHUMER, MIKE BENNET, AL FRANKEN, JEFF MERKLEY, JEANNE SHAHEEN, and TOM UDALL for their hard work in our task force that developed this legislation. I look forward to continuing to work with them through this debate.

On Thursday, Majority Leader REID moved to proceed to this vital piece of legislation, and we will vote on it this evening. I thank the leader. I and many of my colleagues are looking forward to the opportunity to make the case for this important measure. But in a sense, for the American public, the case has already been made. As anyone who watches television knows, our airwaves are filled with political attack ads. The organizations paying for many of these ads have patriotic and benign-sounding names with words such as ''prosperity'' and ''freedom'' and ''future'' frequently to be found. These names sound harmless, but all too often the ads are actually paid for by secret special interests, such as billionaires and wealthy corporations seeking secret special influence in our democracy. In the process, they drown out the voices of regular American families who wish to participate in elections.

The Republican leader indicated we were going after the impression of mischief where there is none. Many Americans certainly have the impression of mischief.

As U.S.A. Today put it last week in an editorial supporting this DISCLOSE Act:

> Everybody's watching what's expected to be by far the most expensive presidential campaign in history, and not without a dose of horror. Freed by the Supreme Court from spending limits, all manner of special interests are opening the spigots to buy influence.

Here is how my home State paper, the Providence Journal, explained the Citizens United decision that unleashed this torrent of special interest money.

> The [Citizens United] ruling will mean that more than ever, big-spending economic interests will determine who gets elected. More money will especially pour into relentless attack campaigns. Free speech for most

individuals will suffer because their voices will count for even less than they do now. They will simply be drowned out by the big money.

I think the Providence Journal hit the nail right on the head. What has happened since the Citizens United decision has, in fact, proved them right. Senator JOHN MCCAIN said earlier this year:

The United States Supreme Court—in what I think is one of the worst decisions in history—struck down the restrictions in the so-called McCain-Feingold law, and a lot of people don't agree with that, but I predicted when the United States Supreme Court, with their absolute ignorance of what happens in politics, struck down that law, that there would be a flood of money into campaigns, not transparent, unaccounted for, and this is exactly what is happening.

Senator MCCAIN is right. This is exactly what is happening. It is not an impression of mischief, it is mischief on the loose.

Richard Posner, a leading conservative legal scholar and a Federal judge, recently said:

Our political system is pervasively corrupt due to our Supreme Court taking away campaign-contribution restrictions on the basis of the First Amendment.

Our political system is pervasively corrupt. This is from a conservative Federal judge.

The impact of Citizens United has been very clear. In the 2010 midterm elections, the first after Citizens United, there was a more than a fourfold increase in expenditures from super PACs and other outside groups compared to 2006—$69 million up to $305 million—with nearly three-quarters of political advertising coming from sources that were prohibited from spending money back in 2006. Also, in 2010, those 501(c)(4)s and (c)(6) not-for-profit organizations spent more than $135 million in unlimited and secret political contributions. Anonymous spending rose from 1 percent of outside spending in 2006 to 44 percent in 2010.

We are already seeing the influence of money on the 2012 elections. Super PACs and other outside groups have spent over $150 million in this election cycle, about twice of what was spent in the same period of 2008 during the last Presidential election.

Nondisclosing groups, said the New York Times, ''have accounted for two-thirds of the political advertising bought by the biggest outside spenders so far in the 2012 election cycle . . . with close to $100 million in issue ads.''

Campaigns are no longer waged by candidates and parties fighting over ideas, they are now waged by shadowy political attack groups posing as social welfare organizations run by the likes of Karl Rove and other political operatives and fueled by millions of undisclosed dollars from secret special interests. When these secret special interests take over our elections this way, it drowns out the voices of regular individual Americans. It also puts in jeopardy some of the key pillars of a strong middle class, pillars such as Medicare, Social Security, and Pell grants that have paved the way for generations to achieve the American dream but have always been the targets of special interests.

These special interests have motives. They have motives to spend this kind of money. If those motives were good for America and were welcomed by the average American, they wouldn't need and wouldn't want to keep them secret. We need to ask ourselves a very important question: What are they hiding? Why do they demand secrecy? Whatever the answer, one thing is clear: Americans who worry that Washington is too beholden to special interests now need to be concerned more than ever. Hang onto your wallets, here come the special interests, and you won't even know who they are.

As recently reported in the New York Times, secret spending groups have accounted for two-thirds of this advertising. Two-thirds of ad spending from groups, other than candidates or parties, has come from secretive corporations and billionaires whose names and agendas the voters may never know and who will have no accountability for how that money is spent. Impression of mischief, indeed.

Of course, when we don't have accountability, there is no limit to what people will say. One of the restraints on the vitriol and the filth that is so often part of the American political debate is that candidates have to stand by their ads. If someone says something that is awful, if they engage in relentless negative attacks, voters may charge them a price for that. They may find that unwelcome. That, of course, disappears when the name behind the ad is attached to no living person or corporation. It is just an entity, a sham, a phony, a shell.

How has this worked out? Not well for the American public. An April study found that about 70 percent of ads in this election cycle have been negative. That is up from only 9 percent through the same period in 2008. In 2008, 9 percent of ads in that time period had been negative. In this cycle, 70 percent have been negative. Over the last 6 months, if we look at the four top-spending political 501(c)(4) organizations, the ones that don't have to disclose their donors, they spent an estimated 85 percent of their election spending on ads containing deceptions. So 70 percent of the stuff out there is negative, up from only 9 percent, and 85 percent of the big spenders are spending their money on ads that have been determined to be deceptive.

The names of the organizations sound lovely: Americans for Prosperity, American Future Fund, American Energy Alliance, and Crossroads GPS. Without knowing who funds these shadowy groups, the American voter has no idea what mischief they are up to.

This is all a result of the Supreme Court's disastrous and misguided decision in Citizens United v. Federal Election Commission. This is the decision that opened the floodgates to unlimited and secret corporate and special interest money pouring into our elections.

This chart shows how easy it is under our current system for wealthy interests to skirt existing disclosure rules and spend secret millions in election ads. This amounts to a form of legalized political money laundering or, to use the phrase Senator MCCAIN and I used in our brief to the Supreme Court, ''identity laundering.''

Super PACs are supposed to disclose their donors under current law, but that can sometimes be weeks or months after a deceptive ad runs. If a donor wants to avoid even that disclosure, it can set up a shell corporation, which may be nothing more than a P.O. box someplace, and send the money through that super PAC through a shell corporation without a real name showing up on a disclosure form. They just launder it through the shell corporation, and the next thing they know the money is doing their work.

They can also pass the money through a 501(c)(4) social welfare organization. I put the words ''social welfare'' in quotes because that is the IRS phrase that is used for these organizations. There is very little social welfare being accomplished by the big political donor groups known as social welfare associations. The IRS gives nonprofit status to these groups whose primary purpose—and in many cases their only purpose—is to shield big spenders from having their identities disclosed. In many cases, these 501(c)(4) so-called social welfare groups are so closely affiliated with the super PACs that they have all the same staff and the same office space. It is a 501(c)(4) independent social welfare organization for the IRS with the same staff and the same office space as a super PAC. Please. Of course, the 501(c)(4) groups still don't have to disclose their donors, even when they are the same staff and the same office as the super PAC.

On this chart, we see the money raised by one of them, Citizens United, by Republican political operatives, including Karl Rove. They raised money through the Crossroads PAC. It is a super PAC, and it is supposed to disclose its donor. It has attached to it Crossroads GPS, a 501(c)(4) group that is not the super PAC and it can maintain complete secrecy for its donors. Guess which one has raised the most money. It is an easy question. It is the 501(c)(4) group that doesn't have to disclose its donors. The group raised $76.8 million through 2011 as opposed to only $46.4 million raised by its sister super PAC. This is by no means a unique situation.

As the New York Times wrote in an editorial last Sunday in support of the DISCLOSE Act, ''Corporations love the secrecy provided by Mr. Rove's group because it protects them from scrutiny

by nosy shareholders and consumers.'' They want a big influence on elections but without leaving any tracks.

An unnamed corporate lobbyist told the newspaper Politico earlier this year that nondisclosure is always preferred by corporate donors. Why is it preferred? Because it makes it impossible for the public and law enforcement to track down the corrupting influence of the money that these corporations spend in elections. The DISCLOSE Act puts an end to this nonsense. It puts an end to using 501(c)(4) groups and shell corporations to shield the identities of big donors.

One thing that should not be lost in the discussion of anonymous spending is the fact that there is one person to whom this spending is never anonymous; that is, the candidate who is either benefited or punished. Although the donors have managed to hide their identities from the public, they can sure tell the candidate how much money they are putting in the candidate's super PAC and, by the way, what position they want that candidate to take on issues. What this creates is a perfect recipe for corruption—wealthy corporations, individuals, and special interests secretly spending millions of dollars to influence a candidate in ways the public never sees.

A rich donor can secretly threaten massive spending against a candidate without even putting up the money. If the candidate doesn't take the right position on an issue, then they can pull the trigger, but they can make the threat quietly.

Political scientist Norm Ornstein recently said:

> I had this tale told to me by a number of lawmakers. You're sitting in your office and a lobbyist comes in and says, ''I'm working for Americans for a Better America. And I can't tell you who's funding them, but I can tell you they really, really want this amendment in the bill.'' And who knows what they'll do. They have more money than God.

If the candidate complies, of course, the expenditure is never made, there is no paper trail, no trace of that threat. Yet the system has been corrupted. Let's also dispense with the fiction that this spending is independent. The whole rationale for unlimited spending was that it was to be done independently of candidate campaigns. The reality is that super PACs are anything but independent. Campaigns and super PACS share fundraising lists, donors, former staff, and consultants. Candidates appear at fundraisers for their super PACs. Super PACs recycle ads that were originally run by the candidates. They share film. They are free to act as the evil twins of candidate campaigns, as one FEC Commissioner put it, raising unlimited, secret money, and then spending it on massive amounts of advertising—most of it negative—to benefit their preferred candidates.

Our campaign finance system is broken, and it lends itself to corruption in new and unprecedented ways. Immediate action is required to fix it. Today we are debating a bill that will at least bring some transparency and accountability into this election spending. This should not be a Democratic issue or a Republican issue, and in the past, it has not been. It has always had bipartisan support because it is about protecting our Democratic process. We need to pass the DISCLOSE Act now.

The USA Today editorial said:

> Citizens United left the public only one way to protect itself from the rising threat: Disclosure. At the federal level, this would be achieved by the DISCLOSE Act.

I thank USA Today for supporting this bill.

The Supreme Court also made it crystal clear in this very Citizens United decision that disclosure was an appropriate and even a necessary part of a healthy campaign finance system. Here is what Justice Anthony Kennedy wrote, writing for the majority:

> [P]rompt disclosure of expenditures can provide shareholders and citizens with the information needed to hold corporations and elected officials accountable for their positions and supporters. Shareholders can determine whether their corporation's political speech advances the corporation's interest in making profits, and citizens can see whether elected officials are in the pocket of so-called moneyed interests.

The new version of the DISCLOSE Act will do exactly this. It says nothing more and nothing less than when corporations and other wealthy interests spend money—more than $10,000—to influence our elections, their identities must be disclosed.

There is no question where the American people stand on this issue. Americans of all political stripes are disgusted by the influence of unlimited, anonymous corporate cash in our elections and by campaigns that succeed or fail depending on how many billionaires the candidate has in his pocket—or advisers, perhaps. More and more, people feel their government responds only to wealthy and corporate interests. They see their jobs disappear. They see their wages stagnate. They see bailouts and special deals for the big guys. And they lose faith that their elected officials will listen to them.

Six in ten Americans say the middle class will not catch a break in this economy until we reduce the influence of lobbyists, big banks, and big donors. Seven in ten Americans, nearly, including a majority of both Democrats and Republicans, agree that ''new rules that let corporations, unions, and people give unlimited money to super PACs will lead to corruption.'' Notwithstanding what the NRA and the chamber and other big DC lobbying powerhouses want, they are at odds with the regular American people. Indeed, one in four Americans says they are actually less likely to vote because big donors to super PACs have so much more influence over elected officials than average Americans.

These numbers should be a call to arms for anyone who believes our American democracy is one of our world's shining jewels and should be scrupulously, carefully, ardently protected. Indeed, people are answering this call to arms in numbers that are increasing every day.

I have with me today here on the Senate floor 213,000 Americans—213,000 citizen cosponsors of this DISCLOSE Act, which were collected by CREDO Action. My colleagues can leaf through them and see people from Apple Valley, MN; from San Francisco, CA; from Ashland, OR; from Austin, TX; from Long Beach, NY; from Imperial, NE; from Yorktown Heights, NY; from Brick, NJ; from Schaumburg, IL; people from all across the country—nearly a quarter of a million of them now—coming from all 50 States, and more than 1,000 Rhode Islanders are in this group. Unlike the corporations and the billionaires who are spending hundreds of millions of dollars to buy our elections and who insist on doing it in secret, these regular people are unashamed to stand up for what they believe in. Their pride in civic engagement reflects the best values of America, and their numbers show that this is an issue where a broad cross-section of Americans demand a change to what is happening in our elections.

Justice Antonin Scalia has written:

> Requiring people to stand up in public for their political acts fosters civic courage, without which democracy is doomed.

Our friends who have signed on as citizen cosponsors have that courage, and the biggest campaign spenders in the world should as well. Frankly, even those big campaign spenders should be patriotic enough to understand, as Justice Scalia did, that democracy is doomed without civic courage, and they should step up on their own. But, instead, they are hiding behind the rules and hiding their identities and trying to buy influence.

I will conclude by saying that prior to Citizens United, there was a long bipartisan tradition supporting laws that require disclosure of spending in elections. This bipartisan consensus may be reemerging. Senator JOHN MCCAIN of Arizona and I recently filed with the Supreme Court a brief that urged the Court to reconsider the flawed premise of its decision in Citizens United—the false premise that independent expenditures can't lead to corruption or the appearance of corruption. As the statistics about anonymous spending and public perception I have cited make clear, this premise has been fully discredited.

Although the Supreme Court declined this opportunity to put our elections back on a saner path, I am proud to have worked in a bipartisan fashion on that brief with Senator MCCAIN, who has long been a leader in this Congress and in this country on campaign finance issues. I hope our partnership will mark the beginning of greater cooperation across party lines on this issue of vital importance to our democracy.

There are some misconceptions about the act that have colored the public debate. We plan to explain during the course of the debate why the critics of this bill have gotten so many things just plain wrong. This act contains only the most basic provisions requiring outside groups to disclose campaign-related fundraising and spending. The legislation has been streamlined from the DISCLOSE Act that nearly passed the Senate in 2010. It places fewer burdens on covert administrations. It contains no prohibitions on spending, no special exemptions for any group or type of group. Contrary to what the Republican leader said, it does not require grassroots organizations to disclose their donors, and it treats every organization exactly the same right across the board.

Some have complained, such as a Republican witness in the Rules Committee hearing on this bill, that the so-called stand-by-your-ad requirements originally in the bill were too burdensome. He described them, actually, as radical. So we removed them. We have tried to accommodate. I know that many of my colleagues, including Senator RON WYDEN, who authored this stand-by-your-ad legislation and who has heroically fought for it for many years, remained very supportive of these provisions, and I hope we will be able to reintroduce them at another time. But we didn't, so that complaint should be closed off. Some complain that this was just an attempt to influence this election. Well, its effective date is January 1, 2013, so it will not, to the regret of many, influence this election.

According to Republican former FEC Chairman Trevor Potter, the DISCLOSE Act of 2012 is ''appropriately targeted, narrowly tailored, clearly constitutional and desperately needed.''

I stand ready to work with any of my colleagues, Democrats or Republicans, who want to make this bill better, but we can't use complaints—particularly unjustified complaints—as an excuse to do nothing.

While the status quo of unlimited secret money may work to benefit some politicians for the moment, in the long run it will hurt us all, regardless of party. Unlimited money is not a force that anyone can ultimately hope to control, and unlimited secret money is even more dangerous. More important, the American people, who are already beginning to lose faith in our electoral system, can reasonably fear that their elected officials will only care about the anonymous donors writing eight-figure checks in deals and gifts that they will never see.

Many of my Republican colleagues in the Senate know this, and they have supported disclosure in the past. Senator MITCH MCCONNELL, the Republican leader, for instance, was once a great advocate for disclosure. As he said in 2000, ''Republicans are in favor of disclosure,'' adding, ''Why would a little disclosure be better than a lot of disclosure?'' That question is as timely today as it was then.

I hope my Republican colleagues will join us in passing this important piece of legislation. Help us restore the fundamental principle of a government of the people, by the people, and for the people.

The Washington Post wrote yesterday in an editorial supporting this DISCLOSE Act:

> We'd like to see a few courageous Republicans rise in the Senate on Monday and declare: Enough is enough.

If our friends across the aisle decide to block this legislation which clearly reflects the will of the American people, I am prepared to force this issue by debating this bill long into the night. If they are unwilling to join us in our mission to shine a light on secret money elections, we will keep the lights on here.

I urge my colleagues to support the DISCLOSE Act of 2012.

I thank the Presiding Officer, and I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. KYL. Mr. President, I ask unanimous consent to speak in morning business for 15 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

FISCAL POLICY

Mr. KYL. Mr. President, today I wish to speak about two related subjects. Both are very much in the news, and both relate to the fiscal condition in the United States and what happens on January 1 if the U.S. Congress and the President allow a tax increase to be imposed upon the American people that will amount to the largest tax increase in the history of our country—about $4.5 trillion over 10 years. That tax increase is slated to go into effect unless we stop it. The effect of that tax increase on economic growth, on job creation, and on our small businesses and families will be devastating unless we act. The other subject, which is also pertinent to tax policy, is a subject that has been raised by many in the Obama Presidential campaign relating to outsourcing of jobs. Let me speak to that first because it has a direct relationship to this question of taxation.

In today's Wall Street Journal, there is an op-ed piece by Arthur Laffer and Ford Scudder called ''The Tax Cliff is a Growth Killer.'' Let me quote just two sentences from it:

> The United States faces economic collapse thanks to massive tax increases on Jan. 1, and continued deficit spending for years on end.

They go on to say:

> The blunt reality is that we cannot have a prosperous economy when government is overspending, raising tax rates, printing too much money, overregulating and restricting the free flow of goods and services across national boundaries.

Now, what does this have to do with outsourcing? There has been criticism of companies that send jobs to another country or that hire people in other countries to do work for them. The same thing can be said when a business no longer expands in the State in which it is headquartered or operating and moves part of its business to another State. We have seen our States actually compete for business. The reason they do this, in many cases, is because the business conditions under which they operate in the first State are no longer conducive to competition, for them to be able to make products or provide services that are competitive with those who are working to compete against them. So they have to go where labor is cheaper, where the costs are less, where the regulation is not as onerous, and where taxes are lower, perhaps—in other words, where the conditions for doing business are more favorable so they can continue to compete.

The same thing is true when jobs are sent overseas. The reality is American businessmen are not sitting around wondering how they can be evil, how they can fire American workers, how they can go overseas to do business. It is much easier to stay right here in the good old USA. For a whole lot of reasons, they make a lot of sacrifices to keep their businesses here. But there comes a point in time when American tax policy, regulatory policy, and the uncertainty of doing business here finally gets to the point where—in order to stay in business, in order to remain competitive—they have to find places elsewhere where they can do their work that enables them to remain competitive.

When we go to the store, and we are looking at the goods on the shelf, and we see the very same thing, where in one case it costs $5 and in the next case it costs $10, chances are we are going to buy the $5 product. If a company has to make that product overseas in order to stay competitive, that is exactly what they are going to do. It ends up helping the American consumer. It is not good for American workers who cannot work in that particular industry.

But what is the cause for it? Is it because there are entrepreneurs out there, business folks—your neighbors and mine—who want to somehow hurt American workers, who are not patriotic or who are evil people? Think about it. The answers, of course, are no. The only reason they are hiring work to be done in foreign countries is because that is how they can stay competitive, how they can offer that same product for $5, as their competitor does.

What causes them to have to do that? Well, the first thing is American tax policy. We have the highest corporate tax rate in the world. Of all industrialized countries, we are No. 1. In this case, No. 1 makes it more difficult to do business. We have the most progressive tax system; that is, the people at the highest end pay the highest amount of taxes of anyone in any country in the industrialized world. When

you take the corporate tax rate and add to it the capital gains and dividends, we have the highest tax rate—the integrated tax rate is what they call it—in the industrialized world for dividends and the second highest for capital gains.

What about regulations? We impose far more in the way of regulatory burdens on our businesses—ranging from environmental regulations to labor regulations, you name it—than most of the other industrialized countries do.

What about uncertainty? Well, we have this new law called ObamaCare that has put a tremendous amount of burden on American businesses. They are either going to have to continue to provide insurance for their employees or pay a fine. They have to pay new taxes. There are some $800 billion in taxes under ObamaCare—some 21 different taxes.

The problem here is not that there are evil businessmen who hate American workers. They bend over backwards to keep their business here; it is a lot easier. But the reason sometimes they have to go abroad is because their government treats them unfairly compared to their competitors overseas. We tax them too much. We regulate them too much. And there is too much uncertainty.

So when we are debating this subject about outsourcing, about people abroad making products that are then sold in the United States, ask yourself the question: Why would an American company do that? The answer is, they do it when they have to, when their own government's policies make it impossible for them to compete effectively here in the United States.

That leads to the second. Why would the President be proposing to add more taxes, both on American businesses and American families, at a time when we are in the middle of a very severe economic downturn, and when the President himself a year and a half ago said: To raise taxes under these circumstances would be a blow to the economy? Again, he said: You don't raise taxes in a recession.

When he said those things, our gross domestic product growth was about 3 percent. We were growing at a rate of about 3 percent. Today, it is under 2 percent, and we still have 8.2 percent unemployment. So the circumstances today are, if anything, worse than they were a year and a half ago when the President said: We should not raise taxes because it will be a blow to the economy. You don't raise taxes in a recession.

So why would the President be proposing it now? And what is he proposing? He says we should raise taxes on any individual who makes over $200,000 a year and a family who makes over $250,000. We should raise capital gains taxes to the rate of 23.8 percent; dividends the same; the death tax to 45 percent. So your dad created a business, built it up; he passed away, you and your sister are the heirs, and the day he dies, Uncle Sam says: That will be 45 percent of the value of the business, please, minus whatever the exemption is. It is unconscionable we would do that in this country.

When the President was asked by Charlie Gibson in one of the Presidential debates, when he was campaigning the first time: Senator Obama, would you raise taxes on capital gains even if it did not bring in any more revenue—because economists all agree that frequently raising the rate actually results in less tax collection because people do not sell the property that would be subject to the tax under those circumstances—what did he answer? He said, yes, he would still raise it, even if it did not bring in more revenue. And the reason is because he wanted to redistribute the wealth from people who made money to other people to whom it would be given, presumably.

So this is not about deficit reduction as much as it is about a theology that we need to raise taxes, and we need to raise it on people who are the productive, successful people in our society who make money.

If you take the top quintile of taxpayers—the top 20 percent, high income earners—they already pay 90 percent of the taxes in the country. Is it fair that top 20 percent should pay 90 percent of the taxes? Well, you can argue whether it is fair, but I think for the President to say that is unfair, they should pay even more, raises the question: Well, how much more? Should they pay all of it? Should 20 percent of our citizens pay all of the taxes for everybody else? Nobody else has to pay anything? As it is, the rest of us only pay 10 percent.

So what is fair? Why is it fair to take away from people what they have earned and what they want to save in order to give it to somebody else or to have the government spend the money as if the government was wiser in spending money than the citizens are?

The reality is the people who are successful, who make money, create capital, which is then invested in businesses, and that investment promotes job creation and economic growth, raising the gross domestic product for all of us. That is the economics of success and it is the opportunistic society this country has held sacred for over two centuries. Give people an opportunity to succeed, and when they do, do they put their money—the money they earn—do they put it in a mattress? Well, not anymore. You either put it in a bank or you invest it with a mutual fund or in some other kind of investment.

What happens when that money is put in the bank or in the mutual fund? It creates capital for somebody else to use, to create a job, to invent a new product, whatever it might be. It helps business expand.

So why would you change your mind, a year and a half after you said it would be a blow to the economy, to now suggest raising taxes? And who are these people who make $200,000? Well, it turns out about a million of these people—940,000, to be exact—are business owners. These are the small business folks who create the jobs—most of the jobs coming out of the recession. In fact, they account for 25 percent of all jobs in America. A quarter of all of the jobs are by these very folks on whom you are going to raise the taxes.

I know some people said: Well, that is only a small percentage of the business owners, it is only 3 percent. Yes, and that 3 percent accounts for 53 percent of the income taxes paid. In other words, these are the businesses that are creating the jobs. They employ a quarter of all of the people in country. They are paying 53 percent of the taxes in this tax bracket. The reality is, when raising taxes on that group, you are going to make it more difficult for them to grow their businesses, to add more people.

Here is an example. A woman by the name of Karen Madonia, who is the CFO of a family business in Aurora, IL—it is called Illco, and it supplies ventilation and heating and air conditioning and refrigeration equipment—testified before the House Small Business Committee in May. Among the things she said was—and I am quoting her now:

> We don't have money sitting in the bank to pay more taxes—all our profit is invested in the business. If we have to pay more taxes, that means we can't hire workers or buy trucks and inventory.

That is typical of small businesses. The money is plowed back into the business. And when the owner passes away, it goes to his heirs—and then subject to the kind of tax we are talking about here? That would be devastating to this kind of business.

One of the objections from those who support the President's idea of raising taxes is that: Well, the Bush tax cuts benefited the wealthy more than anybody else. Bear in mind that the Bush tax cuts applied to everybody. That is the tax rate that has been in existence now for a decade, and everybody's taxes were reduced to some extent.

They say: Well, that contributed to the deficit. How much did it contribute to the deficit? The Congressional Budget Office, nonpartisan, recently issued a report, and in that report they calculated the difference between the projections of a surplus and then the resulting deficit and what was the reason for that. Do you know what they found? That the amount of tax relief to this top 20 percent of taxpayers—the high income earners—accounted for all of 4 percent of the deficit. And how much did the new spending and the interest cost on that spending account? Over 12 times as much. So the reality is the Bush tax cuts, which helped everyone, did not help the wealthy more than everybody else, did not contribute to the deficit, and, in fact, those taxpayers are now paying 94 percent of income taxes, up from 81 percent before

the Bush tax cuts went into effect. So that high income group is paying more now in taxes than it did before the Bush tax cuts went into effect.

My point here is, when the President demagogs this issue, suggesting that somehow it was only the rich who got the benefit of the Bush tax cuts and we have to take that money away from them, they are paying more than they did before, and it only accounted for 4 percent of the deficit. And these are the very people who are creating the jobs in America today. So why would we want to raise taxes at this point on anybody, including on this group of people?

My final point: Again, the nonpartisan Congressional Budget Office has issued a report in which they say that this fiscal cliff—the combination of across-the-board sequestration and the expiration of the existing Tax Code on January 1—will result in a new recession; that we will have growth next year of only one-half of 1 percent if we allow that to happen. Why would the President be willing to raise taxes on America and take a chance that we are going to drive ourselves even deeper into economic trouble than we already are?

I urge my colleagues to work together to forestall these new tax increases on all Americans and to forestall the sequestration—a combination of which will drive us back into recession.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico.

ORDER OF PROCEDURE

Mr. BINGAMAN. First, Mr. President, I ask unanimous consent that following my remarks, the Senator from Utah, Mr. HATCH, be recognized.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BINGAMAN. Mr. President, I came to speak on the DISCLOSE Act. I would say parenthetically that I congratulate my colleague from Arizona for his statement earlier—a spirited defense of those U.S. business leaders who choose to shift jobs overseas. That is a subject for another day. I will not engage in that debate today, but I think it admirable that he feels compelled to make that case here on the Senate floor today.

I want to speak in support of the DISCLOSE Act. If there is one thing that Democrats and Republicans should be able to agree on, it is that our campaign finance system is broken. My colleague from Rhode Island made that point earlier, and I certainly agree with that.

With the Supreme Court's decision in Citizens United, corporations, unions, and other groups are able to raise millions of dollars through secret contributions and spend unlimited amounts of money to influence Federal elections, as long as they do not directly coordinate with a candidate.

According to the Federal Election Commission, it is expected that something over $11 billion will be spent over the course of the 2012 elections. That is about twice the 2008 level of spending. This is a staggering amount of money, and the source of much of that money will be completely in the dark. As a result, extraordinarily well-financed special interest groups dominate the airwaves, and it is nearly impossible for the average citizen to know who is behind campaign ads. In fact, it is nearly impossible for experts to know who is behind particular campaign ads.

This is not good for public discourse, and it is not good for our democracy. In a healthy democracy, voters need to be able to make informed decisions about the information that is presented to them. The lack of transparency that currently exists in our political system makes that incredibly difficult.

I strongly disagree with the Supreme Court's ruling in the Citizens United case, but the reality is that short of a constitutional amendment or a decision by the Court to reverse its opinion—both occurrences are unlikely anytime in the near future—the ability of Congress to restrict independent expenditures is very limited.

There is something we can do now that would make a difference. We can enhance transparency with respect to the high-volume spending that is influencing our elections. We may not be able to stop the flood of unlimited spending, but we can shed some light on the process and enable the public to at least see where the money is coming from.

The enactment of legislation requiring greater transparency about who is spending on campaigns was specifically called for by the Supreme Court in the Citizens United decision. The Republican leader in the Senate has argued against the DISCLOSE Act on the theory that it would squelch political speech.

I ask unanimous consent to have printed in the RECORD following my remarks an opinion piece in Politico this morning entitled, ''MITCH MCCONNELL dead wrong on DISCLOSE Act.'' It was written by Adam Skaggs, the senior counsel for the Democracy Program at the Brennan Center for Justice at the New York University School of Law.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BINGAMAN. In that opinion piece Mr. Skaggs points out that there is no legal or logical basis to support the Republican leader's argument. The DISCLOSE Act is an important step in the direction of requiring transparency. The legislation would require certain organizations that make more than $10,000 in campaign-related expenditures to file a disclosure report with the Federal Election Commission and to report the names of any donors who contributed over $10,000.

About 93 percent of the money raised by super PACs in 2010 through 2011 came from donors giving over $10,000, and this legislation would shed some light on where this money is coming from. The disclosure requirements apply to corporations, to labor unions, to 501(C)(3) nonprofit organizations, and to 527 election advocacy organizations, but they would not apply to 503(c)(3) charitable organizations.

The legislation also includes mechanisms to protect legitimate nonpolitical donations from disclosure and prevents funding sources from being hidden by laundering funds through third-party groups. It is clear our campaign laws are outdated. They are in desperate need of revision. Frankly, I wish there was a consensus in Congress to make more fundamental reforms to our campaign finance system than we are considering today. Unfortunately, this is not presently the case, but I hope that we could build bipartisan support for some basic disclosure provisions and for this narrowly tailored bill that is pending in the Senate.

A much more comprehensive version of the DISCLOSE law was filibustered by Republicans in 2010. The revised version we are currently debating has been narrowed significantly. The provisions banning campaign spending by foreign entities and government contractors were removed. Corporate campaign spending is no longer required to be reported to shareholders, and lobbyists will not have to report their campaign spending in their annual disclosure reports under the bill being considered in the Senate.

The new bill also raises the disclosure trigger from $600 to $10,000 to focus only on large donations and to reduce the burden on organizations. The newest version dropped the ''stand-by-your ad'' provision that required the listing of donors in TV and radio ads.

I am not unsympathetic to first amendment concerns regarding the rights of politically active groups that want to be engaged in the discussions regarding the future of our country, but enabling corporations and special interest groups to use what are essential shell organizations for the simple purpose of spending vast sums of money to influence elections, and to do so in secret, is incredibly harmful to our democracy.

Requiring the disclosure of large donors is a reasonable mechanism to maintain the integrity of our electoral system without infringing on the ability of organizations to actively participate. I urge my colleagues on both sides of the political aisle to take this opportunity to support the modest but important reforms that are included in the DISCLOSE Act.

I yield the floor.

EXHIBIT 1

[From Politico, July 15, 2012]

MITCH MCCONNELL DEAD WRONG ON DISCLOSE ACT

(By Adam Skaggs)

Senate Minority Leader Mitch McConnell (R–Ky.) has launched a full-throated attack

on the DISCLOSE Act, which Democrats are set to bring to the Senate floor on Monday. DISCLOSE supporters say it ensures transparency and accountability in U.S. elections. McConnell, however, contends it's a vehicle for intimidation that will squelch political speech and let the Obama administration compile an ''old-school enemies list'' to punish critics.

Central to McConnell's strongest indictment is that the bill is a lawless end run to get around the Supreme Court's Citizens United decision. McConnell seems to suggest the Democrats' actions are not only wrong—they're un-American.

But McConnell's critique fundamentally mischaracterizes the relationship between the Supreme Court and other branches of our government. By intimating that it is illegitimate for the legislative and executive branches to develop policy in response to Supreme Court decisions, the Senate leader displays ignorance of the basic hydraulics in the founders' system of separated powers.

Indeed, suggesting that enhanced disclosure undermines Citizens United takes what Justice Antonin Scalia might call ''a particularly high degree of chutzpah.'' The decision endorsed robust disclosure—by a near-unanimous, 8–1 vote.

''The First Amendment protects political speech,'' Justice Anthony Kennedy wrote for the majority, ''and disclosure permits citizens and shareholders to react to the speech of corporate entities in a proper way.''

McConnell, by arguing that disclosure undermines the First Amendment, is in fact turning Citizens United on its head.

He also misrepresents the relationship between branches of government. To be sure, the role of the elected branches is distinct from that of the judiciary. It is emphatically the job of the courts to say what the law and Constitution mean, and the President and Congress may not trump the Supreme Court's interpretation. But once the high court announces its interpretation, it is appropriate, sometimes even expected, that elected officials develop new statutes and policies that fit the new parameters.

That is exactly what Congress is seeking to do with DISCLOSE. Citizens United posited the benefits of a ''campaign-finance system that pairs corporate independent expenditures with effective disclosure,'' explaining that ''disclosure of expenditures can provide shareholders and citizens with the information needed to hold corporations and elected officials accountable for their positions and supporters.''

But, because of numerous loopholes in current law, effective disclosure exists today only in theory—not reality.

The proposed law would remedy that deficiency by requiring groups that run campaign ads to disclose their major contributors—while letting donors who earmark contributions for nonpolitical purposes remain anonymous. The bill represents a clear constitutional exercise of congressional power—consistent with the guidelines laid out by the court in Citizens United.

This back-and-forth dialogue among the branches of government, driving the creation and development of law and public policy, is healthy, even essential, for democracy. This policymaking in response to Supreme Court decisions is also routine—contrary to McConnell's specious argument.

After the court read the Civil Rights Act to limit certain gender discrimination claims, for example, Congress responded by passing the Lilly Ledbetter Fair Pay Act to extend the statute of limitations for such claims. In another case, soon after the court struck down the military commissions the Bush administration had set up to try Guantanamo detainees, Congress passed the Military Commissions Act to create new panels it hoped would pass muster before the high court.

Policymaking in the states follows the same dynamic. After the Citizens United decision, more than 10 states responded by amending their laws—many to require disclosure of the new corporate political spending that the ruling enabled.

There is nothing out of the ordinary—and certainly nothing untoward—about these or countless other examples of lawmakers responding to legal precedent. The only remarkable thing is McConnell's contention that this legislative action is somehow illicit.

In fact, legislative responses to Supreme Court rulings can sometimes be necessary. When a court rests its decisions on a policy assumption that turns out to be wrong, elected officials have an obligation to address that discrepancy. Citizens United conditioned corporations' right to unlimited political speech on transparency—pairing corporate spending with ''effective disclosure''—so voters could better understand what groups are trying to influence their votes.

By passing DISCLOSE, Congress can ensure that reality conforms to the idealized disclosure system that the Supreme Court assumed existed.

While they're at it, Congress should address one more Citizens United problem. The ruling allows corporations to make independent expenditures because, it said, spending wholly independent of candidate campaigns could not lead to corruption.

Unfortunately, much of the outside spending now dominating the 2012 election has come from candidate-specific super PACs, functioning like de facto arms of the candidate campaigns. About as far from ''wholly independent'' as can be imagined.

Congress should adopt meaningful coordination rules to police the ties between campaigns and super PACs—and ensure that groups claiming to be ''independent'' really are.

It is not an ''end run'' around a Supreme Court ruling that embraced transparency and independence for Congress to ensure transparency and independence. Despite McConnell's 'Chicken Little' rhetoric, it's what democracy is about.

The ACTING PRESIDENT pro tempore. The Senator from Utah.

FISCAL POLICY

Mr. HATCH. Mr. President, today the Senate is taking more time to debate a bill that will have little consequence for the American people—all people, that is, but those who work in the White House on President Obama's reelection campaign.

We are in our 41st straight month with unemployment above 8 percent, but the Senate is again taking up precious time—time that could be devoted toward creating jobs—to address legislation that is instead designed to create votes for the President's flagging reelection efforts. I would be outraged at this partisan display if it were not so pathetic, but in the end I think the American people will have enough outrage to spare.

It is important for the American people to know what the Senate Democratic leadership considers pressing business. Today the world's greatest deliberative body, the Senate, takes up one of the most deliberately political pieces of legislation you will ever see. Meanwhile, my friends on the other side of the aisle are now saying that when faced with the choice of addressing the fiscal cliff we are facing at the end of this year by raising taxes on small businesses, they will take their stand with tax hikes.

This is remarkable. Rather than stop the country from going over the fiscal cliff and preventing the expiration of the 2001 and 2003 tax relief, they are prepared to ''Thelma and Louise'' the American economy right off the cliff.

This is an astonishing admission, but it is not surprising. We hear from the other side about Republican orthodoxy on tax relief, but we rarely hear them come clean about their own economic orthodoxy. Occasionally it emerges for all to see.

On Friday in Virginia the President let his real views on economic matters slip. Here are his views on business owners.

> Somebody helped to create this unbelievable American system that we have that allowed you to thrive. Somebody invested in roads and bridges. If you've got a business—you didn't build that. Somebody else made that happen.

Well, the President is right that somebody did make that happen. The people who made it happen are called taxpayers. The President seems to think the Department of Transportation just made those roads and bridges happen, but that is not how it works. Nothing happens in this country—no roads, no bridges, no firefighters, no military, no public schools, no nothing—without taxpayers footing the bill.

Much of that financing comes from the very small businesses on which President Obama was lecturing on Friday and on which he and his allies are desperate to raise taxes. Their economic philosophy appears to be that government is the engine of the economy when, in fact, the government ceases to exist without economic growth and the tax revenues that fund all of these investments the President wants to spend on.

With this bizarre world view, it is not surprising that President Obama and Senate Democrats think it is more important to raise taxes on over 1 million small businesses than it is to prevent a recession and encourage job growth. If we do not address this fiscal cliff, taxes will go up by over $4.5 trillion over the next 10 years. The President's former Director of the Office of Management and Budget has suggested this might throw us into a recession. The Federal Reserve has suggested this dire outcome as well. But instead of dealing with it by extending the existing tax rates, the President and Senate allies are playing chicken with the economic recovery. They are playing games not only with the economy, but they are playing games with peoples' livelihoods. This is a disgrace.

The American people understand that tax increases in the name of deficit reduction wind up being tax increases to fund larger government.

That has been the history of my 36 years here, and the American people have the last say on this matter. A recent poll found that a majority of the American people want all the 2001 and 2003 tax policy extended—all of it. Then we can undertake fundamental tax reform. Why can't we do that? What is the other side's objection?

There is no real policy objection. The only real objection is that it diverts the President and his Democratic allies from their real pressing business, which is apparently getting the President reelected. Here we are debating another bill that will do nothing to create a job and nothing to get our economy moving again.

The politically motivated bill du jour is the DISCLOSE Act. I oppose this legislation on policy grounds, but just as importantly, I oppose the majority's ongoing effort to convert the U.S. Senate into a vessel for President Obama's political campaign. The majority knows this legislation will not pass in the Senate, or at least they should know, given the fact this Chamber has already rejected this legislation. What is worse is that it appears that the majority does not even want this legislation to pass. What they want and what has become too common in the Senate these days is another dog-and-pony show—another opportunity to demonize the business community in service of the President's class warfare campaign theme.

My friends on the other side of the aisle would have you believe the Supreme Court's Citizen United decision has paved the way for a corporate takeover of our election system, that corporations are spending untold millions to influence elections with no accountability.

What they will not tell you is that increased spending by super PACs in this campaign cycle has nothing to do with Citizens United. While they are touting the benefits of increased disclosure, they conveniently leave out the fact that super PACs are already required to disclose their donors and that the Supreme Court in Citizens United no less actually upheld those disclosure requirements.

Furthermore, and contrary to the majority's talking points, Citizens United has not led to a dramatic increase in corporate campaign spending. Yet the majority argues that the dangers of corporate campaign spending are ever present and, as a result, we need to know the names and addresses of individual donors to such campaigns.

So with the dangers to democracy of corporate giving and the negative impact of Citizens United largely straw men, what is the purpose of our debating this bill today? Clearly, this effort is more about discouraging political speech than on transparency. It is just another effort on the part of the Obama administration and their congressional allies to intimidate those who disagree with the President's policies. Not able to defend these policies, it is critical that the President discourage those who would criticize them.

We saw this last year when the President issued an Executive order that would, in effect, give the President the authority to deny government contracts to certain companies based on their donations or political engagement. Earlier this summer, the IRS requested confidential donor information from organizations applying for tax exempt status, information that is protected by Federal law—the confidentiality of which is protected by Federal law.

This past June I was joined by a number of my colleagues in expressing our concerns about these questionable IRS practices, and we are still awaiting a response. Liberal advocacy organizations have publicly stated that they plan to use campaign disclosures to intimidate and embarrass those who have donated to opposing campaigns. As we have seen in several recent news reports, many political operatives have already done so.

The DISCLOSE Act would make this type of political intimidation easier and more common. So given the other side's track record when it comes to ''transparency,'' I hope they excuse me if I am a bit skeptical when they claim this is about good government and not about punishing political opponents.

If the majority wanted us to take them seriously in this effort, they would have at least included provisions that would apply the same type of standards to the labor unions who have, for decades now, bankrolled Democratic election campaigns on the local, State, and Federal levels—and to the tune of billions of dollars, and they are the best political operatives in the business. It is no accident that the unions are far more likely than corporations to engage in the type of advocacy and political spending the majority is deriding in this debate.

Yet while the language of the DISCLOSE Act ostensibly applies to union spending, the unions' bottom-up business model of funding their political activities would continue unabashed under this legislation without a single additional disclosure on the part of most unions.

This can hardly be a coincidence.

Mr. President, in Citizens United, the Supreme Court reaffirmed that money spent in the political process is protected by the first amendment. While this may be accompanied by spending and speech that some find objectionable, such is the natural byproduct of living in a country that has a first amendment.

While colleagues are free to lament the results, they should not use this occasion as an opportunity to silence citizens who oppose their agenda and discourage their critics from speaking out. Because the DISCLOSE Act seems designed for that very purpose, I urge my colleagues to vote no on cloture.

As much as I disagree with the decision of the Senate leadership to play political small ball when there are pressing fiscal issues facing this country, I appreciate their desire to shift the debate to politically expedient legislation. The fact is, from a policy perspective this administration has come up wanting again and again.

Last week the President, when asked to evaluate the failings of his administration, claimed he had focused too much on policy. This is like a recent college graduate saying at a job interview that one of his biggest shortcomings is that he cares too much and sometimes works too hard.

Give me a break. For all of the trillions in new spending and tax hikes, there is apparently nothing in the President's policy record worth defending. In fact, their modus operandi is to avoid any discussion of any policy at all, pretend the last 4 years did not happen, pretend the stimulus did not happen, pretend the efforts of cap and tax and union card check did not happen, pretend ObamaCare did not happen, and, instead, just smear the opponent.

When the President said his administration needed to focus less on policy and more on storytelling, I guess this is what he had in mind: Rather than defend his own policies, he and his campaign surrogates would develop a storyline that smears their political opponent. That is all fine and good. As they say, life is about choices, but let's not sugarcoat this decision. It is an ugly one, and the President will have to live with it.

Should the President be forced to defend his record, he would have a lot of explaining to do. Just last week we learned another doozy from his administration.

In essence, by the stroke of a pen—and against the clear intent of bipartisan majorities of the American people, Congress, and the law itself—President Obama's administration has attempted to undo welfare reform, one of the signature bipartisan policy achievements of the last 20 years.

Nearly 16 years ago, on August 22, 1996, after two vetoes, then-President Bill Clinton finally signed the Personal Responsibility and Work Opportunity Reconciliation Act—otherwise known as welfare reform. This landmark legislation, the product of the Republican-controlled Congress, ended the entitlement to welfare and replaced it with a block grant to the States. This block grant, known as the temporary assistance for needy families—or TANF—provided States with unprecedented control over welfare programs in exchange for meeting Federal work standards.

Since enactment of welfare reform, welfare caseloads have dropped dramatically. Families receiving welfare have dropped by nearly 60 percent. People got jobs who were unemployed for years, and they gained self esteem from working.

Welfare reform remains popular and is often cited as the most significant

domestic policy accomplishment in decades. The core philosophy behind welfare reform is the emphasis on work and moving from dependency to self-sufficiency.

Despite the popularity of welfare reform, programs created under TANF have languished. As more States were able to get credit toward the Federal work requirement based on the declining caseloads, TANF increasingly became less of a welfare-to-work program and more of a funding stream to prop up other social programs.

In 2005, the nonpartisan Government Accountability Office reported that several States listed as part of their definition of a ''Federal work activity'' under TANF some of the following: One, bed rest; two, personal care activities; three, massage; four, exercise; five, journaling; six, motivational reading; seven, smoking cessation; eight, weight loss promotion; nine, participating in parent-teacher meetings; ten, helping a friend or relative with household tasks and errands.

My gosh.

The Deficit Reduction Act of 2005, which then-Senator Barack Obama opposed, attempted to refocus State efforts on getting individuals engaged in work and closing these work activity loopholes. The funding authority for TANF expired at the end of fiscal year 2010.

The Obama administration has not proposed a comprehensive reauthorization of TANF, and TANF has continued under a series of stop-gap extensions. Late last week, the Obama administration quietly released ''guidance'' to the States, informing them that the administration had granted itself authority to waive work requirements in TANF, ''including definitions of work activities and engagement, specified limitations, verification procedures and the calculation of participation rates.''

In the 16 years since the creation of the TANF, no administration has concluded that they have the authority to waive TANF work requirements. The provision in the Social Security Act, section 1115, which allows certain waivers, does not cite the section of the law that includes the TANF work requirements. In an attempt to justify the waiver scheme, the Obama administration cites a reference in section 1115 to a provision dealing with a TANF State plan. Because the State plan section refers to the work requirements, according to the Obama administration, this allows them to waive TANF work requirements.

Mr. President, if this sketchy logic is allowed to stand, a case could be made that there is virtually no domestic social program whose rules and protections cannot be waived. For example, since Medicaid is referred to in section 1115, and since the foster care programs are referred to in the Medicaid statute, a case could be made that under the administration's sketchy logic the protections for children in foster care could be waived.

This executive overreach is a very serious matter with major long-range implications. The Obama administration, through this waiver scheme, is attempting to unilaterally disarm the legislative branch of the government and accomplish by executive fiat what they never even attempted to do through the regular legislative process.

This administration has consistently demonstrated a flagrant disregard for the constitutionally mandated coequal branch known as the legislative branch. This is but the latest in a series of decisions that demonstrates the administration's sheer arrogance in attempting to bypass Congress without legal warrant.

To be clear, disregard of Congress's power to make the laws under which we live is disregard for the American people. The essence of Republican governance is that the American people have a say in what the laws are. That say comes through their elected representatives, not some unelected bureaucrat putting out guidance that is in flat contradiction to the wishes of the people's representatives and the clear text of the law that is supposedly being enforced.

Ours is a government of laws, not of men. With this action, the administration has shown that it will not let the constitutional prerogatives of Congress or the actual intent of the law stand in the way of their policy goals.

We cannot let this stand. I, for one, have no intention of letting it stand. Let me just say when we did the temporary assistance for needy families bill, one of the most important provisions in that bill was the work activity provision. Because people had to go to work after a certain period of time—during which we gave them help, money, subsidization, and did all the necessary things to help them go to work—literally about 60 percent to two-thirds of those who had been on welfare, some for generations, went to work and gained self esteem by supporting themselves.

I, for one, have no intention of letting it stand. I will shortly introduce legislation to halt this risky scheme and attempt to gut welfare reform. I urge colleagues to stand with me. Nothing less than the constitutional viability of the Congress is at stake.

I can imagine if Senator Byrd, who was the majority leader for many years and became the principal rules person on the Senate floor for most of my service—if he were here today he would be having a fit over this type of arrogance by this administration or any other administration, Republican or Democrat. He would be standing for the rights of the Senate.

I caution my colleagues on the other side that it is time for them to stand for the rights of the Senate and the House—this legislative body called the Congress. We have to quit this and quit relying on an out-of-control administration to do Executive orders that modify what is really legislation passed by this branch of government, which is supposedly coequal.

I hope we will all fight. Our country will be better off if we do.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, what is the parliamentary situation?

The ACTING PRESIDENT pro tempore. The Senate is considering the motion to proceed to S. 3369, the DISCLOSE Act.

Mr. KERRY. Senators are permitted to speak on the previously agreed-upon time?

The ACTING PRESIDENT pro tempore. There is no time.

Mr. KERRY. Mr. President, I appreciate the opportunity to say a few words about the DISCLOSE Act, which we are debating on the floor of the Senate.

I have been involved in this issue of campaign finance reform since I first entered politics, when I first became involved in the political discourse of our country in the late 1960s and early 1970s—a long time ago now.

With 27 years as a Member of the Senate, I have seen this debate over money in American politics. I have seen it endure its highs and also its lows.

Looking back in history, I can remember back in 1990 when we summoned 59 votes in the Senate—mostly Democrats, which will tell you a lot about this issue, and 4 Republicans, including Senators Cohen of Maine; Jeffords of Vermont; MCCAIN of Arizona, who is still here and fighting on this issue; and Senator Pressler from South Dakota. We passed a restraint on spending in American politics, a balanced bill which would have, in fact, required disclosure and limitations on spending, with a certain ability of people to be able to be held harmless if people were millionaires and spent extraordinary amounts of money. It made the playing field in America fair, and it gave the best opportunity for the American citizen—about whom this entire exercise is supposed to be focused—an opportunity to know they were not going to be bombarded with unbelievable amounts of money that distort the American political debate. We thought we had a chance, but unfortunately that bill was vetoed by the President.

It is not a coincidence that only four Republicans supported that bill. It is not a coincidence today, as we come to the floor of the Senate, that maybe no Republican or very few—very few, I think is a fair way to say it—will be willing to vote to disclose where our money comes from.

We are not even here seeking a limitation on the amount of spending. We ought to be, but we are not. We are here simply trying to get the American people the right to know who is giving the money, who is paying these millions of dollars in order to affect the

debate in America and, in most cases, I will tell everyone, frankly, to distort the debate. I believe the amount of money in American politics today is stealing America's democracy. It is robbing Americans of the right to have the kind of representation and the kind of discussion Americans deserve.

When I was first here back in 1985, we were working with people such as Bill Bradley from New Jersey and David Boren from Oklahoma and JOE BIDEN, now the Vice President, obviously, and George Mitchell, the former majority leader and Senator from Maine, all of whom were dedicated to trying to take the big money out of politics and replace it with a public match for Senate and House races. Fundamentally, the status quo won. The status quo stopped us, and the status quo is winning today.

In response to the soft money scandals—maybe people have forgotten we had our scandals in the 1990s—we finally passed the McCain-Feingold bill, modest as it was. All it did was put a ban on soft money, the soft money, which is the big amounts of money that get poured into the political system. That ban had the unintended consequence of pushing everybody to look for the biggest loophole they could find, and they found a loophole. The 527 groups, as we have come to know them, came out and the debate was again taken away from the candidates and given to outside groups that had huge amounts of money.

A lot of Americans are not aware of that. A candidate could be running and have one thing he or she wants to actually say, but outside groups can come in with enormous amounts of money and completely flood the ability of a candidate to control the message of that particular campaign and certainly have a profound impact on it. Never did we imagine then, however, that with one decision, the Supreme Court would tilt the voice of our democracy and our discourse so heavily in favor of large unaccountable interests at the expense of the average American. That, my friends, is what happened when the Supreme Court made the Citizens United decision, which is certainly the worst decision in 100 years, if not more.

What we are talking about today is a system that is simply broken. It is as fundamentally broken as the campaign system in our country has ever been. I worry personally, deeply, about what it has done to our ability to govern in the public interest and what it does today to threaten the ability of this institution to function.

In explaining why she is leaving the Senate, our Republican colleague Senator SNOWE wrote: This body is not living up to what the Founding Fathers envisioned. She spoke of our Founding Fathers' vision for the Senate, where we could reach consensus in an orderly manner. There is nothing orderly and there is no consensus. Does anyone believe we can make that kind of Senate occur today, given the kind of campaign finance system we have, where all our time—or a huge amount of our time is a fairer way to say it—is spent raising money? I have heard the majority leader and the minority leader complain they can't have Senators here Mondays, Fridays, and other periods of time because everybody is governed by the campaign schedule. We now have secret donors who blow candidates out of the water with on-air distortions that are simply mind-boggling. I lived through many of those distortions in 2004, when I ran for President, so I know what I am talking about when I talk about the power of the lie with a lot of money put behind it. I don't think anybody here believes the amount of money in the system today doesn't have the ability to drown out the voices of people who get into public service in order to get things done but who don't have that kind of money and don't have access to that kind of money.

Frankly, the fundamental reason why there is such a disparity between the numbers of Democrats who want to have a fair playing field and the number of Republicans who vote against campaign finance reform is, obviously, they have a lot more money. Corporations have a lot more money, big billionaires who don't want to be taxed in a fair way in America have a lot more money to throw at the system. So we have one guy out in Las Vegas who can put millions of dollars behind a candidate for President and keep a candidacy alive when normally it would have died long ago. The only life it had was the money. That is what happens today.

That is not what the Founding Fathers intended for this institution. Ours is a system where billions of dollars can be spent by any millionaire or billionaire or the largest corporations in the world to distort our democracy, diminish the voices of candidates, pollute our airwaves with spending whatever and wherever, and the average American doesn't even get to know where the money is coming from. They have the ability in the United States of America to do it secretly—secretly. It is secret money. The sources are unspecified and the American people don't know who is behind it.

I think it is an insult to the freedom every Senator extols the virtues of all the time in this Senate. It is an insult to the notion regarding our liberty and our equality and our fairness. It violates the rules of honorable discourse and debate, and it is a threat to every single public servant running for office in this Nation because it means their ideas can be drowned by the dollars.

I got an e-mail the other day from somebody in another country who e-mailed me and said: You guys are beginning to look like the oligarchies of the world, where the amounts of money buy anything they want.

The increased influence of special interest money, big money in our politics is robbing the average citizen of their ability to be able to set the agenda. The agenda is set by the money because the money is what runs the campaigns. As a result of the Supreme Court ruling in Citizens United, all any CEO or billionaire has to do is turn over billions of dollars to somebody who goes out and runs a media campaign.

Senator MCCAIN, as we all know, feels passionately about this issue. He recently said: ''I think there will be scandals associated with the worst decision of the United States Supreme Court in the 21st century.''

I agree with Senator MCCAIN. There already are scandals, but not everybody sees them. But I will tell you this, a lot of Senators know exactly what they are.

This imbalance we have will result in escalating media wars, where candidates are reduced to mere proxies in the process. Somewhere, at some time, those winning candidates are going to be asked to pay up on some special interest need or to tow the line on an agenda that is set by a kind of new terror that enters into our politics.

All one has to do is think about the trajectory we are on today. Will Rogers once said that ''politics has gotten so expensive that it takes a lot of money to even get beat with.'' That has never been more true. Will Rogers would be stunned by the amount of money in politics today.

In 2008, a record total of $5.2 billion was spent in Presidential, Senate, and House races. That broke the 2004 record the year I ran of $4.1 billion, and that broke the 2000 record of $3.1 billion. In other words, every single year more and more money. But now, in 2010, in the first campaign after Citizens United, there was a fourfold increase in the expenditures from super PACs and other outside groups compared to 2006—fourfold increase—in a 2-year period of time. Anonymous spending—anonymous spending—rose from 1 percent of the outside spending to 44 percent in a 2-year period of time.

That is what we get when the Supreme Court of the United States rules in a 5-to-4 decision—one vote—that corporations and big interests have the same rights to speech as individuals. I mean it is stupefying to think about it. I remember from law school that a corporation was a fictitious entity—a fictitious entity—created to provide a veil of protection for the people who form it in order to permit commerce in America. Nobody ever created a corporation with the notion it would have the same rights as a person. Corporations don't get married. They don't have kids. They don't cry. Sometimes, I suppose, when Wall Street falls apart, a few people may. But the notion that somehow corporations can have the same rights of people is an insult to the drafters of the Constitution of our country and the corollary that somehow they, therefore, get to spend the same amount of money in an election cycle as an individual.

As a result, we are now seeing a spending blitz by shadowy groups that is projected to reach billions of dollars—money that is impossible to trace to its source, money that is kept in shadows, away from the average American's ability even to ask who is paying the bills for those ads, who is behind those ads, whose interests do those ads represent? The sums of money we are talking about will mean little to the corporations compared to what they may get in return, and that is what this is all about: blocking legislation, blocking a regulation, preventing a change in the tax law that takes away a preference that has no relationship to today's economy.

There are hundreds of examples, and I have seen them through the years, where money drives the agenda of the Congress and of our politics, way in excess of what it ought to be when we measure it against the real concerns of the average family trying to make ends meet or find a job in America.

Today, we will vote on a bill—a vote that ought to go unopposed by any Member of this institution who swore to uphold the Constitution of the United States—and this vote could go a long way toward making the fight between the public interest and corporate interest, if not fair, at least transparent. The American people are smart and, given that opportunity, will begin to make some judgments about exactly what is at stake.

The DISCLOSE Act is not an act to amend the Constitution. It doesn't even overturn the decision of the Supreme Court that equated the right of corporations to people, nor does it constitute campaign finance reform. It is none of those things. Those would be structural solutions. I, frankly, am for them. I think we ought to do them. I think we need a constitutional amendment at this point in order to rectify what the Supreme Court has had difficulty discerning. But all the DISCLOSE Act would do is shed light on who is giving money—transparency.

This bill ought to receive unanimous support. It is an effort to shine the disinfectant of sunlight on corporations and faceless organizations trying to buy and bully their way into influence in Washington through campaigns that are run against the Members who disagree with them. All we need to do is look at the amount of money that has been spent against some of our colleagues who are running this year—millions of dollars dumped in anonymously in these States to try to affect those races.

In short, the DISCLOSE Act requires corporations, organizations, and special interest groups to disclose their political advertising just like a candidate for office does. That is all it requires. What could be more normal in America, what could be more American than allowing the American people to know who is trying to speak to them? I don't think it is radical, and I don't think it is prohibitive. It simply removes the fallacy that Americans are voluntarily somehow organizing to pursue some public interest. That is a farce. That is not what is happening in these instances. The truth is that Americans aren't organizing or mobilizing to bring you the vast percentage of the advertisements that are seen on TV. The truth is that corporate special interest money is being compiled and targeted to pursue a special interest and send a loud televised message to those who disagree with them that they are going to be punished and tempered. And not only is it going to tip elections, it is going to cripple the legislative process.

When the Citizens United decision was handed down, the voices that were seeking corporate largess said at that time that it is not going to have any impact. They said we need not worry about funneling new funds to candidates. But the truth is that Karl Rove has admitted that based on the Citizens United decision, he formed two new groups to influence the 2010 elections with $52 million worth of ads bankrolled anonymously by special interests. And now that the Supreme Court has opened that door to these anonymous ads, similar groups are already planning to spend approximately $300 million on the election this fall.

So whether or not you agree with the message those ads and organizations are sending, at a minimum you ought to support the idea that these messages should be sent openly and that those who send them ought to be held accountable. As I have said before, this ought to be something every U.S. Senator supports.

As chairman of the Foreign Relations Committee, I have the privilege of trying to press our interests in many different parts of the world, and I meet with people in various parts of the world who look back at us and ask a lot of questions of us about our democracy. Increasingly, people are asking whether the United States of America can deliver. Increasingly, people are looking at us incredulously and questioning our political system because we go to the brink over a default on the debt ceiling or because we can't get a budget passed because we don't do the fundamental business. And one of the most profound reasons we don't do that—and I have seen it change here—is that the power of the money, the power to influence the election has a profound impact on what colleagues are prepared to take up, what they are prepared to vote on, and how they are prepared to vote.

It is a dollarocracy that is beginning to call the shots, and the American people know it. That is why they are so disappointed in what is happening—or not happening—in Washington, DC. That is why the ratings for the U.S. Congress are so low—because it doesn't produce, it can't produce, it won't produce. And the money almost guarantees that.

This is not a new fight in our country. Teddy Roosevelt, a Republican, fought this fight in the early 1900s, and he took on the great malefactors of wealth, he took on the concentration of power, and he was the great trust buster. It was an extraordinary period of time in America confronting power.

Back in 1910, in Osawatomie, KS, Teddy Roosevelt said:

> The Constitution guarantees protections to property, and we must make that promise good. But it does not give the right of suffrage to any corporation.

He urged his listeners again and again to demand an especially national restraint upon unfair money-getting, as he called it, and the absence of that restraint, he noted, has tended to create a small class of enormously wealthy and economically powerful men whose chief object is to hold and increase their power.

What Teddy Roosevelt said in 1910 is perhaps even more true today. The reason is that during the 1990s and subsequently, we have created greater wealth in America than during the period when we did not have an income tax. People today are wealthier, comparatively, than the Pierponts, the Morgans, the Rockefellers, the Carnegies, the Mellons, and all of those famous names of the 1900s who helped build this country. Today, the wealth far exceeds that wealth, and the disparity between the average American and the wealthy has grown wider and wider than at any other time in American history. While the average American family sees their income getting squeezed and going down, the upper 1 percent has seen 10, 20, 30 times increases in their income. And that is what is playing out in the American political system today in this Citizens United decision.

All we ask today—although we ought to be asking for more. We know we can't get it now, but at least we ought to be able to get the ability of the American people to know who is putting the money into the system, who is trying to affect these votes, who is trying to set the agenda, whose interests are really at stake. That is what is at stake in this vote today, and I hope all our colleagues will vote for the right to disclose those funds to the American people, who have an inalienable right to know exactly from where they are coming.

The PRESIDING OFFICER (Mr. MANCHIN). The Senator from Texas.

TAX POLICY

Mr. CORNYN. Mr. President, earlier today our colleague from Washington State indicated that President Obama and the Democratic leadership in Congress are willing to accept the largest tax increase in American history and a series of crippling defense cuts unless Republicans will agree to raise taxes significantly falling on the very people we are counting on to get our economy going again and to create jobs. I wish to say just a few words in response.

First of all, Senators on both sides of the aisle understand that a massive tax

increase could well push our economy back into a recession. Senators on both sides of the aisle understand that it would suffocate our investments that are so important to business creation and job growth. Senators on both sides of the aisle understand that middle-class families are already struggling with high unemployment and wage stagnation. And Senators on both sides of the aisle understand that we are living through the weakest economic recovery since the Great Depression. Yet President Obama and his party seem obsessed with raising taxes on the very people who are responsible for most of that new job creation.

Led by the President, these same people are demonizing business owners and demanding that they be punished, while simultaneously demanding that these same people create jobs. It is no wonder that so many Americans are concerned about the future of the U.S. economy. In the meantime, Democratic leaders such as our colleague from Washington State are apparently ready to stand by and allow truly Draconian across-the-board defense cuts even though the President's own Secretary of Defense has said these cuts would hollow out our military and be catastrophic to our national security. It simply amazes and discourages me that some people are willing to play chicken with our economy and our national security in such a cavalier, calculated sort of way.

Given that our country has endured 41 straight months of unemployment above 8 percent and given how devastating these defense cuts would be to our military, I would like to ask our President and my Democratic colleagues a few simple questions. Are you really willing to allow the largest tax increase in American history? Are you really willing to risk the U.S. economy heading backwards into a recession by the combination of these huge tax increases and the $1.2 trillion budget sequestration scheduled for January 2? Are you really willing to tell middle-class families that their needs are less important than the political needs of your party? When it comes to the defense cuts that are part of the sequestration scheduled to go into effect in January of 2013, are you really willing to do what Secretary Panetta said would happen, which is hollowing out the U.S. military? Are you really willing to let Washington gamesmanship compromise our Nation's security? Are you really willing to tell the heroes of Iraq and Afghanistan and our veterans that their needs are less important than the political needs of your party? In short, are you really willing to put election-year politics ahead of the Nation's interests?

I can only hope that this is a temporary aberration and that the answer is really no and that cooler heads will ultimately prevail when the price of inaction becomes even more apparent, but I can't say I am at all confident.

When I hear President Obama tell the American people that the private sector is doing just fine or tell business owners that the government is responsible for their success, I realize the President simply doesn't understand the challenges facing America's entrepreneurs and job creators or the risks they take every day to create jobs. In short, I wonder whether the President really understands and appreciates the free enterprise system. It is clear he doesn't understand the damaging economic effects of misguided government policies, such as ObamaCare. A small businessman named Grady Payne recently told Congress that his 31-year-old lumber company, Conner Industries, based in Fort Worth, TX, could be ''legislated out of existence'' if the President's health care law is allowed to stand.

Whenever I head home to Texas and speak to business owners such as Mr. Payne, I hear the same complaints. People are worried that the primary engine of American job creation is being held back by regulatory overreach, a woefully inefficient and unfair Tax Code, and widespread uncertainty about the future of government policies. These are not Republican concerns or Democratic concerns, these are concerns that affect every man, woman, and child in this country but especially those who own a business, those who want to start a business, and those who are looking for a job. We all know these problems are going to have to be addressed sooner or later. My preference is that we address them sooner and not later if America is going to remain competitive in the global economy and reduce the painfully high unemployment rate. After all, these were the problems we were sent here to solve.

I hear time and time again: Well, an election is coming up. This is an election year. We can't do it in an election year.

But we have had an election every 2 years since 1788. It would be a gross dereliction of our duty if Congress and the President were to give up on making important decisions in the last 6 months before the next election. Just imagine what the American people must think. I take that back; I know what they think because they are constantly telling me how frustrated they are with Congress and Washington, how dysfunctional it is, how they do not believe their political leaders are listening to them or hearing them when they say they need help to allow this great engine of job creation off the mat and to allow it to get back to work and to allow them to get back to work as well. But it is not going to happen when the President and his party are willing to play chicken with a recession.

My constituents, similar to all our constituents, all 320 million or so Americans, have to make important decisions about their families every day, every week, and every month of the year. Why would it be that Congress and the President could have an extended vacation from making those same kinds of hard choices? It does not make any sense. Beyond that, it is an abdication of our responsibility.

Nobody has said leadership is easy. But right now, on issues of extraordinary importance to our economy and our national security, leadership is what the American people need and leadership is what they deserve, but so far that leadership is AWOL. But hope remains that cooler heads will prevail and that Congress and the President, working together, will do our job to help put America back to work, to remove the uncertainties in the political process.

When my colleague from Washington makes rash statements, threatening our country with a recession unless this side of the aisle agrees to tax increases that would fall disproportionately on the job creators in this country, that is not the kind of cool deliberation or common sense coming together we need when it comes to solving our Nation's biggest economic problems.

I yield the floor.

The PRESIDING OFFICER. President Senator from Maryland.

Ms. MIKULSKI. Mr. President, I rise to speak on the DISCLOSE Act. I rise in very strong support of this bill. I thank the Senator from Rhode Island, Mr. WHITEHOUSE, for his leadership on this bill. He brings such great background, with his legal training, as attorney general and U.S. attorney, well versed on issues of the Constitution and also his very strong commitment that elections should be free and fair and not rigged by big special interests.

Today, we have a vote to protect the voice of ordinary Americans who now more than ever need to be able to trust their political system. But you know what. We have a big problem and it is something called a super PAC. Nobody knows what that means, but I am going to spell it out in plain English.

First of all, a super PAC means we can have unlimited secret money being pumped into our elections. That is not the American way. That is why we are calling our bill the DISCLOSE Act. It is balanced, it is common sense, and it protects the rights of the individual, looking out for the little guy or gal, and also protects the integrity of our political system.

I am a reformer, and I absolutely believe in the Constitution of the United States and that wonderful first amendment. In our country, we can speak our mind and we can organize. I stand before you today because of the first amendment. I fought a highway that would have ripped through Baltimore. I challenged political machines and political bosses. I challenged powerful special interests that were going to make money. But because of the Constitution I had the right to speak my mind, the right to organize—and I did.

In other countries, they take people like me and throw them in jail. With me, because of the first amendment, I

could run in an election, do a sweat-equity campaign door to door, and come to the city council, the Congress, and the Senate. I love that first amendment.

Right now, under the guise of free speech, there are those who say we cannot in any way impede big-buck donors or big special interests from giving what they want and not even saying who they are. I think when Tom Jefferson and John Adams and Charles Carroll sat around Philadelphia writing the Constitution, they did not think the first amendment was about protecting the right of secret donors to rig elections. I do not believe that unfettered influence of super donors and big business with no limits or requirements for disclosure was what the Founders wanted when they wrote that Bill of Rights.

When the Supreme Court decided a case called Citizens United, it opened the floodgates to unlimited secret money. We knew there would be risk and it took no time for it to take root. In the 2010 midterm elections, we saw a fourfold increase in this type of so-called super PAC spending. Three-quarters of that spending came from groups that were previously prohibited. The worst of it, it is all being kept from the American people—who are these organizations and what do they stand for.

At a time when the American public needs a government on their side, they need to know who is working behind the scenes to get people elected. The DISCLOSE Act is simple. It requires a covered organization to file disclosure with the Federal Election Commission within 24 hours after they spend $10,000 or more on a campaign. What is a covered organization? Corporations, labor unions, PACs, and super PACs. This is not a new concept in Congress. We have regulations. If you are a candidate like candidate MIKULSKI, you face limits on donors. During a campaign, I have to say who is giving me money, I have to disclose who is giving me money, and the donor has limits. Whether it comes from a political action committee such as the National Association of Social Workers, which has always supported me, whether it is the American Nurses Association, which has always supported me, they disclose it. So we know it is the nurses; we know it is the social workers.

Also, there are donors whose names appear. Why can that not be true for all campaigns? What is wrong about saying who you are when you are giving more than $10,000 a year? The American public has a right to know. They have a right to be heard, and they need to be represented.

I am a Shirley Chisholm Democrat. She said she wanted a government that was unbought and unbossed. Put me in that Shirley Chisholm Democratic column. Our Democratic process is currently clouded by a cloak of secrecy. The integrity of our political system is important to me. We are not sent to do the business of secrecy or high-dollar bidding on our seat. We are sent to do the work of the people and make their lives better. We owe it to the public to shed light on who gives us money—who they are, how much they give, and what is it that they do. Let's vote in favor of democracy. Let's support the DISCLOSE Act and let's have a Congress that is unbought and unbossed.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, at this moment in time, corruption of America is taking place, but it is not in front of our eyes. The American people have a right to know who is responsible. It is being corrupted by secret money from secret donors. Every day they spend more and more money to buy our elections, but we do not even know exactly who they are. We are talking about a small number of people who are among the richest in America, and they are determined to manipulate the election in order to elect those to high office, including a President, who will pursue their special interests.

When we turn on the TV, we see their handiwork right in front of our eyes. Attack ads that are filled with deceptions about what is happening are undermining our democracy one distortion at a time.

Who is responsible for the fabrications in these ads? We can't know. Unlike the election rules of the past, the names of those funding these operations are hidden from the American people. We see organizations with innocuous names such as Americans for Prosperity and Crossroads GPS fill the airwaves with wild claims. These front organizations provide the curtain that hides billionaires and corporations from sight. We need to pull back the curtain on the sources of secret money. Why shouldn't American citizens know who wants to override our people power with their purchasing power?

Democrats have offered a way to shine the sunlight on who is trying to buy our country. The DISCLOSE Act would reveal the identities of those who pour millions of dollars into efforts to deceive the American people. These groups claim their mission is social welfare, but their sinister intention is to protect their own corporate welfare.

It is clear the Republicans are doing everything in their power to prevent the American people from knowing who is behind this disgraceful mission of deception and dishonesty. So today on the Senate floor I am going to disclose the identities of a couple of people who are among the biggest sources of secret money. I am going to disclose where their money comes from. Here on this placard we see the Koch brothers, David and Charles Koch. They are the powerhouses in this movement to take away the ability of the American people to decide how they vote and who gets into office.

These brothers are worth billions of dollars, and they are unabashed in their zeal to use their fortunes to further their political agenda. It has been reported that these two brothers are putting together a secret group of donors, and they are going to put $400 million in the pot to subvert the upcoming election—$400 million. The Koch brothers and their secret group will use those millions of dollars to flood the airwaves, but when we see the ads, we will not see the names of the Koch brothers or members of their secret group of millionaires. We will see a name, a nice name: Americans For Prosperity. Yes, the Koch brothers' prosperity.

When we look at what it stands for, truly, it stands for siphoning off the votes of the American people, trading them in for cash and picking up their agenda. Registered as a social welfare organization—it is an insult. That is why they are allowed to keep their donors secret. They have told the IRS they are not a political committee.

Who, aside from the Koch brothers, are the donors to Americans for Prosperity? We cannot tell you. They are kept secret. They are allowed to hide behind the curtain.

If these wealthy individuals want to pick our next President, they should have the muscle and the courage to stand and say so; tell everybody what it is they want to accomplish, what they want to do to our democracy. They don't have the courage. They would rather stand behind the curtain and control our election $1 million at a time.

Where do these brothers get all this money? It is interesting. These brothers run a giant international conglomerate, one of the largest privately held companies in the world. This secretive corporation has a huge impact on our lives. Koch Industries controls oil, gas, and chemical companies that do business across the globe.

Now, while we may not notice, their products are everywhere. In fact, their products are in many American homes today. For instance, all of these everyday products are sold by Koch Industries. These Dixie cups are cups that kids drink out of, and they are sold by the Koch brothers. Paper plates that often serve birthday cakes are sold by the Koch brothers. Brawny paper towels that we use to clean the floor when our kids spill things are also sold by the Koch brothers.

You probably haven't heard of INVISTA—it is another company owned by the Koch brothers' global conglomerate—but they do make things you have heard of, such as STAINMASTER carpet and LYCRA fabric for clothes. We think these goods come in handy, we all buy them, but they are also a source of revenue for the Koch brothers, who fund attack ads that pollute our airwaves.

The bottom line is that allows the billionaires who sit on top of global business empires to subvert our democracy. They want to change it. They want to change the character of our

country. They want a few to be able to name the governance of the millions.

Although Brawny paper towels may be able to clean up some spills, they will not be able to clean up what is going on with our electoral process.

The bottom line is this: When the wealthy decide they are going to control our elections, the American people have every right to know it. When these wealthy people decide they want to become kingmakers as well, the public should know what they are up to. Kings went out of America centuries ago, and they are trying to bring it back in some form.

Common sense says our democracy and our country's core are at stake, and we don't want it to happen. I hope the American people see what is going on here and understand that they are not being told what is going on in our society. That is not what America is about.

America's openness has been the bulwark for our society since its founding. Secret societies have largely disappeared from our country, but when they do inevitably appear, it has been to bring instability. Transparency has enabled our Nation to flourish with openness. Our country has become richer as a result of that openness and transparency.

Now, at a critical moment in the history of America, it is shocking to see this abject use of secrecy and power. We should not let them take it. We should not let the few with all kinds of wealth—billionaires, if you will, made on the backs of the American people—take our democracy from the millions. If it weren't for people who manned the jobs, such as cops, doctors, teachers, and the other people in our society, I don't care how smart these people were, they could not have amassed these fortunes. And I don't begrudge them the ability to spend it where they want, but when it comes to the election, we have to tell the truth. We have to have it happen that way. The American people have to know who is going to put the President in the White House in the next administration. We don't want it to change because someone else is hiding behind the curtain and manipulating hundreds of millions of Americans who are going to have to abide by them when these elections are over.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. CARDIN. Mr. President, I wish to thank Senator LAUTENBERG.

I was listening to Senator MIKULSKI and Senator BINGAMAN on their comments to try to bring some common sense to our election laws by basically disclosing who contributes to the political process. That is something Republicans and Democrats have been together on for a long time. I don't know what happened. This seems to be an issue that doesn't get bipartisan support.

I particularly wish to thank Senator WHITEHOUSE for his leadership on this issue. He has been talking about this matter of DISCLOSE, along with Senator SCHUMER, since the Supreme Court decision in 2010 with the Citizens United decision.

I must say that I think the Citizens United decision will go down as one of the worst decisions in the history of the Supreme Court of the United States. I say that for many reasons. First and foremost, those who are students of our judicial system and our constitutional separation of powers will understand that the case that went up to the Supreme Court was a pretty narrow case based upon a 30-minute documentary. In that decision of Citizens United, the Court ruled in a very broad way that a corporation has all the rights of an individual in our political system. It is the first time that has happened. It reversed the legislation that had been passed by Congress.

The Framers of our Constitution envisioned that it was the legislative branch of government that would make our laws and policies. The legislature, after a great deal of debate and after many different attempts, passed laws that restricted how much money corporations could put in our political system and how they had to do it in a very open and transparent manner. Then we had a reform bill known as the McCain-Feingold bill that spelled out certain restrictions. All of these cases and laws have been upheld over a long period of time by court decisions.

In Citizens United, the Court not only substituted itself for the legislature but reversed its own precedent in ruling that corporations could literally put an unlimited amount of money into our political system. As I said, I think it was one of the worst decisions in the history of the Supreme Court. It has now unleashed unlimited money in our political system. What corporations and undisclosed sources can now put into our elections will dwarf what individual contributors will make available in the political season.

The Center for Responsive Politics has now said that super PACs and their related organizations have already spent over twice what similar groups spent 4 years ago. We not only have this unleashing of undisclosed corporate funds, we are now seeing the super PACs taking over as the major source of funding of campaigns.

As Senator MIKULSKI just said on the Senate floor, if we run for office and solicit contributions, every one of those contributors is listed on our reports. We make quarterly reports so that the people of the Nation know who is financing our campaigns. They will not know who is financing these ads that are going to appear on television from these Citizens United-type political activities where we don't know where the money is coming from. It could come from a single source who wishes to influence our political system but does not want to be identified in the cause. I really think this compromises our democratic system. I think an individual could literally distort our political system through the use of money, and that is something I hope all of us would be concerned about.

I am now a believer. I think the only thing we can do to overturn the Citizens United case is to support Senator TOM UDALL's constitutional amendment. That amendment gives the Congress the power we thought we had to legislate.

I think the people of Maryland, West Virginia, and our Nation would be surprised to learn that we cannot legislate the limits of what people can contribute in campaigns. They think that is our responsibility, not the Court's. Well, Senator TOM UDALL's amendment would give us the power to do that and overturn the Citizens United case. I hope we could come together to let us have the power we should have. It seems to me that is something both Democrats and Republicans in this body should agree on, that those decisions should be made in the Congress of the United States and not in the Supreme Court or the courts of our land.

The bill we have before us—and I urge my colleagues to let us move forward to the DISCLOSE Act—brings transparency into the campaign finance system. Many of us frequently talk about transparency. Transparency is the most important part of integrity in our system. We talk about a lot of other countries adding transparency to the way they do business. Well, we should have transparency in one of the most fundamental parts of our system, and that is how we conduct our elections. It is key to our democracy.

It is Justice Brandeis who said that ''sunlight is said to be the best of disinfectants.'' I don't understand why we would resist the public knowing who is contributing money to influence our political system.

The DISCLOSE Act has the bipartisan support of the League of Women Voters, Democracy 21, and People for the American Way.

Let me quote from a letter recently sent to Congress by the nonprofit, nonpartisan Campaign Legal Center. It says:

> Hundreds of millions of dollars will be spent to influence the outcome of the elections over the next four months. Neither the candidates being attacked with these millions of dollars nor the public will have complete, accurate, meaningful information about the sources of such money. Only the contributors and the beneficiaries will be in the know. Passage of S. 3369 will mean that in future election cycles those funding these shadow campaigns will be disclosed to the public so that voters can make informed decisions at the polls.

The letter goes on to say:

> As we get closer to the 2012 elections, the amount of federal campaign-related spending using funds from undisclosed sources continues to rise. Especially troubling is the lack of transparency regarding the expenditures of so-called ''Section 501(c) groups'' this election cycle, such as Priorities USA and Crossroads GPS.

I have heard some of my colleagues say: Well, can we constitutionally do

this? Is this allowed for us? After all, Citizens United sort of says anything goes. Well, let me quote from the Citizens United decision—and this is very interesting—where the Court wrote:

> [P]rompt disclosure of expenditures can provide shareholders and citizens with the information needed to hold corporations and elected officials accountable for their positions and supporters. Shareholders can determine whether their corporation's political speech advances the corporation's interest in making profits, and citizens can see whether elected officials are in the pocket of so-called moneyed interests.
>
> The First Amendment protects political speech; and disclosure permits citizens and shareholders to react to the speech of corporate entities in a proper way. This transparency enables the electorate to make informed decisions and gives proper weight to the different speakers and messages.

That is the Supreme Court speaking in Citizens United.

We clearly have the authority to move at least this modest step forward to allow the American people to see who is making these contributions so they can make an informed judgment on election day. We owe it to the citizens of this country to take up and pass the DISCLOSE Act.

Once again, I wish to thank my colleague, who is now on the Senate floor, Senator WHITEHOUSE, for his leadership on this issue. As I said earlier, from day one when the Supreme Court issued its decision, it was Senator WHITEHOUSE who immediately observed that we have to do something to make sure that those who use this process to influence our system—that information is disclosed so the public has the information they need in order to properly judge our elections.

Mr. JOHNSON of South Dakota. Mr. President, I rise today as a proud cosponsor of the DISCLOSE Act.

The Citizens United case opened the floodgates to unprecedented spending from super PACs and outside interests. I am concerned this ruling has effectively given those with the deepest pockets the loudest voice. This is a situation that works to the detriment of our democracy because the flood of secret money is drowning out the voices of working families.

In the elections following the Citizens United case, corporate and special-interest money has poured into our political system. In the 2010 midterm election, there was a fourfold increase in spending from these entities in comparison to 2006. During that same timeframe, anonymous spending by organizations rose from 1 percent in 2006 to 44 percent in 2010.

In response to the surge in secret election spending by special interests, the DISCLOSE Act seeks to restore accountability and transparency in our country's elections. The bill represents an important first step in addressing the many problems created by the Citizens United ruling.

Even the Supreme Court reckoned that greater transparency would likely be needed to mitigate the risk of corruption as a result of its ruling. Therefore, I am baffled by my colleagues who are dragging their heels on such a commonsense measure. Voters deserve to know who is making large donations to influence an election. The DISCLOSE Act would give Americans the information they need to take back control and hold elected officials and large corporations accountable. To those who remain opposed to this bill, I urge you to reconsider your position and support this critically important legislation.

Mrs. FEINSTEIN. Mr. President, today I wish to express my strong support for the DISCLOSE Act of 2012.

This bill is a first step toward restoring some transparency and accountability to our electoral system, an action sorely needed in the wake of the Supreme Court's misguided Citizens United decision.

If the DISCLOSE Act is passed by Congress and signed into law it would put in place the following two new campaign disclosure measures: One, it requires third-party groups to disclose their top funding sources those over $10,000 to the Federal Election Commission; and, two, it requires these independent groups to certify that their activities are not coordinated with candidates or political parties.

Why are these new disclosure requirements necessary?

The DISCLOSE Act is necessary because Citizens United, a narrow 5–4 decision by the Roberts Court, struck down critical parts of the Bipartisan Campaign Reform Act.

Let me be clear: Citizens United upended nearly a century of congressional law and overturned two Supreme Court rulings. It is the reason super PAC is now a household phrase, and the decision troubled me greatly.

The Court held that the first amendment affords corporations and interest groups the right to spend freely millions, even billions of dollars on election ads to support or defeat a particular candidate.

The practical effect of the decision didn't take long to appear. We have already seen how unlimited and opaque special interest money can decide a Presidential primary, and we continue to see the impact during the current general election.

The Citizens United decision has opened the door to unlimited, undisclosed corporate and special interest spending in Federal elections.

In other words, an individual or a corporation can give tens of millions of dollars to an independent campaign effort to slander, impugn, or oppose a candidate or an issue or to support the same anonymously.

Under current law there is no requirement to disclose to the voters or any government agency the names of the individuals who contributed to these campaign efforts.

This is total unlimited and anonymous spending.

Let me repeat: unlimited spending.

It is impossible to exaggerate how far reaching this decision is: it weakens the very essence of our democracy and the integrity of our system of elections.

What does this mean in the real world?

This means an oil company like ExxonMobil, which earned $41 billion in profits last year, can spend unlimited money to defeat candidates who oppose offshore drilling. It means Academi (the company formerly known as Blackwater) and other defense contractors can spend unlimited sums to elect candidates who view their defense positions favorably. And large banks will be free to use their corporate treasury to attack candidates in favor of financial regulation and consumer protection.

During testimony in 2010, Fred Wertheimer of Democracy 21 said it well:

> It would not take many examples of elections where multimillion corporate expenditures defeat a member of Congress before all members quickly learn the lesson, vote against the corporate interest at stake in a piece of legislation and you run the risk of being hit with a multimillion-dollar corporate ad campaign to defeat you.

Since Citizens United, we have seen explosive growth in outside corporate and special-interest expenditures:

The fall 2010 midterm elections ushered in the independent third-party groups, which spent a record $300 million during that election cycle. This amount is quadruple the $69 million spent by outside groups in 2006. Nearly three-quarters of political advertising in 2010 came from sources prohibited from spending money in 2006.

By the summer of 2008, about $70 million had been spent by third-party groups during the Presidential race. According to the Center for Responsive Politics, outside groups are currently on pace to at least triple that 2008 total. An astonishing $167 million has already been spent as of July 11, 2012.

Almost $140 million of this comes from super PACs established in the wake of the Citizens United decision. As of July 11, there are 667 registered super PACs that have already raised more than $244 million.

More money is being spent than ever before, and it is clear that these unlimited sums could be a major factor in the 2012 elections.

Earlier this year, the Washington Post reported that many independent ads for the general election campaign originate from nonprofit interest groups that do not disclose their donors. The analysis found that politically active nonprofit groups with undisclosed donors have spent more than $24 million in the 2012 cycle on political ads.

The public deserves to know who these donors are. The value of transparency was demonstrated vividly in 2010, when Texas-based oil companies funded a ballot measure to repeal California's landmark climate change law, the ''California Climate Change Solutions Act.''

Although the campaign for this measure spent more than $10 million, they were unable to conceal that their funding came from out-of-State sources, led by multimillion-dollar contributions from Texas-based oil companies. This transparency allowed California voters to know the real source of advertisements during the campaign and make a more informed decision. That proposition failed, and, I believe it failed because voters knew who was paying for the ads.

Transparency works. It makes a difference. With public confidence in government at a record low, now is the time for more transparency, not less. We must restore confidence in our government. The Supreme Court made its decision in Citizens United, so there isn't much that Congress can do. But the DISCLOSE Act is an attempt to make clear the effects of Citizens United and ensure that our election process remains transparent.

The public deserves to know who is funding the super PACs and other groups that are airing political ads. When voters know who paid for an ad, they make more educated decisions. The DISCLOSE Act is a step toward making that reality.

Mr. INOUYE. Mr. President, I rise today to speak in support of S. 3369, the Democracy is Strengthened by Casting Light on Spending in Elections, or DISCLOSE, Act.

I joined Senator WHITEHOUSE and some 25 of my colleagues in cosponsoring this bill because it is the right thing to do. I do not believe, as some claim, that the DISCLOSE Act will chill or limit the right to free speech in something as fundamental as advocating for a candidate for elected office. The bill will simply require more openness by those advocating, an important point in our world of radio, television, and the internet. The DISCLOSE Act will help restore transparency and accountability to our electoral process by requiring outside groups to disclose who funds their political activities. It may be worth noting that the bill is not focusing on the average American contributing small amounts of money to her candidate, but rather on those groups who are making donations of at least $10,000. I do not think it is so onerous to ask those contributing such large sums to identify themselves.

But, I must be honest. I was disappointed to learn that the so-called ''stand by your ad'' provision was not included in S. 3369. This provision, which required that the biggest donors of a campaign, or sponsors of a radio or TV spot, be identified during the ad, was what initially caught my attention. In an age where communications are largely anonymous whether it is on Twitter, Facebook, or to a lesser extent, radio and even television, I believe it is only fair that Americans learn who is speaking to them as they are listening. We have moved past those times when a candidate or his supporters would use a soapbox to explain their positions to a crowd, and who is doing the talking is no longer clear.

However, I believe the overarching principle of the DISCLOSE Act sharing the identities of those advocating in an election campaign, whether it be for or against a candidate, or simply an opinion is a necessary part of democracy. I hope my colleagues will agree and vote to support passage of the DISCLOSE Act.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. I ask unanimous consent that the order for the quorum call be rescinded.

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

EXECUTIVE SESSION

NOMINATION OF KEVIN McNULTY TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEW JERSEY

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nomination, which the clerk will report.

The legislative clerk read the nomination of Kevin McNulty, of New Jersey, to be United States District Judge for the District of New Jersey.

The PRESIDING OFFICER. Under the previous order, there will be 30 minutes of debate equally divided in the usual form.

Mr. LEAHY. Mr. President, before I begin my remarks on the nomination, I wish to speak for a moment about the debate we are having on the DISCLOSE Act. We read the horror stories of secret money going into campaigns. If we can't restrict the amount of money, at least let's know where it comes from. It is bad enough the Supreme Court has said corporations are people, as though having elected General Eisenhower as President, we could now elect General Electric as President, or electing yahoos such as Millard Fillmore as Vice President means we could elect Yahoo as Vice President.

There should be only one secret in an election, and that should be a secret ballot. That should be knowing you are secretly voting for who you want to vote for, and it should be disclosed only if you want it disclosed. As far as paying the bills, the American people ought to know who is paying the bills, how much, and why. Otherwise, we do not have honest elections. It is as simple as that.

Mr. President, today we will vote on only one of the 18 judicial nominations voted on by the Judiciary Committee but that are being stalled for no good reason. I am sure the people of New Jersey and the New Jersey Senators appreciate Senate Republicans finally allowing a vote on this nomination even after 3 months of needless delay. I suspect they would be more appreciative if the minority were also allowing a vote on the nomination of Michael Shipp for another vacancy on the same Federal court in New Jersey and who was also voted out of the Judiciary Committee virtually unanimously 3 months ago. I am sure they would be even more appreciative than that if Senate Republicans would allow a vote on the nomination of Judge Patty Shwartz to fill the vacancy on the Third Circuit Court of Appeals who was voted out of the Judiciary Committee more than 4 months ago, and who has the support of New Jersey's Republican Governor, Chris Christie.

The minority's stalling votes on judicial nominees with significant bipartisan support is all to the detriment of the American people. This has been a tactic that they have employed for the last 3½ years, despite repeated appeals urging them to work with us to help solve the judicial vacancy crisis. We have seen everyone from Chief Justice John Roberts, himself appointed by a Republican president, to the nonpartisan American Bar Association urging the Senate to vote on qualified judicial nominees that are available to administer justice for the American public. Sadly, Republicans insist on being the party of ''no''.

What the American people and the overburdened Federal courts need are qualified judges to administer justice in our Federal courts, not the perpetuation of extended, numerous vacancies. Today vacancies on the Federal courts are more than 2½ times as many as they were on this date during the first term of President Bush. The Senate is more than 40 confirmations off the pace we set during President Bush's first term.

Because they cannot deny the strength of this comparison using apples to apples by comparing first terms Senate Republicans instead try to draw comfort by making comparisons to President Bush's second term after we had already worked hard to reduce vacancies by 75 percent and confirmed 205 circuit and district judges. Their effort is unconvincing and unavailing. In fact, during President Bush's second term, the number of vacancies never exceeded 60 and was reduced to 34 near the end of his presidency. In stark contrast, vacancies have long remained near or above 80, with little progress made in these last 3½ years. Today, there are still 78 vacancies. Their tactics have actually led to an increase in judicial vacancies during President Obama's first term a development that is a sad first.

But the real point is that their selective use of numbers is beside the point and does nothing to help the American people. We should be doing better. I