This right to free speech was considered so important by our Founders that they included it as the first amendment in the Bill of Rights, along with the freedom of the press and religion, and the right to assemble and petition the government. It is one of the bedrocks of our government and our culture. And it is one of the primary defenses the Founders established against the perennial threat of government intrusion.

So it is essential that we know what someone who has been nominated for a life-tenure on the Nation's highest court thinks about this issue. And when it comes to Judge Sotomayor, her record raises serious questions about her views on free speech.

Let's start with a law review article that Judge Sotomayor co-wrote in 1996 on one particular kind of speech, political speech. In the article, Judge Sotomayor makes a number of startling assertions which offer us a glimpse of her thoughts on the issue.

First, and perhaps most concerning, she equates campaign contributions to bribery, going so far as to assume that a ''quid pro quo'' relationship is at play every time anyone makes a contribution to a political campaign. She goes on to say that:

> We would never condone private gifts to judges about to decide a case implicating the gift-givers' interests. Yet our system of election financing permits extensive private, including corporate, financing of candidates' campaigns, raising again and again the question of what the difference is between contributions and bribes and how legislators or other officials can operate objectively on behalf of the electorate.

In the same law review article, Judge Sotomayor calls into question the integrity of every elected official, Democrat and Republican alike, based solely on the fact that they collect contributions to run their political campaigns. She writes:

> Can elected officials say with credibility that they are carrying out the mandate of a ''democratic'' society, representing only the general public good, when private money plays such a large role in their campaigns?

In my view, the suggestion that such contributions are tantamount to bribery should offend anyone who has ever contributed to a political campaign—including the millions of Americans who donated money in small and large amounts to the Presidential campaign of the man who nominated Judge Sotomayor to the Supreme Court.

Judge Sotomayor's views on free speech would be important in any case. They are particularly important at the moment, however, since several related cases are now working their way through the judicial system—cases that could ultimately end up in front of the Supreme Court. One particularly important case on the issue, Citizens United v. FEC, will be reargued before the Supreme Court at the end of September.

Coincidentally, the most recent Supreme Court decision on the topic actually passed through the court on which Judge Sotomayor currently sits, presenting us with yet another avenue for evaluating her approach to questions of free speech—with one important difference: in the Law Review article I have already discussed, we got Judge Sotomayor's opinion about campaign contributions. In the court case in question, Randall v. Sorrell, we get a glimpse of her actual application of the law.

Here is the background on the case. In 1997, the State of Vermont enacted a law which brought about stringent restrictions on the amount of money candidates could raise and spend. The law also limited party expenditures. Viewing these limits as violating their first amendment rights, a group of candidates, voters, and political action committees brought suit. The district court agreed with the plaintiffs in the case on two of the three points, finding only the contribution limits constitutional.

The case was then appealed to the Second Circuit, where a three-judge panel reversed the lower court and reinstated all limits in direct contradiction of nearly 20 years of precedents dating all the way back to the case of Buckley v. Valeo. It was in Buckley that the Supreme Court held that Congress overstepped its bounds in trying to restrict the amount of money that could be spent—so-called expenditure limits—but upheld the amount that could be raised—so-called contribution limits.

At that point, the petitioners in the Vermont case sought a rehearing by the entire Second Circuit, arguing that the blatant disregard of a precedent as well-settled as Buckley was grounds for review. Oddly enough, the judges on the Second Circuit, including Judge Sotomayor, took a pass. They decided to let the Supreme Court clean up the confusion created when the three-judge panel decided to ignore Buckley.

Traditionally, errors like these are precisely the reason that motions for a rehearing of an entire circuit are designed. In fact, according to the Federal Rules of Appellate Procedure, a review by the full court, what is commonly referred to as an en banc rehearing, is specifically called for in cases where ''the proceeding involves a question of exceptional importance.'' And what could be more important for a lower court judge than following Supreme Court precedent and protecting and preserving the first amendment? But the Second Circuit declined.

In the end, the Supreme Court corrected the errors of the Second Circuit in a 6–3 opinion drafted by none other than Justice Breyer. Here is what Breyer wrote:

> We hold that both sets of limitations [on contributions and expenditures] are inconsistent with the First Amendment. Well-established precedent—and here Justice Breyer was citing Buckley—makes clear that the expenditure limits violate the First Amendment.

One of the principal requirements for a nominee to the courts is a respect for the rule of law. In this instance, according to Justice Breyer, that respect for the law was sorely lacking.

More than two centuries ago, the States ratified the first amendment to the U.S. Constitution to protect the right of every American from that moment and for all time to express themselves freely. ''Congress shall make no law,'' it said, ''respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the Government for redress of grievances.''

You could say, as I have said many times, that with the first amendment, our forefathers adopted the ultimate campaign finance regulation. And yet this issue continues to come before the courts, and will continue to come up before the courts. It is an issue of fundamental importance, touching on one of our most basic rights. And based on the writings and decisions of Judge Sotomayor, I have strong reservations about whether this nominee will choose to follow the first amendment or attempt to steer the Court to a result grounded in the kind of personal ideology that she so clearly and troublingly expressed in the law review article I have described.

It is not just this issue about which those concerns arise. Over the past several weeks, we have heard about a number of instances in which Judge Sotomayor's personal views seem to call into question her evenhanded application of the law.

Just last week, the Supreme Court reversed her decision to throw out a discrimination suit filed by a group of mostly White firefighters who had clearly earned a promotion. Notably, this was the ninth time out of ten that the high court has rejected her handling of a case.

We have heard her call into question, repeatedly over the years, whether judges could even be impartial in most cases. And she has even said that her experience ''will affect the facts that [she] chooses to see as a judge''.

Americans have a right to expect that judges will apply the law evenhandedly—that everyone in this country will get a fair shake, whether they are in small claims court or the Supreme Court, and whether the matter at hand is the right to be treated equally or the right to speak freely. Americans have a right to expect that the men and women who sit on our courts will respect the rule of law above their own personal or political views—and nowhere more so than on the Nation's highest court.

COMMENDING NORM COLEMAN

Mr. McCONNELL. Madam President, it was a politician from Kentucky who introduced the expression ''self-made man'' into the lexicon. But even Henry Clay didn't follow as unlikely a path as Norm Coleman did to the U.S. Senate.

As Norm puts it, he never even knew a Republican or a Lutheran before he left home for college.

Yet this middle-class son of Brooklyn became one of the best senators the people of Minnesota have ever known. And he has always made sure to give them all the credit, even when the voters would have excused him for taking a little credit of his own.

Another great American politician said the U.S. Constitution was ''the work of many heads and many hands.'' Norm's always had the same attitude about his own career. He is grateful for the opportunities he has had. He gives it everything he has. Then he is grateful when his efforts on behalf of others succeed, which is more often than not.

The day he got here he was asked how it felt. He had a simple response. He said he was humbled by the opportunity. ''I believe that what I can do well, my gift,'' he said, ''is to serve people, and now I have this incredible opportunity to serve as a United States Senator.'' Six years later, on the day he conceded defeat, his first impulse was again to thank others. He thanked his staff for the long hours and hard work they had put in on his behalf. And he said he would always be grateful to and humbled by the people had of Minnesota who had given him the honor to serve, and even more grateful for the patience and understanding they showed over these last several months.

It wasn't the outcome he wanted. It wasn't the outcome that his Republican friends and colleagues in the Senate wanted. But we couldn't have expected anything less from Norm Coleman than the class and graciousness he showed in the closing act of this phase in his career as a public servant.

As I said, Norm came to be a Republican Senator from Minnesota by a rather unusual route. He was a campus activist in the 1960s, and a rather prominent one at that. After college, Norm earned a scholarship to the University of Iowa Law School and came to love the people and the place.

From there, he went on to Minnesota to serve in the Minnesota Attorney General's Office. Later, he would use his talents as chief prosecutor for the state of Minnesota, and then as mayor of St. Paul, first as a Democrat and then as a Republican. In what has to go down as one of the more remarkable feats of bipartisanship in American politics, Norm has the distinction of serving as the 1996 cochairman of the committee to reelect Bill Clinton and 2000 State chairman for George W. Bush's campaign.

As a big-city mayor, Norm didn't disappoint. He showed a real knack for bringing business and government together. He led a downtown revitalization effort, created thousands of jobs, brought the National Hockey League to St. Paul and fought to keep taxes low. He left office with a 74 percent approval rating, after two terms that a local magazine called ''by almost any measure . . . an unqualified success.''

In 2002, Norm was still thinking about how he could serve on the State level when he got a call from the President asking him if he would run for the Senate. He accepted the challenge and then he fought a tough and principled campaign against our late beloved colleague Paul Wellstone before Paul's tragic death shortly before the end of that tumultuous campaign. Norm grieved with the rest of Minnesota at Paul's passing, defeated his replacement in the race, and was sworn in 2 months later as Laurie, their children, Jake and Sarah, and Norm's parents, Beverly and Norman, looked on. Laurie summed up the day like this: ''It's incredible to think that he has this opportunity.''

Norm didn't waste a day. An instant hit at Republican events across the country, he kept up the same torrid pace in the Senate he had set in his come-from-behind win the previous November. He pushed legislation that benefited Minnesotans and all Americans, and he never let up.

Norm spoke the other day about some of his accomplishments here. He mentioned a few areas in particular, including U.N. oversight, working with Minnesota farmers, and his work on energy independence. But he said his best ideas came from the people of Minnesota.

He was being humble. In a single term, Norm put together a remarkable record of results. On energy and conservation, he played a key role in establishing the renewable fuels standard. He helped pass an extension of the tax credits for wind, biomass, and other renewable fuels. He secured loan guarantees and tax incentives for clean coal power; protected fish populations; and supported conservation programs to protect Minnesota's lakes, rivers, and woodlands.

He led major anticorruption efforts, including a groundbreaking exposure of fraud at the U.N. He exposed more than a billion dollars in wasteful Medicare spending and uncovered serial tax evasion by defense contractors. Norm was also instrumental in passing the Conquer Childhood Cancer Act which increased funding for childhood cancer research.

The proud son of a World War II veteran, Norm has been a true friend to all veterans. The first piece of legislation he introduced was a bill requiring the Pentagon to cover the travel expenses of troops heading home from service abroad. Norm worked on a bipartisan basis to establish the first-ever national reintegration program for returning troops. And he worked hard, in the early years after 9/11, to strengthen homeland security.

Norm Coleman's service in the Senate has been marked by the same high level of distinction that has marked everything else he has done in three decades of public service. Today we honor our colleague and friend for that long career that we hope is far from over. And we punctuate an incredibly hard fought campaign that some people thought might never end.

In the end, it didn't turn out the way many of us had hoped it would. But none of us were surprised by the graciousness with which Norm Coleman accepted the verdict, and all of us can celebrate the 6 years of dedicated service he gave to the people of Minnesota.

After another setback some years back, Norm Coleman said that real defeat isn't getting knocked down. It is not getting back up. And I have no doubt that this is not the last we will hear from Norm Coleman. He already has a legacy to be proud of. But it is a legacy that is still very much in the works. More chapters will be written. And they will bear the same strong hand and commitment to people and principle that he has shown in every other endeavor of a long and distinguished career.

In private conversation Senator Coleman often talks about resting on the truths of his faith. It is an untold Washington story—the glue of faith that holds this city together. So as I say goodbye to Senator Coleman, I would like to do so with words from the Torah that he knows well:

> The Lord bless you. and keep you; The Lord make His face shine on you, And be gracious to you; The Lord lift up His countenance upon you, And give you peace.

And on behalf of the entire Senate family, I want to thank Norm for his service. We will miss him.

I yield the floor.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period of morning business for 95 minutes, with the Senator from Illinois, Mr. DURBIN, controlling the first 5 minutes, the Republicans controlling the next 60 minutes, and the majority controlling the final 30 minutes, with Senators permitted to speak for up to 10 minutes each.

The Senator from Illinois.

NORM COLEMAN

Mr. DURBIN. Madam President, first let me associate myself with the remarks of the Republican leader, Senator MCCONNELL, relative to our colleague Norm Coleman. I enjoyed serving with Norm. We worked together on a number of issues during our service in the Senate. I was actively supporting his opponent AL FRANKEN in the Minnesota race. I thought, as Senator MCCONNELL noted, that Senator Coleman showed extraordinary grace in conceding after the latest Minnesota Supreme Court decision. It was a relief to all involved and to the people of