were able to pass the Iran sanctions law. It is so important. We all know what that country is doing to its citizens. It is time this country of ours stepped forward and did some things to focus on what they are doing; that is, what Iran is doing. The legislation we passed will certainly allow this to take place.

We have a conference with the House. I will have a conversation later today with the chairman of the committee over there, HOWARD BERMAN, who has been such a good friend of mine personally. He and I came to Washington together in the House of Representatives, but he has also been a great representative of our country in his chairmanship of the Foreign Affairs Committee in the House.

Senator MCCAIN had an amendment about which he is concerned. I appreciate his not offering it last night because it would have caused other amendments from this side being offered.

As a result of the cooperation between both sides of the aisle, we got this legislation passed. We hope to get it out of conference quickly and have the President sign it. It is certainly what we need to do. Iran is a country on which all the world is focusing. We must do everything we can to stop them from acquiring nuclear weapons.

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 be a period for the transaction of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The Senator from Rhode Island.

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent to speak in morning business for up to 25 minutes.

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

CITIZENS UNITED DECISION

Mr. WHITEHOUSE. Mr. President, I rise this morning to join Chairman LEAHY's eloquent and inspiring remarks of yesterday and express my strong disagreement with the Supreme Court's decision released last week in Citizens United v. the Federal Election Commission.

In this astonishing decision, the slimmest of 5-to-4 majorities overturned legal principles that have been in place since Theodore Roosevelt's administration. The five Justices who make up the Court's conservative bloc opened floodgates that had for over a century kept unlimited spending by corporations from drowning out the voices of the American people. It would be hard to call this decision anything other than judicial activism.

Let me start by reminding my colleagues of the long history of successful and appropriate regulation of corporate influence on elections. Federal laws restricting corporate spending on campaigns have a long pedigree. The 1907 Tillman Act restricted corporate spending on campaigns. Various loopholes have come and gone since, but the principle embodied in that law more than 100 years ago—that inanimate business corporations are not free to spend unlimited dollars to influence our campaigns for office—was an established cornerstone of our political system. Monied interests have long desired to wield special influence, but the integrity of our political system always has had champions—from Teddy Roosevelt a century ago to Senators MCCAIN and FEINGOLD in our time, who won a bruising legislative battle with their 2002 bipartisan Campaign Finance Reform Act.

Last week, that activist element of the Supreme Court struck down key protections of our elections integrity, overturned the will of Congress and the American people, and allowed all corporations to spend without limit in order to elect and defeat candidates and influence policy to meet their political ends. The consequences may well be nightmarish. As our colleague, Senator SCHUMER said, one thing is clear: The conservative bloc of the Supreme Court has predetermined the outcome of the next election; the winners will be the corporations.

As my home State paper, the Providence Journal, explained:

> The 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. The bulk of the cash will come from corporations, which have much more money available to spend than unions. Candidates will be even more unlikely to take on big interests than they are now.

What could make a big interest more happy than that? The details of this case were quite simple. Citizens United is an advocacy organization that accepts corporate funding. It sought to broadcast on on-demand cable a lengthy negative documentary attacking our former colleague, now-Secretary of State Clinton, who was then a candidate for President. The law prohibited the broadcast of this kind of corporate-funded electioneering on the eve of an election. Citizens United filed suit, arguing that this prohibition violated the first amendment. The conservative Justices agreed, holding that all corporations have a constitutional right to use their general treasury funds, their shareholder funds, to pay for advertisements for or against candidates in elections.

Although the decision was cast as being about the rights of individuals to hear more corporate speech, its effect will be with corporations—big oil, pharmaceutical companies, debt collection agencies, health insurance companies, credit card companies and banks, tobacco companies—now all moving without restriction into the American election process.

To highlight the radical nature of this decision, let me put this in the context of true principles of judicial conservatism. Justice Stevens explained in his dissent that the principle of stare decisis—''it stands decided''—assures that our Nation's ''bedrock principles are founded in the law rather than in the proclivities of individuals.''

It is jarring that the unrestrained activism of the conservative bloc on the Supreme Court led them to pay so little heed to longstanding judicial precedents, brushing them aside with almost no hesitation. Justice Stevens noted that ''the only relevant thing that has changed [since those prior precedents] . . . is the composition of this Court.''

Is it truly just a coincidence that this same bloc of Judges just last year invented a new individual constitutional right to bear arms that no previous Supreme Court had noticed for more than 200 years or is something else going on here where core Republican political goals are involved? Is stare decisis now out the window, at least with the Republican activist judges?

Another supposed conservative principle thrown aside by these activists was the approach to constitutional interpretation that focuses on the original intent of the Founders. Read the opinions. By far, the most convincing discussion of that original intent appears in Justice Stevens' dissent, not in the majority opinion or in Justice Scalia's concurrence. Justice Stevens, in dissent, correctly explains that the Founding Fathers had a dim view of corporations. They were suspicious of them. They considered them prone to abuse and scandal, and that those corporations that did exist at the time of the founding were largely creatures of the State that did not resemble contemporary corporations. Justice Stevens rightly describes it as:

> . . . implausible that the Framers believed ''the freedom of speech'' would extend equally to all corporate speakers, much less that it would preclude legislatures from taking limited measures to guard against corporate capture of elections.

This lack of historical awareness is, as I will explain, not the only flaw of the majority opinion. Only the dissent points out the most basic point:

> . . . that corporations are different from human beings . . . corporations have no consciences, no beliefs, no feelings, no thoughts, no desires.

I would add they have no souls. The dissent explains:

> Corporations help structure and facilitate the activities of human beings, to be sure, and their ''personhood'' often serves as a useful legal fiction. But they are not themselves members of ''We the People'' by whom and for whom our Constitution was established.

The majority just bypasses this elemental point.

One bedrock principle in our democracy is that the will of the people should be supreme except in very limited circumstances. In the judicial context this means that courts should hesitate before striking down statutes enacted by Congress. But it seems that is not so when core tenets of the Republican platform are involved.

It is not just this one case. There is a pattern that is discernible when these five men get together to strike down laws of Congress they do not like and make new law more to their liking. The pattern is not just discernible, it is unmistakable. It is undeniable. It appears, indeed, to be without exception.

Look at the evidence: There is virtually perfect concordance between the major departures by the activist bloc from conservative judicial tenets—such as judicial restraint, original intent, States rights—and the result in those cases of achieving current Republican political goals. One could probably call this practice ''situational judicial restraint.'' A rational person could conclude, based on the evidence of the Court's behavior, the observable results that this and other decisions by the five-man conservative bloc would more properly be characterized as political prize-taking than judicial lawmaking.

The only unchecked power in the American political system is that of a majority of a court of final appeal. When a small group can seize majority power in a court of final appeal, they answer to no one and can rule as they please. That danger is why courts are ordinarily so careful to answer to rules of judicial practice, respect for precedent, answering the narrowest question, and engaging in honorable, neutral, and logical analysis to arrive at decisions. That is why this conservative majority's departure from these rules of judicial practice and the association between these departures and outcomes favorable to their political party is so unpleasant.

The steady march of the activist rightwing bloc to establish its conservative political priorities as the law of the land should come to observers as no surprise. It represents the fruit of a longstanding and often very public effort to turn the law and the Constitution over to special interest groups and conservative activists. Conservative institutions, such as the Federalist Society, were created to groom and vet the ideological purity of foot soldiers in the conservative movement. Consider legal historian Steven Teles on the role of the Federalist Society in the Reagan administration:

> Society membership was a valuable signal for an administration eager to hire true-believers for bureaucratic hand-to-hand combat. In addition, by hiring this Society's entire founding cadre, the Reagan administration and its judicial appointees sent a very powerful message that the terms of advancement associated with political ambition were being set on their head: clear ideological positioning, not cautiousness, was now an affirmative qualification for appointed office.

The results of this meld of political ambition, ideological positioning, and judicial appointees have been terrible. Fringe conservative ideas, such as hostility to our Nation's civil rights, environmental protection, and consumer protection laws, have been steadily dripped into the legal mainstream by endless repetition in a rightwing echo chamber. The mainstream of American law has been shifted steadily to the right by force of this effort, backed by seemingly endless corporate funds. This ''rights movement'' for corporations, for the rich, the powerful, and the fortunate, has been pursued in a manner—deliberate infiltration of the judicial branch of government—that should concern anybody who respects the law and, in particular, respects our Supreme Court.

The Republican effort to capture that institution for those interests has been a remarkably aggressive and surprisingly explicit effort. Usually, political efforts to capture great public institutions come, as it were, in sheep's clothing. But this wolf came as a wolf. Consider for example the official Republican Party platform of 2000, which ''applauded Governor Bush's pledge to name only judges who have demonstrated that they share his conservative beliefs and respect the Constitution.'' All that was left out was that they should be willing to bend the law and overturn precedents to impose those beliefs.

The pattern is not complicated. America's big corporate interests fund Republican candidates for office, and those corporate interests want those Republicans to help them. That is as old as politics. Republicans, once elected, make it a priority to appoint judges who want to help them—judges who may give obligatory lip service opposing judicial activism but will actually deliver on core Republican political interests; the conservative bloc of judges overrules precedent and 100 years of practice to open the doors to unlimited corporate political spending; and corporations can now give ever more money into the process of electing more Republicans. Connect the dots: The Republicans are the party of the corporations; the judges are the appointees of the Republicans; and the judges just delivered for the corporations. It is being done in plain view.

The Washington Post recently explained:

> ''The U.S. Chamber of Commerce is now free to spend unlimited amounts of money on advertisements explicitly attacking candidates.''

The Chamber of Commerce already had announced in November ''a massive effort to support pro-business candidates.'' So the response from the Republicans, as reported by the Washington Post, should come as no surprise:

> Republican leaders cheered the ruling as a victory for free speech and predicted a surge in corporate support for GOP candidates in November's midterm election.

Now that the Court has taken the fateful step of forbidding any limits on corporation spending to limit campaigns, we can expect to see corporate polluters under investigation by the Department of Justice running unlimited ads for a more sympathetic Presidential candidate; financial services companies spending their vast wealth to defeat Members of Congress who are tired of the way business is done on Wall Street; and defense contractors overwhelming candidates who might dare question a weapons program that they build.

The Court was so eager to give artificial corporations the same rights as natural living human beings that it virtually overlooked foreign corporations. The activist Republican majority leaves wide open the possibility of constitutionally protected rights to influence American elections being held by a Saudi oil company interested in American energy policy, a Third World clothing manufacturer opposed to American labor standards, or a foreign farm conglomerate concerned about America's food safety rules. Is the five-man conservative bloc's fealty to corporate power so absolute that they could not bring themselves to say that the first amendment doesn't protect foreign companies wishing to drown out the voices of American citizens?

Our government is of the people, by the people, and for the people. By refusing to distinguish between people and corporations, the Citizens United opinion undermines the integrity of our democracy, allowing unlimited corporate money to drown out ordinary citizens' voices. So look out for government of the CEOs, by the CEOs, and for the CEOs, who now have special privileged status: Not only may CEOs use their personal wealth to influence elections, they now get the added megaphone—not available to regular citizens—of being able to direct unlimited corporate funds to influence elections. CEOs now have twice the voice or more of everyday Americans.

I won't belabor the record here, because it is something of a technical matter, but before I conclude I have to say from the point of view of judicial practice, the majority opinion is disturbing in several ways: First, it uses rhetorical devices that are more consistent with polemic than judicial determination—vastly overstating the opponents' arguments, using false analysis, knocking over a straw man, indulging in selective quotation and unsupported fact finding.

One example: This is what the conservative bloc found as a fact. And remember, fact finding is not the proper province of an appellate court in the first place, but here is what they found regarding elections:

> We now conclude that independent expenditures, including those made by corporations, do not give rise to corruption or the appearance of corruption.

They just decreed that. So a company comes in, drops a couple of a million dollars in a smear campaign

against an opponent at the bitter end of a race, when it can't be answered, and the next thing you know the person they defended against the opponent is in their pocket. No appearance of corruption? Well, the Supreme Court has decided it: No appearance of corruption. That is clear to them.

Here is another finding of fact by this bloc of judges:

The appearance of influence or access, furthermore, will not cause the electorate to lose faith in our democracy.

They made that up out of whole cloth. There are hundreds of thousands of pages of findings to the contrary in the record of previous Supreme Court decisions they overruled. But, no, they made these unsupported findings.

It is novel, it is naive, and it contrasts with the actual findings of this Senate 100 years ago, which said the following:

The evils of the use of [corporate] money in connection with political elections are so generally recognized that the committee deems it unnecessary to make any argument in favor of the general purpose of this measure. It is in the interest of good government and calculated to promote purity in the selection of public officials.

The evils of the use of corporate money in connection with political elections was so generally recognized 100 years ago that the Senate committee working on that legislation deemed it unnecessary to make any argument in favor of the measure—it was too obvious. Yet now this appellate tribunal has made fact findings that that is all wrong.

Moreover, a small band of conservative Justices departs from regular judicial practice by relying for precedent on its own members' previous concurring and dissenting opinions, as if they were their own little court, building a scaffold of arguments alongside the law, in wait for the right case with a sufficient majority to abandon the law and jump to their scaffold of argument. As Justice Stevens accurately pointed out, the majority opinion of the right wing bloc is essentially an ''amalgamation of resuscitated dissents.''

Finally, and most disturbingly, the Chief Justice evaluates precedent in terms of whether his five-member bloc objects to it. He is surprisingly outright about this. He said this: ''Stare decisis,'' the principle that a settled question is settled, that it stands decided—''stare decisis effect is . . . diminished when the precedent's validity is so hotly contested that it cannot reliably function as a basis for decision in future cases.''

He later continues: ''The simple fact that one of our decisions remains controversial . . . does undermine the precedent's ability to contribute to the stable and orderly development of the law.''

As anybody looking at this can see, it is a completely self-fulfilling theory, and it allows the five-man right wing bloc on the Court to gradually undermine settled precedent, to tunnel under it with quarreling objections, hotly contesting it, perhaps even to accelerate the process of undermining it; then, at some point, decree that the settled precedent is no longer valid because they have quarreled with it. Now it must fall.

There can be little doubt that the conservative bloc is laying the foundation for future right wing activism in a seemingly deliberate and concerted effort to expand its political philosophy into our law. Of course, always the dramatic changes observably fall in the direction of the Republican Party's current political doctrine and interests.

I will close by quoting Justice Stevens, who I think puts the fundamental issue of the Citizens United majority opinion in clear relief. ''At bottom,'' he says:

. . . the court's opinion . . . is a rejection of the common sense of the American people, who have recognized a need to prevent corporations from undermining self-government since the founding, and who have fought against the distinctive corrupting potential of corporate electioneering since the days of Theodore Roosevelt. It is a strange time to repudiate that common sense. While American democracy is imperfect—

Justice Stevens concludes—

few outside the majority of the Court would have thought that its flaws included a dearth of corporate money in politics.

I yield the floor.

ANNUAL REPORT OF THE SELECT COMMITTEE ON ETHICS

Mrs. BOXER. Mr. President, the Honest Leadership and Open Government Act of 2007 calls for the Select Committee on Ethics of the U.S. Senate to issue an annual report not later than January 31 of each year providing information in certain categories describing its activities for the preceding year. Reported below is the information describing the committee's activities in 2009 in the categories set forth in the act:

(1) The number of alleged violations of Senate rules received from any source, including the number raised by a Senator or staff of the Committee: 99. (In addition, 26 alleged violations from the previous year were carried into 2009.)

(2) The number of alleged violations that were dismissed—

(A) For lack of subject matter jurisdiction or in which, even if the allegations in the complaint are true, no violation of Senate rules would exist: 58. (This figure includes 12 matters that were carried into 2009.)

(B) Because they failed to provide sufficient facts as to any material violation of the Senate rules beyond mere allegation or assertion: 45. (This figure includes 5 matters that were carried into 2009.)

(3) The number of alleged violations for which the Committee staff conducted a preliminary inquiry: 13. (This figure includes 8 matters from the previous year carried into 2009.)

(4) The number of alleged violations for which the Committee staff conducted a preliminary inquiry that resulted in an adjudicatory review: 0.

(5) The number of alleged violations for which the Committee staff conducted a preliminary inquiry and the Committee dismissed the matter for lack of substantial merit: 8. (This figure includes matters in which the Committee subsequently lost jurisdiction. It also includes two letters of public dismissal.)

(6) The number of alleged violations for which the Committee staff conducted a preliminary inquiry and the Committee issued private or public letters of admonition: 1.

(7) The number of matters resulting in a disciplinary sanction: 0.

(8) Any other information deemed by the Committee to be appropriate to describe its activities in the previous year:

In 2009, the Committee staff conducted 10 Member code of conduct training sessions and 5 new Member sessions; 19 employee code of conduct training sessions; 12 Member and committee office campaign briefings; 27 ethics seminars for Member DC offices, state offices, and Senate committees; 3 private sector ethics briefings; and 7 international ethics briefings.

In 2009, the Committee staff handled 12,667 telephone inquiries for ethics advice and guidance.

In 2009, the Committee wrote 996 ethics advisory letters and responses including, but not limited to, 752 travel and gifts matters (Senate Rule 35) and 111 conflict of interest matters (Senate Rule 37).

In 2009, the Committee issued 3,309 letters concerning financial disclosure filings by Senators, Senate staff and Senate candidates and reviewed 1,663 reports.

DENYING AL-QAIDA SAFE HAVENS

Mr. FEINGOLD. Mr. President, the attempt to blow up a U.S. airliner on Christmas Day has shined a spotlight squarely, if belatedly, on Yemen. I cannot overstate the importance of denying al-Qaida safe havens in Yemen and countries like it, an issue on which I have been working for years. The threat from al-Qaida in Yemen, as well as the broader region, is increasing, and our attention to this part of the world is long overdue.

That is why I welcome the President's increased focus on Yemen. But we need to remember, as we focus needed resources and attention on Yemen, that it shouldn't be seen as the new Afghanistan, or the new Iraq. Instead, Yemen highlights the importance of a comprehensive, global counterterrorism strategy that takes into account security sector reform, human rights, economic development, transparency, good governance, accountability, and the rule of law.

We must seize the opportunity to focus attention on the strategy and policies we need to deny al-Qaida safe havens around the world, including in Yemen. Concurrently, we need to examine our policy in Yemen and better understand how we can develop a partnership that is both in our national security interest and helps Yemen to move towards becoming a more stable, secure nation for its people. The recognition at the recent high-level international meeting on Yemen in London of the importance of addressing broader economic, social and political factors in Yemen is thus very welcome.

Any serious effort against al-Qaida in Yemen will require strengthening the