professors and commentators advocate judges being activists.

Chief Justice Roberts and Justice Alito were articulate spokesmen for the classical American view that a judge should be a neutral umpire and should be impartial and should decide the cases and not try to make law or advance a vision for America.

Many judges, however, are overriding the will of the people this very day. It is becoming apparent that many on the left hold the Federal judiciary as an engine to advance the agenda of the left, picking and choosing which constitutional rights they will protect and which ones they will cast aside. The only consistent principle—of which sometimes I think, and I am exaggerating, but I sometimes think—is to advance the agenda of the leftwing of the Democratic Party. That is about the only consistent guiding principle you can find in some of these opinions.

Just a few months ago, the preservation of the explicit constitutional right to keep and bear arms was upheld by a single vote on the Supreme Court. Four Justices, including Justice Sotomayor, contrary to, I think, what she said just 1 year earlier in her confirmation hearing, would have held that the right to keep and bear arms is different from other liberties protected by the Bill of Rights and should not apply to the States.

Hugely significant. If that were to be so, any State, any city or county, for that matter, could ban firearms altogether because the constitutional right to keep and bear arms would not apply to them. Four Justices on the Supreme Court ruled that way.

During the last term, the free speech clause of the first amendment barely escaped being rewritten by a single vote in Citizens United. In that case, the Supreme Court invalidated a portion of the McCain-Feingold campaign finance law, holding that political speech is not exempted from the first amendment guarantee of free speech merely because the speaker's expression is funded, in part, by money from a corporation, a group of Americans.

Four Justices on the Supreme Court would have rewritten the free speech clause to allow the government to ban statements made by such groups in an election cycle. I mean, the last thing we need to be doing is whacking away at the great liberties in free speech clause of the first amendment.

Just a couple years ago, one vote on the Supreme Court decided that a city could use its eminent domain power to take property, to take a woman's house, in order to give it to a private company for a redevelopment project, not for public use. So much for the constitutional guarantee of life, liberty and property and the constitutional guarantee that your property can only be taken for public use, not private use. You cannot take somebody's property because you would like to take it to give to somebody else who would use it in a way that the city thinks is better, maybe spend more money on it so they can get more tax revenue.

By one vote, the Supreme Court held it did not violate the first amendment for a public university to require a religiously oriented student organization to accept officers and members who do not subscribe to the organization's religious beliefs. How could they say that?

Recently, a judge in the Western District of Wisconsin, the same district to which Louis Butler has been nominated, held that the statute establishing the National Day of Prayer was unconstitutional because its sole purpose ''is to encourage all citizens to engage in prayer.''

In so doing, the judge held that the government had ''taken sides on a matter that must be left to individual conscience.'' Well, nobody is being made to pray. You do not have to bow your head if someone has a prayer, for heaven's sake.

One wonders, then, does this Senate violate the establishment clause each day when we open the session with a prayer, most often led by a paid Chaplain, former head of the entire Chaplain Corps of the United States Military?

There is a constitutional guarantee to the right of free exercise of one's religion, the free exercise clause, not found in the first amendment of the judge's constitution.

I will repeat, if other Senators would desire to speak, I will yield the floor.

The liberal Ninth Circuit, to which Professor Goodwin Liu has been nominated, held recently that the recitation of the Pledge of Allegiance in an elementary school was unconstitutional under the establishment clause of the first amendment because the pledge includes the words ''under God,'' and amounted to a government endorsement of a religion.

One wonders what the Ninth Circuit would have to say about teaching children the Declaration of Independence. After all, it does say: ''We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights.'' Is that now unconstitutional, to read the Declaration of Independence?

A single judge on the U.S. district court in Massachusetts recently invalidated the congressionally passed Defense of Marriage Act that passed on this floor. I remember the debate about it. The judge found it unconstitutional. Basically, what he said is: No State would have to give full faith and credit to a marriage in another State if it does not meet their definition of marriage as between a man and a woman.

The judge, in great wisdom, not having had to run for office, with a lifetime appointment, unaccountable to the public in any way, objected, found it to be unconstitutional because it did not have ''a legitimate government interest'' and was outside the scope of ''legislative bounds.''

Well, I remember the debate on that. People quoted the Constitution, and we discussed it at great length. I cannot imagine how that can be held to be unconstitutional.

A single judge in the Northern District of California, the same court to which Edward Chen has been nominated, held that a statewide ballot initiative defining marriage—this was a California initiative, statewide, that defined marriage as between a man and a woman, which was passed by a majority of California voters—violated the due process and equal protection clauses of the fourteenth amendment.

The judge decided, essentially by fiat, that the State, the people of California, had no legitimate interest in defining marriage.

Marriage has always been a matter of State law. A single judge in the central district of California recently held Congress's don't ask, don't tell policy was unconstitutional. This is the policy on gays in the military. The judge in the central district of California held that this policy was unconstitutional because it did not ''significantly further the government's interest in military readiness or unit cohesion.'' It was an impermissible content-based restriction that violated free speech, free association, and the petition clauses of the first amendment.

I don't think this judge has any responsibility for or knowledge about readiness and unit cohesion in the military. It is a matter Congress appropriately has dealt with, will have the opportunity to deal with again, and may well do so, although we did not move forward yesterday.

This is not a matter for the courts. The American people know this. They sense activism in their courts, and they are concerned and unhappy because these judges, once they declare something to be constitutional, or find something in the Constitution, it is as if an entire amendment was passed, and it becomes impossible for a city or county, a State or congressional action to overturn it.

These are big issues we have been talking about for some time. I do have my back up a little bit about being accused of obstructing, when nominees are moving along at a very good pace today, in my opinion. A few are controversial, and I could talk about them, but I see Senator KERRY in the Chamber now.

I believe when we get all the facts out, people will remember that many of the changes in the process occurred as a deliberate plan by the Democratic leadership in 2001.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

THE DISCLOSE ACT

Mr. KERRY. Mr. President, in the 25 years I have had the privilege of serving in the Senate, I have regrettably, in the course of almost every election period, with one brief exception when we had the McCain-Feingold bill in

place, seen our system of funding campaigns become increasingly broken. The truth is, a lot of the anger the American people feel today—rightfully—for the absence of this Congress—not just this particular session but the Congress of the United States being able to directly address the concerns of the American people—a lot of that anger really ought to be directed at the system itself, at the fact that we have locked in place funding of campaigns that robs the American people of their voice, that steals the legitimacy of our democracy, and concentrates decisionmaking in the hands of the powerful, individuals with a lot of money or powerful corporations with a lot of money.

Money is driving American politics. Money is driving the American political agenda. Money decides what gets heard and does not get heard around here, what gets acted on and does not, and how it gets acted on in many cases. Every so often we have bubbling up a legitimate kind of citizen energy that motivates one particular reaction here or another, whether it is a tax bill or a particular piece of legislation for women, pay, but it is rare now. It is actually rare that the kind of grassroots effort that traditionally we think of when we think of legitimate democracy, that it is felt in its appropriate ways.

The truth is, the increased influence of special interest money, big money in our politics, is robbing the average citizen of his or her voice in setting America's agenda. There are far more poor people, there are far more children, there are far more interests that don't get represented. We constantly see, like the debate we have had recently over carried interest, for instance, or a number of other interests here get as much time and as much debate over one or two of those single issues as some of those that affect a far greater proportion of the population.

As a result of the Supreme Court's ruling in the case of Citizens United, we have seen an incredible step backwards from accountability, a step backwards from preserving our democracy, and an incredible gift to the power of money. In the last few years, under the McCain-Feingold bill and under our rules, at least if a company wanted to participate in the election, it had to go out and ask its executives to contribute. We went through the sort of charade of having a fundraising event at which a whole bunch of executives would have to show up or people who worked for a company, and they wrote a check. The checks were bundled together, and there were your contributions. But at least there was accountability. At least people knew those people had contributed. At least people saw where it was coming from and who it was coming from.

Under the Citizens United decision, all a CEO has to do is put it in the budget of the corporation. The corporation can budget annually. We are going to put $2 million, and the CEO can turn that money over in its totality to some group that is formed to destroy somebody's reputation with a lot of lies, just pour the money over. That is it. Total secrecy. We don't even get to know who gave the money. No accountability. They just turn the money over to lobbyists who run the media campaigns to help their friends and defeat their opponents in Congress. We can have the best Congress. People have always said that money buys people in public life. But this is a step toward the greatest certification of that I have ever seen. It sends a chilling message to candidates without means, which is most candidates, that they can't combat the bottomless pocket of a K Street lobbyist who has some cabal of corporations that want to pour a bunch of money in to get their special interests protected.

So American workers in Ohio or Indiana or any other State who wonder why those jobs went overseas, there is a tax benefit that helps those companies actually take those jobs overseas. Why is that tax benefit there? Why do we have thousands upon thousands of pages of special interest tax provisions in our Tax Code? Because the lobbyists and the powerful people are able to be heard, and they are able to work their will. They are able to make that happen.

Now we have a rule, because the Supreme Court ruled that corporations are like people and have the same rights. So we have a new assault on America's democracy. I mean that. It is an assault on our democracy. We have always had money in the marketplace of politics. We understand that. For years people have tried to find one way or another of trying to address that concern. This is not a new concern of the American people. It is hard to say where we are headed, all of us, in our careers in public life. I am, obviously, on the back end of that runway, but I am stunned by what the impact of this is going to mean to our country and to the ability of average voices to be heard.

The humorous Will Rogers once quipped that ''politics has gotten so expensive, it takes a lot of money even to get beat.'' But Will Rogers would be stunned by the amount of money in politics today.

In 2008, a record total of $5.2 billion was spent by all the Presidential, Senate, and House candidates. When I ran for President in 2004 on a national basis, we spent $4.1 billion. That broke the 2000 record when Al Gore ran of $3.1 billion. So we go from $3.1 billion to $4.1 billion to $5.2 billion.

Now we have a new rule. All these secret funds can come into the political process. We have already broken the record in 2010 from the 2006 race by a huge amount. I think the total amount of money spent in 2006, which was an off Presidential year, was about somewhere around $700 something million, $800 million. We are well over $1.2, $1.3 billion already in this cycle. That is just the campaign spending. That is the direct money that goes into the campaigns.

But last year, special interests spent a record of $3.47 billion hiring lobbyists. The rest of the country might have been suffering from a recession, but it was a great year for K Street in Washington, a 5-percent increase in fees over the previous year.

President Obama's ''change'' agenda stirred up so many people who were going to be opposed to it from the very beginning—health care, banking regulation, all the things that have undermined Americans in the last years—they wanted to preserve the status quo. They sat up, and they came up with about $1.3 million spent per minute in 2009. That is the amount the watchdog group, Center for Responsive Politics, arrived at when they took the $3.47 billion that lobbyists collected and divided it by the number of hours Congress was in session in 2009. It comes out to $1.3 million per minute spent to try to hold on to the status quo.

Now thanks to the Supreme Court, it is a lot easier for special interests to finance and orchestrate contrived political movements. Unbelievably, the Court ruled in Citizens United that corporations have the same right to speech as individuals. Therefore, they can spend unlimited amounts of money in elections.

I remember from my days in law school learning distinctly that a corporation is a fictitious entity. It is a fictitious entity created as a matter of law to protect the corporation in the conduct of its economic business, not to protect it in the context of giving it the same rights as an individual with respect to speech. For a Supreme Court of the United States to somehow put a corporation on the same plane as the individual citizen is absolutely extraordinary.

As a result, we are now seeing a whole bunch of spending by shadowy groups run by long-time Republican Party officials and activists that is going to end up in the hundreds of millions of dollars, money that cannot be traced to its source. How do Members feel about that? How do Americans feel about the millions of dollars being spent and they don't know who is spending it? Unaccountable democracy.

What we are talking about, I suppose, means little to the corporations compared to what they are going to get in terms of blocking a regulation. We have people here who want to delay the regulations for clean air. They are going to come in here and try to say: We can't proceed now to have clean air. We have to delay it. So more coal fumes will pollute the air and more people will get sick and so forth. But they will try to work their way, and they have a lot of money to try to do it with.

The Supreme Court's ruling also clears the way for the domestic subsidiary of a foreign corporation to

spend unlimited amounts to influence our elections.

I want people to think about that. A foreign corporation and a national of a foreign country are barred under the law from contributing to Federal or State elections. But nothing in the law bars the foreign subsidiary incorporated in the United States from doing so. Those subsidiaries do not answer to the American people. They answer to their corporate parents way off in some other country. That means that in no uncertain way a foreign corporation can indeed play in an American election, and clever people will not have a hard time in covering that trail.

So today, on the floor of the Senate, in Washington, DC, in the year of the tea party—when the tea party is asking for accountability, and the tea party is asking for sunshine, and they want reform—I would like to hear the tea party stand up today and say: Republicans ought to vote overwhelmingly to have sunshine on the funding process of our campaigns.

The DISCLOSE Act, on which we will vote today, does not amend the Constitution. It is not going to overturn the Supreme Court decision that equated the rights of people—I would think the tea party ought to be excoriated over the notion that a corporation has been given the same rights as the Constitution gives to an individual. But it does not even overturn that. It does not even constitute campaign finance reform. All it does is shine the disinfectant of sunlight on corporations and faceless organizations that are trying to buy and bully their way in Washington through campaigns run against Members who disagree with them.

The DISCLOSE Act requires corporations, organizations, and special interest groups to stand by their political advertising, just like any candidate for office, and it requires the CEO of a company to identify themselves in their advertisements. And corporations and organizations would be required to disclose their political expenditures.

Is that asking too much, that the American people get to know who is spending the money to influence them so that maybe they will have the ability to judge whether there might be a little bias in that ad or there might be a little personal interest in that ad, there might be a reason they are getting the information they are getting, the way they are getting it?

That is all we are asking. It is not radical. It is not prohibitive. It simply removes the false notion that Americans are somehow voluntarily organizing all across this country in order to pursue a public interest. The fact is, corporate special interest money is being compiled and targeted to pursue a special interest and to send a loud televised message to those who disagree with them that they are going to be punished for disagreeing. If that practice is not disclosed and tempered, it is not only going to tip elections, it is going to cripple—cripple—the legislative process more than it has already been crippled in these past few years.

Instead of negotiating with each other in the public interest in the Congress, Members of Congress find themselves asking corporations—supposedly subject to the law and will of the American people—they ask them whether it is OK with them whether we regulate or legislate and release their allies to vote in favor of one thing or another. And guess what. No surprise to the American people, those corporations almost always refuse to do so.

So when the Citizens United decision was handed down, the voices seeking support from these corporations argued it would have no effect on the American political process. They said: We don't need to worry about new funneling of funds to candidates. But the record already says otherwise. The truth is, Karl Rove admitted that based on the Citizens United decision, he has formed two new groups specifically, because this decision empowered him to do it, to influence the 2010 elections with $52 million of ads bankrolled anonymously by special interests.

Now that the Supreme Court has opened the door to these anonymous ads, a lot of other groups are planning to spend approximately $300 million or more on the elections this fall. Already we have seen incredible disparity. I think the total spent by these anonymous groups attacking Democratic candidates around the country is over $30 million. The total amount the Democrats have had available to them, because they do not have as much money, and they do not represent those powerful groups, is about $3 million. Seven to one is the ratio.

All you have to do is begin to analyze these ads, and you can see exactly what the message is and why it is coming.

So here is the deal: Whether you agree with the ads or not is not what is at issue on the floor of the Senate today. At a minimum, I would hope our colleagues would support the idea that messages that are sent in American politics, advertisements that are made for or against a candidate, advertisements that are made for or against a particular idea, that those ought to be sent openly; that they ought to be sent in an accountable way so the American people—which is what this is all about, this institution, this house, the Senate, the House. All of this comes from the words ''We the People,'' and we have been hearing those words, ''We the People'' all over America from the tea party and from others who are trying to remind people what that is all about. This vote is all about that today, and their outrage ought to be summoned all across the country to shed the sunlight on this political process and hold it accountable.

If our friends come to the floor this afternoon and vote en bloc against it, let me tell you, that is a declarative statement about whose interests are being protected and what is at stake in this election as we go into this November.

The stakes for the American people are simply too high to let special interests hide behind faceless and unidentified campaigns. I cannot think of anything that is less American than secret money going into campaigns to try to affect the choices of the American people.

This is an opportunity for us to truly speak for the American people, and I hope my colleagues will join us in doing so today.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. HAGAN). The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. KAUFMAN. Madam President, I rise to voice my support for the DISCLOSE Act.

The DISCLOSE Act has to do with the Citizens United case, where the Supreme Court went out of its way to overturn nearly 100 years of statutes and settled precedent that had established the authority of the Congress to limit the corrupting influence of corporate money in Federal elections. It is a truly astounding decision, and it broke with all precedent for 100 years.

The Court ruled—and this takes a little bit, and you have to suspend your mind to get this right—that corporations are absolutely free to spend shareholder money with the intent to promote the election or defeat of a candidate for political office. The corporations have freedom of speech. This is astounding.

Beyond ignoring precedent, the Court's reckless, immodest, and activist opinion failed to distinguish between the rights of purpose-built political advocacy corporations and profit-driven, large corporations to direct resources to influence elections. They came in and ruled that any corporation can spend corporate money on whatever races they want. By issuing the broadest possible opinion, the majority admitted of no differences between Citizens United and any major multinational corporation.

But this decision left important questions unresolved. Who determines what candidates the major multinational corporation supports or opposes? Think about it. Here are corporations run by managers. We all know the problems with boards of directors, and we have seen what has gone on in the last years with decisions by corporations. But they never said who in the corporation gets to make the decision. Can a manager of the corporation or a CEO say I am going to throw $40 million or $50 million into the political pot or should he have to go to shareholders to get it?

That is a gigantic amount of money in politics, but it is a mere pittance to a large corporation. Who determines what candidates the major multinational corporation supports or opposes? The boards of directors? The CEO? The employees? All these groups and individuals serve the corporation for the benefit of the shareholders.

How will the shareholders of these corporations learn who makes these decisions within the corporation? Even so, how are we to determine what speech the shareholders favor? How do you do that? You are running a corporation and you get up one morning and decide you are going to go against candidate X or Y. Have you asked your shareholders what to do with their money or whether they want to be against or for candidate X or Y? How is that decision made? Do we care if the shareholders are U.S. citizens or citizens of an economic, political, or military rival of the United States? The way this thing rules is that a corporation that is under the control of an economic, political, and military rival of ours anywhere in the world can now be involved in our campaigns. That is something we have never done before.

As it stands now, Citizens United allows corporate interests to prevail over the rights of American citizens—that is it, pure and simple—because they have so much in assets. A speaker in California said that money is the mother's milk of politics. Most Americans know that and they decry it. With this decision, it allows corporate interests to prevail over American citizens and overwhelms the contributions and the voices of shareholders and individuals, and it ultimately makes elected officials even more beholden to corporations.

I tell you what, I don't have to do a survey to find out that most Americans don't want elected officials more beholden to corporations, and I am a corporate guy. There is nothing wrong with corporations. But the American people don't want corporations having more control over elected officials.

Boardroom executives must not be permitted to raid the corporate coffers to promote personal political beliefs or to curry personal favor with elected politicians. That result is bad for corporations, bad for shareholders, and bad for government. We must ensure that the corporation speaks with the voice of its shareholders, and that those who would utilize the corporate forum to magnify their political influence do not do so for improper personal gain or to impose the will of a foreign power on American citizens.

Unfortunately, the Supreme Court has left us without the tools to directly affect any of these compelling public interests. The DISCLOSE Act cannot entirely undo the activism of the Roberts Court and shut off the spigot of corrupting corporate funds because they say it is unconstitutional. The Congress cannot overcome a constitutional violation that was made by the Supreme Court. That is fundamental to our system. But it will serve as a bulwark against the flood of corporate money and help resolve the open questions created by the Court in Citizens United.

The act will shine a spotlight on corporate spending and prevent corporations from speaking anonymously by increasing disclosure and strengthening transparency in Federal campaigns.

Transparency—if you came to the floor since Buckley v. Valeo, in 1974, the first campaign finance ruling, you would have found my colleagues, led by their majority leader, speaking passionately about transparency, transparency, transparency. Now we have a bill where no one knows who is spending the money, and there is no movement on the other side. In fact, there is a filibuster against this bill, which would allow transparency. That is the main thing to do. It can't change the rules because the Supreme Court says it is then constitutional. We are trying to deal with transparency, something that has been a hallmark—if you take a debate over the last 30 years on financing of elections and put all of those papers up on a wall, and you throw a dart, the chance that you would hit a Member on the other side of the aisle talking about transparency is pretty high.

So you have to ask: Why would they be opposed to shining a spotlight on corporate spending and prevent corporations from anonymously increasing disclosure and increasing transparency in Federal campaigns?

Not only does the act require the corporation, organization, and special interest groups to stand by their political advertising like a candidate running for office—when we had McCain-Feingold, I think most Americans liked this. If you were going to put up an ad, you would say: I am TED KAUFMAN and I approve this ad. There were a lot of jokes about it, but you knew who paid for the ad. But they don't want to do this with corporate money. I can go to a big corporation and start a committee to save the world, and I can pour $35 million into it and spend it around the country, and I never have to disclose that it is me.

Under this act, CEOs would be required to identify themselves in their advertisements just like political candidates, and corporations and organizations will be required to disclose their political expenditures.

All we are asking is, if a corporation spends $35 million on a political race, they have to disclose that, like elected officials and everybody else has to do now. The other thing we say is, if a corporation is going to spend money in a race, the person in charge—the CEO—has to say what every elected official and Federal officeholder has had to say in recent years, since McCain-Feingold—that ''I am Joe Brown and I support this ad.'' Disclosure is exactly what our friends on the other side of the aisle were supporting.

Directors of public companies may still be able to hijack shareholder money to promote their own narrow interests. But thanks to the DISCLOSE Act, shareholders will be able to determine when they have done so.

The act will prevent foreign-controlled corporations from secretly manipulating elections by funneling money to front groups to fund last-minute attack ads and other anonymous election advertisements. But they can also be 6 months in advance. Last minute is because you don't want them to know you did an ad. They can do it 6 months before the election, and nobody knows who did the ad.

If we fail to respond to the threat that the Citizens United decision poses to our democracy, then I fear the public confidence in its government will continue to erode, precisely when bold congressional action is needed. It is not bad enough that the Congress has an incredibly low approval rating. You vote for someone because you think they are X, and all the time they are being supported by corporation Y. Our ability to meet the Nation's pressing needs depends on our ability to earn and maintain the public's trust. That is what we have all learned and know.

How do you maintain public trust? To not get involved in this bait and switch, where there is an organization saying one thing and it is doing something else. Earning that trust—the trust of the American people—will be all the more difficult in a world in which corporate money is allowed to drown out the voice of individuals and corrupt the political process. This is basic to our society and what we believe in. The American people deserve much better. I think it is important that we pass the DISCLOSE Act.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I heard what the Senator from Delaware said. He has been a very valuable member of the Senate Judiciary Committee and of this body itself. We all listen to what he says. He is not saying this out of any sense of what it might do in an election for him, he is retiring this year. We ought to listen to somebody who has no stake in this, other than as a citizen who cares what happens to our democracy. I thank my friend from Delaware for speaking out, as he always does so clearly.

We are going to try again this week to take action to help stem the tide of corporate influence that was unleashed when, earlier this year, five unelected Supreme Court Justices overturned 100 years of precedent in the Citizens United decision. When we last tried to correct this prior to the August recess. We brought up the DISCLOSE Act. Republicans filibustered the bill. It never allowed the Senate to even debate the legislation. Many of us argued that without even going to the legislation, we faced real problems, and those have been borne out. We have seen massive

corporate spending, drowning out the voices of hard-working Americans.

I heard somebody say in Vermont: ''Do you mean if you have somebody who is trying to stop counterfeit goods coming from China''—or to use another example, ''trying to stop the flood of toys that have too much lead in them that will endanger our children—and you have a Member of Congress who goes out and works to tighten the law so they can't do it, are you telling me that Chinese company can set up a small corporation here in the United States and spend a fortune to defeat the person who is trying to protect our children, to defeat the person who is trying to stop lead in toys? And do you mean in defeating the person who is trying to protect our children they could do it without anybody ever knowing where the money was coming?'' I said: That is the result of the Citizens United decision.

They could not understand that. But I tell my fellow Vermonters, with election day less than 2 months away, hundreds of millions of dollars of corporate interest group funds have been spent or pledged to be spent on political advertising and election activities. The American people deserve better than that.

We have seen filibusters, once a rarely used part of Senate procedure, become a regular tool for obstruction in the Senate on issue after issue. No matter how much the American people want an issue voted on, we end up having a filibuster blocking it. That obstruction has led to delays in considering legislation meant to protect the American people, as well as an alarming and almost unprecedented rise in judicial vacancies because Republicans will not allow votes on judges. Here, in an area fundamental to our democracy, it is clear the American people continue paying the price unless Congress takes action. Americans should expect bipartisan support for any legislation designed to prevent corporations from taking over elections, corporations from deciding elections, instead of the people who are affected by them.

This legislation does that, and I hope the Senators on the other side will stop filibustering this legislation. I cannot help but think on these filibusters—do you know what it is? It allows one to say: I am going to vote maybe. We were elected and paid to vote yes or no, not maybe. Those who keep using the filibuster to prevent a vote on serious matters can go home and say: That matter has not come up. I have not voted on that. I am on your side, whichever side you are on, because I never voted. I voted maybe. That is what these filibusters are. They are voting maybe because you do not have the courage to stand and vote yes or no.

In Citizens United, five Supreme Court Justices cast aside a century of law and opened the floodgates for corporations to drown out individual voices in our elections. Five overruled every law passed by Congress or other courts over the years. That broad scope of the decision was unnecessary, it was improper, and it was one of the greatest grasps for power I have ever seen. At the expense of hard-working men and women in this country, the Supreme Court ruled that corporations could become the predominant influence in our elections for years to come. These unelected members of the Supreme Court said: We are going to let corporations decide your elections, not the hard-working men and women who are affected by the elections. We have already seen the consequences. Corporations have injected more money than ever into primary races and now general elections across the country, and they can do it without ever even saying which corporation is emptying their treasuries to do this. We need to at least have some transparency to this new-found access.

We have heard from Americans of all political persuasions who express overwhelming concern over the impact of the Citizens United decision, as the threat it poses to our electoral process is readily apparent. We have a constitutional duty to work to restore a meaningful role for all Americans in the political process. Vote yes or vote no. Be willing to stand on one side or the other of the issue, not a filibuster which allows you to duck facing responsibilities as a Senator, not a filibuster to a motion to proceed because that is a vote to ignore the real-world impact this decision is already having on our democratic process. I call on Senators: Have the courage to take a position. Do not vote maybe so you can go back home and say: That issue has not come up. Have the courage, have the honesty. Vote yes or no.

The DISCLOSE Act is a measure I support to moderate the impact of the Citizens United decision. I will vote for it. The DISCLOSE Act will add transparency to the campaign finance laws to help ensure corporations cannot abuse their new-found Supreme Court-made Constitutional rights.

This legislation will preserve the voices of hard-working Americans in the political process by limiting the ability of foreign corporations to influence American elections. Can you imagine a proud country such as ours, we are willing, because of the decision of five people, to allow foreign corporations to come in and meddle in our political process? We are going to prohibit corporations from receiving taxpayer money when contributing to elections. Are you going to say to the taxpayers: We are going to tax you, and then we are going to give the money to determine who might give us more taxes? We are going to increase disclosure requirements of corporate contributions, among other things.

It is hard to overstate the potential for harm in the aftermath of the Citizens United decision. The DISCLOSE Act is necessary to prevent corruption in our political system because the Citizens United decision brings about corruption in our political system. The DISCLOSE Act will protect the credibility of our elections because the Citizens United case diminishes credibility for our elections. If we do not do that, we are not going to maintain the trust of the American people. While some on the other side of the aisle praise the Citizens United decision as a victory for the First Amendment, what they fail to recognize is that these new rights for corporations come at the expense of the free speech rights of all Americans. That much is already clear. There is no longer any doubt that the ability of wealthy corporations to dominate all mediums of advertising is quieting the voices of individuals who do not have the deep pockets and the unlimited resources of these corporations.

Citizens United is only the latest example of which a thin majority of the Supreme Court places its own preferences over the will of hard-working Americans. The campaign finance reforms of the landmark McCain-Feingold Act were the product of lengthy debate in Congress as to the proper role of corporate money in the electoral process and passed by bipartisan majorities.

Those laws strengthened the rights of individual voters while carefully preserving the integrity of the political process. But with the stroke of a pen, five Justices—unelected Justices—cast aside those years of deliberation and substituted their own preferences over the will of Congress and the American people.

Vermont is a state with a rich tradition of involvement in the democratic process. We see it in March at our Town Meeting Day. But it is also a small state, and it would take so little for a few corporations to outspend all our local candidates—Republicans and Democrats alike. Come on. A megacorporation could, in effect, try to control all the government of our small state. It is easy to imagine corporate interests flooding the airwaves with election ads and transforming the nature of Vermont campaigning. This is not what Vermonters expect of their politics. The DISCLOSE Act is the first step toward ensuring Vermonters and all Americans can remain confident that their voices are going to be heard in the political process, not an unseen, unknown corporation with a whole lot of money.

The Citizens United decision grants corporations the same constitutional free speech rights as individual Americans. Who could possibly have imagined what the Framers of the Constitution would have thought of that? Remember the opening words of our Constitution: ''We the People of the United States . . . '' It does not say we the people and a few megacorporations of the United States. In the Constitution, the Founders spoke of guaranteeing fundamental rights for the American people, not to corporations, which is

mentioned nowhere in the Constitution. The time is now to ensure our campaign finance laws reflect this important distinction.

The American people want their voices heard in the coming election. I look forward to working with all Senators to pass this important legislation to ensure the DISCLOSE Act is enacted into law. At the very least, our constituents deserve a debate in the Senate on this legislation. Have the courage and the honesty to vote yes or no, not to hide behind a filibuster and get away with voting maybe. What does that do for their constituents?

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. CASEY. Madam President, I rise to speak about the same topic about which the senior Senator from Vermont just spoke. We are grateful for his leadership on so many issues but especially those that involve the Judiciary Committee, the committee of which he has been chairman. He has been a great example. I will not try to repeat or replicate his message but to reinforce what Senator LEAHY and others have said already in this debate.

For people who do not follow campaigns day to day or even week to week—a lot of people are making a living and struggling through a tough economy, so they are not always engaged in day-to-day politics. Generally, the way it works in this country, whether it is a State such as Pennsylvania, New York or Vermont or any State in the Union, for the most part, with some exceptions, we have candidates who declare their candidacy for office. They have to file paperwork. They have to fill out ethics forms and provide other disclosures as a candidate.

Then candidates, as they are running and raising money, have to make reports about their donors. That happens all the time in State races and in Federal races where someone gives you a contribution of any size, that has to be reported. Some States might have a cutoff below a certain dollar amount.

If you are running in an election and someone gives you a contribution of $25,000 or $100,000, people ought to know about that. They ought to know who is funding your campaign.

Even in the Federal system, we have limits on contributions. But while a candidate is running, they file reports that tell the voters who is supporting them. It is a basic foundational principle of the way we run elections.

Now we are faced with a situation, because of the Citizens United case, where those basic rules about how candidates are influenced or impacted by contributions, what corporations and entities do in an election—all that is turned on its head.

Basically, what this Supreme Court decision means is, you can have a corporate entity—I am not sure there is anyone in America who does not think corporations already have too much influence. Let's set that aside. They have plenty of influence in elections. Right now any corporation at any time can spend any amount of money they want.

We do not have any information, unless the law is changed, about their donors, who is paying for that influence, who is paying for those advertisements. The corporate entity does not even have to identify itself. They can call themselves the XYZ company or XYZ campaign and come in and run ads positively or negatively, for or against, candidates in an unlimited way. It violates the basic rule we have all operated under, which is: Sunlight is the best disinfectant. If you want to bring some light to the darkness, especially the darkness that will envelop a lot of campaigns, then I guess you would be in favor of not having a statute passed such as the DISCLOSE Act.

It is very simple. Others have gone through it, so I will not walk through every provision, but one of the first provisions is mandating expanded disclosure and disclaimer requirements for certain communications by corporations, unions, and certain tax-exempt organizations.

What is wrong with that? Why shouldn't we have that? For the most part, we have had that for years. Now we don't have that due to the Supreme Court decision. So we should make sure that is the law again.

Second, the legislation would require covered organizations to report information about their donors and spending for certain independent expenditures and electioneering communications.

Why shouldn't someone voting in 2010, or in any year, have information about the entity that is spending the money, and especially the donors supporting that entity. It is a free country. They can exercise their right to free speech, but the idea that it has to be shrouded in darkness and secrecy——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. CASEY. I ask unanimous consent for 2 more minutes.

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

Mr. CASEY. I thank the Chair.

And, Madam President, I ask unanimous consent to have printed in the RECORD a New York Times article of September 20, 2010, entitled ''Donor Names Remain Secret as Rules Shift.''

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Sept. 20, 2010]

DONOR NAMES REMAIN SECRET AS RULES SHIFT

(By Michael Luo and Stephanie Strom)

Crossroads Grassroots Policy Strategies would certainly seem to the casual observer to be a political organization: Karl Rove, a political adviser to President George W. Bush, helped raise money for it; the group is run by a cadre of experienced political hands; it has spent millions of dollars on television commercials attacking Democrats in key Senate races across the country.

Yet the Republican operatives who created the group earlier this year set it up as a 501(c)(4) nonprofit corporation, so its primary purpose, by law, is not supposed to be political.

The rule of thumb, in fact, is that more than 50 percent of a 501(c)(4)'s activities cannot be political. But that has not stopped Crossroads and a raft of other nonprofit advocacy groups like it—mostly on the Republican side, so far—from becoming some of the biggest players in this year's midterm elections, in part because of the anonymity they afford donors, prompting outcries from campaign finance watchdogs.

The chances, however, that the flotilla of groups will draw much legal scrutiny for their campaign activities seem slim, because the organizations, which have been growing in popularity as conduits for large, unrestricted donations among both Republicans and Democrats since the 2006 election, fall into something of a regulatory netherworld.

Neither the Internal Revenue Service, which has jurisdiction over nonprofits, nor the Federal Election Commission, which regulates the financing of federal races, appears likely to examine them closely, according to campaign finance watchdogs, lawyers who specialize in the field and current and former federal officials.

A revamped regulatory landscape this year has elevated the attractiveness to political operatives of groups like Crossroads and others, organized under the auspices of Section 501(c) of the tax code. Unlike so-called 527 political organizations, which can also accept donations of unlimited size, 501(c) groups have the advantage of usually not having to disclose their donors' identity.

This is arguably more important than ever after the Supreme Court decision in the Citizens United case earlier this year that eased restrictions on corporate spending on campaigns.

Interviews with a half-dozen campaign finance lawyers yielded an anecdotal portrait of corporate political spending since the Citizens United decision. They agreed that most prominent, publicly traded companies are staying on the sidelines.

But other companies, mostly privately held, and often small to medium size, are jumping in, mainly on the Republican side. Almost all of them are doing so through 501(c) organizations, as opposed to directly sponsoring advertisements themselves, the lawyers said.

''I can tell you from personal experience, the money's flowing,'' said Michael E. Toner, a former Republican F.E.C. commissioner, now in private practice at the firm Bryan Cave.

The growing popularity of the groups is making the gaps in oversight of them increasingly worrisome among those mindful of the influence of money on politics.

''The Supreme Court has completely lifted restrictions on corporate spending on elections,'' said Taylor Lincoln, research director of Public Citizen's Congress Watch, a watchdog group. ''And 501(c) serves as a haven for these front groups to run electioneering ads and keep their donors completely secret.''

Almost all of the biggest players among third-party groups, in terms of buying television time in House and Senate races since August, have been 501(c) organizations, and their purchases have heavily favored Republicans, according to data from Campaign Media Analysis Group, which tracks political advertising.

They include 501(c)(4) ''social welfare'' organizations, like Crossroads, which has been the top spender on Senate races, and Americans for Prosperity, another pro-Republican group that has been the leader on the House

side; 501(c)(5) labor unions, which have been supporting Democrats; and 501(c)(6) trade associations, like the United States Chamber of Commerce, which has been spending heavily in support of Republicans.

Charities organized under Section 501(c)(3) are largely prohibited from political activity because they offer their donors tax deductibility.

Campaign finance watchdogs have raised the most questions about the political activities of the ''social welfare'' organizations. The burden of monitoring such groups falls in large part on the I.R.S. But lawyers, campaign finance watchdogs and former I.R.S. officials say the agency has had little incentive to police the groups because the revenue-collecting potential is small, and because its main function is not to oversee the integrity of elections.

The I.R.S. division with oversight of tax-exempt organizations ''is understaffed, underfunded and operating under a tax system designed to collect taxes, not as a regulatory mechanism,'' said Marcus S. Owens, a lawyer who once led that unit and now works for Caplin & Drysdale, a law firm popular with liberals seeking to set up nonprofit groups.

In fact, the I.R.S. is unlikely to know that some of these groups exist until well after the election because they are not required to seek the agency's approval until they file their first tax forms—more than a year after they begin activity.

''These groups are popping up like mushrooms after a rain right now, and many of them will be out of business by late November,'' Mr. Owens said. ''Technically, they would have until January 2012 at the earliest to file anything with the I.R.S. It's a farce.''

A report by the Treasury Department's inspector general for tax administration this year revealed that the I.R.S. was not even reviewing the required filings of 527 groups, which have increasingly been supplanted by 501(c)(4) organizations.

Social welfare nonprofits are permitted to do an unlimited amount of lobbying on issues related to their primary purpose, but there are limits on campaigning for or against specific candidates.

I.R.S. officials cautioned that what may seem like political activity to the average lay person might not be considered as such under the agency's legal criteria.

''Federal tax law specifically distinguishes among activities to influence legislation through lobbying, to support or oppose a specific candidate for election and to do general advocacy to influence public opinion on issues,'' said Sarah Hall Ingram, commissioner of the I.R.S. division that oversees nonprofits. As a result, rarely do advertisements by 501(c)(4) groups explicitly call for the election or defeat of candidates. Instead, they typically attack their positions on issues.

Steven Law, president of Crossroads GPS, said what distinguished the group from its sister organization, American Crossroads, which is registered with the F.E.C. as a political committee, was that Crossroads GPS was focused over the longer term on advocating on ''a suite of issues that are likely to see some sort of legislative response.'' American Crossroads' efforts are geared toward results in this year's elections, Mr. Law said.

Since August, however, Crossroads GPS has spent far more on television advertising on Senate races than American Crossroads, which must disclose its donors.

The elections commission could, theoretically, step in and rule that groups like Crossroads GPS should register as political committees, which would force them to disclose their donors. But that is unlikely because of the current make-up of the commission and the regulatory environment, campaign finance lawyers and watchdog groups said. Four out of six commissioners are needed to order an investigation of a group. But the three Republican commissioners are inclined to give these groups leeway.

Donald F. McGahn, a Republican commissioner, said the current commission and the way the Republican members, in particular, read the case law, gave such groups ''quite a bit of latitude.''

Mr. CASEY. Basically, in this article we have a news organization—among many—that is saying donor names are being kept secret. The other problem we have, of course, is foreign nationals are coming into the United States and spending money to influence elections. So this is not complicated. It is very simple. Either there is going to be sunlight and exposure about our elections and who is funding these various elections or we are just going to have darkness. I think that injures our ability to have free debate in a campaign, and it injures the voter's ability to learn what they expect and should have a right to know about candidates and about those who are influencing candidates.

Madam President, we should pass the DISCLOSE Act. At a minimum, we should have a debate on the DISCLOSE Act.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

HONORING OUR ARMED FORCES

FIRST LIEUTENANT MARK A. NOZISKA

Mr. JOHANNS. Madam President, I rise today to remember a fallen hero, U.S. Army 1LT Mark A. Noziska of Grand Island, NB.

Mark was a proud member of the 1st Battalion of the 4th Infantry Division. He was active in and around Kandahar, one of the most dangerous areas of Afghanistan. Sadly, Mark was killed on August 30 by an improvised explosive device. He had dismounted from a convoy vehicle to investigate suspicious activity when he was attacked. But by taking the lead, he likely prevented many more casualties within his platoon. His death is a great loss to our Nation and to my home State of Nebraska.

Mark loved life, he loved the Huskers, and he especially loved the Army. His leadership qualities became apparent early on in his life. He was recognized in Who's Who and selected to represent Nebraska in People to People while a student at Papillion High School. Before graduating, he was voted Mr. Monarch, a very high honor.

Mark enlisted in the National Guard in 2004 and before long was selected as the Nebraska Army National Guard Soldier of the Year. He subsequently finished as first runner-up in the Soldier of the Year national competition. Yet Mark had even higher aspirations. He enrolled in college and ROTC to become an officer. The University of Nebraska-Omaha ROTC Program honored Mark with the Military Order of the Purple Heart Medal.

After graduating with his college degree, he proceeded to the Infantry Officer Basic Course. His family reports that being an officer in the U.S. Army was an obvious joy and privilege for him.

First Lieutenant Noziska will be remembered as an eager, playful, yet very dedicated young man. His family recalls his lust for life, his love of his favorite football team, the Huskers, and his commitment to serving his country. His young nephew longs for Mark's teasing.

To Army leadership he was an energetic lieutenant with unlimited potential. His decorations and badges earned during his short but distinguished military career speak to his dedication and to his bravery: the Bronze Star, the Purple Heart, the Afghanistan Campaign Medal, the NATO Service Medal, the Global War on Terrorism Medal, the Army Service Ribbon, the Army Commendation Medal, the National Defense Service Medal, the Army Reserves Component Service Medal, the National Guard Individual Achievement Medal, the Adjutant General Outstanding Unit Citation, and the Combat Infantry Badge.

Today, I join family and friends in mourning the death of their beloved son, their brother, and their friend. May God be with the Noziska family and all those who mourn Mark's death and celebrate his life.

Mark laid down his life in defense of our freedom and security, and our Nation must never forget his sacrifice, just as we remember all of the Nation's fallen heroes. We have not been forced to relive the horror of 9/11 because heroes such as Mark offered their lives to protect us from it. America can never repay them. We are forever grateful.

I ask that God be with all those serving in uniform, especially the brave men and women on the front lines of battle. May God bless them and their families, and may God bring them home safely.

Madam President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. HAGAN. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. UDALL of New Mexico). Without objection, it is so ordered.

THE DISCLOSE ACT

Mrs. HAGAN. Mr. President, I am glad to join my colleagues today to discuss our elections process and the state of campaign finance. As everyone here knows, in January of this year the Supreme Court ruled in a 5-to-4 decision in Citizens United v. the Federal Election Commission that the first amendment cannot limit corporate funding of political advertisements in candidates' elections. Effectively, this decision