driven out of the governing process. Even some whose response to the Citizens United decision was more muted have turned a corner, and recently, Senator MCCAIN, a lead co-author of the McCain-Feingold Act, conceded that Super PACs are ''disgraceful.'' They allow nothing more than to have corporations or wealthy individuals dominate and control local elections.

We have tried to curtail some of the worst abuses allowed by the Supreme Court's decision, but Senate Republicans have blocked those efforts. In 2010, Senate Republicans filibustered the DISCLOSE Act, preventing the Senate from even debating the measure, let alone having an up-or-down vote in the Senate. The DISCLOSE Act would have added transparency to the campaign finance laws to help prevent corporations from abusing their newfound constitutional rights. It would have preserved the voices of hardworking Americans in the political process by limiting the ability of foreign corporations to influence American elections, prohibiting corporations receiving taxpayer money from contributing to elections, and increasing disclosure requirements on corporate contributors, among other things.

By preventing us from even debating the DISCLOSE Act, Senate Republicans ensured the ability of wealthy corporations to dominate all mediums of advertising and out the voices of individuals, as we have seen and will continue to see in our elections.

We continue to try to fight the effects of corporate influence unleashed by Citizens United. We have introduced the Fair Elections Now Act, to establish a voluntary program for viable congressional candidates to accept Federal grants, matching funds, and vouchers to supplement money from small dollar donors. Rather than fundraising, this legislation will enable incumbent candidates more time to better represent their constituents, and it will level the playing field to give challengers the chance to better compete with established candidates without relying on wealthy donors to fund their entire campaign. The Fair Elections Now Act represents one important step toward minimizing corporate influence in the electoral process, and ensuring that candidates for Congress are neither beholden to corporate influence, nor so consumed with fundraising that they do not have the time necessary to legislate. I hope that Senators on both sides of the aisle will work to enact this important measure.

We continue to work to protect shareholders of publicly held corporations from having their money spent on political activity without their consent, another consequence of the Citizens United decision. I am a cosponsor of the Shareholder Protection Act, which would require shareholder authorization and full disclosure of any political spending by publicly held corporations. Last week, I joined with 14 other Democratic Senators in sending a letter to the Securities and Exchange Commission, SEC, urging it to consider using its authority to immediately implement part of this legislation requiring full disclosure of corporate political spending. Such an action is within the SEC's power to do today. This information is not only material to shareholders, but it is something shareholders continue to request from corporations. As we wrote last week, a corporation's money belongs to the shareholders, not the executives, and they deserve a voice in how it is spent.

Vermont is a small State. It is easy to imagine the wave of corporate money we are seeing spent on elections around the country lead to corporate interests flooding the airwaves with election ads, and transforming even local elections there or in other small States. It would not take more than a tiny fraction of corporate money to outspend all of our local candidates combined. If a local city council or zoning board is considering an issue of corporate interest, why would the corporate interests not try to drown out the view of Vermont's hardworking citizens? I know that the people of Vermont, like all Americans, take seriously their civic duty to choose wisely on Election Day. Vermonters cherish their critical role in the democratic process and are staunch believers in the First Amendment. Vermont refused to ratify the Constitution until the adoption of the Bill of Rights in 1791. The rights of Vermonters and all Americans to speak to each other and to be heard should not be undercut by corporate spending.

When the Citizens United decision was handed down, I said that it was the most partisan decision since Bush v. Gore. As in Bush v. Gore, the conservative activists on the Supreme Court unnecessarily went beyond the proper judicial role to substitute their preferences for the law. But Citizens United is broader and more damaging, because rather than intervening to decide a single election, we have seen the Court's intervention affecting all elections. On the 2 year anniversary of Citizens United, I call on all Senators, Republican or Democratic, to come together to restore the ability of every American to be heard and participate in free and fair elections.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mrs. GILLIBRAND. Mr. President, I ask to speak as in morning business.

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

STOCK ACT

Mrs. GILLIBRAND. Like millions of Americans all across our country, I was shocked to learn that insider trading by Members of Congress, in fact, and their families and their staff, using nonpublic information gained through their congressional work, is not clearly and expressly prohibited by law and the rules of Congress. The American people need to know that their elected leaders play by the exact same rules by which they have to play. They also deserve the right to know their lawmakers' only interest is what is best for the country, not what is best for their own financial interests.

Members of Congress, their families and staff, should not be able to gain personal profits from information they have access to that everyday middle-class American families do not. It is simply not right. Nobody should be above the rules.

I introduced a bipartisan bill in the Senate with 28 of our Senate colleagues from both sides of the aisle to close this loophole. The STOCK Act legislation is very similar to the legislation introduced by my friends in the House, Congresswoman LOUISE SLAUGHTER and Congressman TIM WALZ. I thank them for their longstanding dedication and leadership to this important issue. I also thank Chairman LIEBERMAN, Ranking Member COLLINS, and all of the committee members for their work in acting swiftly to move this bipartisan bill out of committee with a sense of common purpose straight to the floor for a vote. I thank Leader REID for his leadership and support in bringing up this bill before the full Senate.

Our bill, which has received the support of at least seven good government groups, covers two important principles. First, Members of Congress, their families and their staff, should be barred from buying or selling securities on the basis of knowledge gained through their congressional service or from using the knowledge to tip off someone else. The SEC and the CFTC must be empowered to investigate these cases. To provide additional teeth, such acts should also be in violation of Congress's own rules to make it clear that this activity is not only against the law but inappropriate for this body.

Second, Members should also be required to disclose major transactions within 30 days, to make information available online for their constituents to see, providing dramatically improved oversight and accountability from the current annual reporting requirements.

I am pleased the final product that passed with bipartisan support in the committee is a strong bill with teeth and includes measures such as ensuring that Members of Congress cannot tip off others with nonpublic information gained through their duties and ensured trading from this information would also be a violation of Congress's own ethics rules.

Some critics say the bill is unnecessary and is already covered under current statutes. I have spoken to experts tasked in the past with investigations of this nature and they strongly disagree. We must make it unambiguous that this kind of behavior is illegal. As

my home State newspaper, the Buffalo News, notes:

The STOCK Act would ensure that it's the people's business being attended to.

President Obama said in his State of the Union Address, send this bill and he will sign it right away. We should not delay. It is time to act and take a step right now to begin restoring the trust that is broken in Congress.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. WICKER. Mr. President, I ask to speak as in morning business.

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

RECESS APPOINTMENTS

Mr. WICKER. Mr. President, I rise because I am deeply concerned about President Obama's unconstitutional overstep of executive authority in the ostensible appointment of Richard Cordray as the Director of the Consumer Financial Protection Bureau, the CFPB, and three new members of the National Labor Relations Board. These unilateral, nonrecess appointments are a blatant abuse of power, one that threatens the very legitimacy of the confirmation process and essentially undermines Congress's critical responsibility to restrain the excesses of the executive branch.

On January 4, mere weeks after this body had rejected Mr. Cordray's nomination, the President went ahead with his own agenda, disregarding our decision and the fact that the Senate was in pro forma session. Days later, unbelievably, the Obama Justice Department's Office of Legal Counsel defended the move, essentially saying that pro forma sessions do not matter anymore; that the President can determine whether the Senate is in recess.

Reversing years of precedent, the administration is asserting that the executive branch now has the authority to decide whether the legislative branch is or is not in session. This presumptuous action by the President goes far beyond the limited powers he is granted by our Constitution. It is an affront to the democratic checks and balances established by our Founders, and it constitutes a gross violation of precedents set by those who have come before us.

The courts surely will have a say in what the President has done, amounting to an expensive, unnecessary move for pure political reasoning. It was only a matter of days before business groups filed a legal challenge against the President's appointments to the NLRB.

To be sure, the President has the right to make recess appointments. This much is unquestioned and is clearly set forth in article II, section 2 of the Constitution, which states the President can ''fill up all vacancies that may happen during the recess of the Senate.''

But the power he has to execute this right nevertheless hinges on a condition that all parties have acknowledged: The Senate must be in recess. As it states in article I, section 5, clause 4 of the Constitution:

Neither House, during the session of Congress, shall, without the consent of the other, adjourn for more than 3 days.

The House of Representatives had not formally given our Chamber that consent when the President made his appointments. Moreover, Senators had agreed by unanimous consent to remain in pro forma session.

What the President has done triggers a dangerous new precedent. With this overstep, those in the Obama administration have put their political agenda above the Constitution and above the founding principles that established our government's separation of powers. This is no trifling matter.

Equally troubling is this power grab could inspire further overreach, setting an unconstitutional model for future administrations. It stands to reason that if the President's judgment, not Congress's, dictates when the Senate is in recess, then what would stop him from making an appointment whenever he chooses?

Michael McConnell, a distinguished former Federal judge and director of the Constitutional Law Center at Stanford Law School, recently suggested in the Wall Street Journal that the President could, for example, make an appointment overnight or during a lunch break. The parameters of what recess means would be subject to his discretion and his discretion alone.

In 2007, majority leader HARRY REID kept the Senate in pro forma session to block nominations by President Bush. He said then that recess appointments are ''an end run around the Senate and the Constitution.'' The majority leader's position then was that pro forma sessions may be used to prevent recess appointments. The Democratic leadership was correct on the law then and they ought to be outraged now over President Obama's disregard of precedent and of the Constitution.

Instead, the Democratic leader, who should be protecting the institution that he currently has stewardship of, as well as protecting our Constitution, last week defended the President's appointments on the national news as ''a good move.''

The Constitution does not change based on which party occupies the White House. The same rules should apply no matter who holds office. America was not built upon nor did it rise to greatness because of a single branch of government. Our democracy sits on three separate pillars, and the decisions of the legislative branch are not merely a hurdle for the President to run around.

The Constitution endowed the Senate with exclusive authority to give advice and consent on the executive branch and official nominations. Senators upheld their role to advise when we rejected Mr. Cordray's nomination. Many of us made our reasons for the disapproval well known.

Last year, 44 Republican Senators sent a letter to the President stating that the Consumer Financial Protection Bureau established by the Dodd-Frank Act was in desperate need of reform before a Director could be appointed. This has nothing to do with Mr. Cordray as an individual, but it has everything to do with creating a flawed agency—an extremely powerful one at that. We pointed out our concerns about how unaccountable this Bureau will be to the American people. We raised a red flag about the extraordinary power it gives to unelected government bureaucrats, particularly the Bureau's Director. It is clear that our advice did not fit with the White House's agenda.

This happens in a functioning democracy, and this should be honored. The President has decided not to honor the will of the Senate. He has tried to make an unauthorized appointment that the Members of this body have rejected. In doing so, in circumventing the decisions of elected public servants, his Executive order ultimately diminishes the voice of the American people.

In recent months, the President has made it obvious that he wants to rail against a do-nothing Congress. Perhaps it is part of his reelection strategy. Yet, instead of working with Congress to make needed reforms, he fuels an already polarized environment with this move on recess appointments.

I say this with all sincerity to the President and to my colleagues on the other side of the aisle: There is a time for spin and there is a time to make political points, but politics and theater ought to stop short of trampling on our Constitution.

Like each of you, I made an oath to support and defend the Constitution when I took this office. I would not be upholding this pledge if I did not speak out now about what the President has done. Preserving the constitutional sanctity of the decisions of the Senate and the role it serves is one way we support and defend our founding document and the democratic ideals of those who created it.

The chair of the Banking Committee has scheduled a hearing on Tuesday, supposedly to hear testimony from Mr. Cordray on his plans for the Consumer Finance Protection Board. Let me be explicitly clear. Richard Cordray is not the duly constituted Director of the CFPB. His purported recess appointment does not comply with the Constitution and is, in fact, a nullity. I will not provide the administration with an appearance of legitimacy in this action, and I will therefore not be in attendance at next Tuesday's hearing. This may seem to be a small step, but I hope it is the first of what will become a debate in this Senate by both parties about the constitutional system of checks and balances. This matter will also go to the courts, and I pray that somewhere in the process the sanctity of our Constitution will be upheld.