

Last week there was a recorded speech given at the Koch brothers' secret meeting place in San Diego or thereabouts. It was a secret meeting on their political strategy. They called it a summit. They had security guards. They cleared everybody who could come. It was very delicate. You had to be the right person or they would not let you into the meeting. However, there was one person who was able to record what went on at that meeting.

One of the speakers who was recorded—no others—was a man by the name of Richard Fink, who is vice president of Koch Industries. He is a big shot with the Koch brothers. Of course the Koch brothers were there listening to his speech. He said some pretty terrible and vicious things about unemployed Americans. He basically called them lazy. He went on to say that the minimum wage leads to fascism. I am not making this up. That is what he said—fascism. He even compared minimum wage with tactics utilized by Nazi Germany and modern-day suicide bombers. That is what the Koch brothers' representative said in their presence and in the presence of a number of higher ranking Republican officials.

He has a right to say whatever he wants; that is the country we live in. But as Senators we have a responsibility to stand for constituents who are unemployed or on minimum wage, and on this side of the aisle we have done that. The American people agree with us—not just Democrats and Independents. Republicans believe there should be an increase in the minimum wage.

The Republican leader was at the summit the very day Mr. Fink made his offensive remarks. He was there. Why has he not gone on Record repudiating these vicious and unfair comments about the poor? In fact, it has been reported the Republican leader referred to the speeches given at the Koch brothers' conference that day as inspiring—inspiring.

There are 150,000 unemployed Kentuckians. Are they leaning toward fascism? There are families in Kentucky who live on minimum wage—or try to. I don't think my friend the Republican leader views them as fascist stooges or lazy, but he should stand and repudiate what the Koch brothers, through their representatives, said at the conference he attended. If any Member of this body said as much, I have no doubt my friend would come to his constituents' immediate defense. But be careful what you say about the Koch brothers. They are very sensitive. They want that to protect their \$75 billion. There are two of them, and together they are worth \$150 billion. Nobody messes with them because they have money to try to buy America, and that is what they are trying to do.

Do we need campaign finance reform? Of course we do. I gave some quotes earlier, and my friend the Presiding Officer is a very smart man. As well as being a Rhodes Scholar, he graduated

from one of the most famous educational institutions in the world, Stanford University. He is a pretty bright guy as a Presiding Officer. But you don't have to be a bright guy to understand the flip-flop. I don't know how else to describe it. He gave his little speech a minute ago about the First Amendment. I am not making this up. This is what the man said. The same man complaining about how the First Amendment has been violated is the same man who has sponsored basically the same legislation we are now trying to pass.

I will give some of his quotes again. Let's make sure they are spread across the RECORD.

What we ought to do is eliminate the political action committee contributions, because those are the ones that raise the specter of undue influence. And those can be gone tomorrow. We can pass a bill tomorrow to take care of that problem.

Here is another quote:

We Republicans have put together a responsible and Constitutional campaign reform agenda. It would restrict the power of special interest PACS, stop the flow of all soft money, keep wealthy individuals from buying public office.

Hallelujah. I am glad he said that.

He also said:

We would eliminate PACs altogether. It will be interesting to see whether our colleagues—

Talking about Democrats—

on the other side of the aisle will be willing to eliminate PACs altogether. And we would have the money come from individuals in small and fully undisclosed amounts.

Next quote:

Public disclosure of campaign contributions and spending should be expedited so voters can judge for themselves what is appropriate. These are the reforms which respect the Constitution and would enhance our democracy.

I didn't rewrite this. This is a direct, word-for-word quote. Next:

We need to have real disclosure. And so what we ought to do is broaden the disclosure to include at least labor unions and tax-exempt business associations and trial lawyers so that you include the major political players in America. Why would a little disclosure be better than a lot of disclosure?

He also went on to say:

Money is essential in politics, and not something that we should feel squeamish about, provided the donations are limited and disclosed, everyone knows who's supporting everyone else.

I repeat. The Presiding Officer is one of the smartest people we have in the entire Senate. With all due respect to the Presiding Officer, you don't have to be a Rhodes Scholar or a graduate from Stanford University to understand how absolutely irrational my friend is with what he just came and said. He said this constitutional amendment is violating the First Amendment of our Constitution. I am using his remarks to state and show the importance of our amendment.

Congress and the States have the authority—or they should have the authority—to set reasonable limits on

campaign spending. It is just common sense. Americans clearly believe in this amendment. The amendment would restore the authority back to Congress and the States, not to two wealthy brothers who are trying to buy America—two wealthy brothers who control most of the tar sands in the world. They have a huge oil, gas, and chemical interest. They control lots of stuff.

Today the paper said they are going to spend their millions to tell everybody what great people they are. That is all over the news today. Be aware of the Koch brothers because they have unlimited sums of money. They are going to tell you how they are all about apple pie and motherhood and great for America. They are not great for America. They are trying to buy America.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senate will be in a period of morning business for 1 hour, with Senators permitted to speak therein for up to 10 minutes each, with Republicans controlling the first 30 minutes and the majority controlling the next 30 minutes.

POLITICAL SPEECH

Mr. LEE. Mr. President, political speech is not on the fringes of the First Amendment, it is the core freedom of democracy. The entire point of the First Amendment is to say the government has no business telling the citizens what constitutes reasonable political speech.

Congress is not allowed to ban books. Congress is not allowed to ban magazines or pamphlets. Congress is not allowed to silence dissent. The idea behind this amendment is that government should have the power to silence criticism of the government. This amendment, referring to Senate Joint Resolution 19, is an attempt to control the words Americans speak and the ideas Americans hear. Every great movement in our democracy has been based on ideas that were at one time or another at the outset deemed unreasonable by the government. It is dangerous and it is un-American in the extreme. Under this proposed amendment, the Federal Government would have the power to decide which groups, which causes, which arguments, and ultimately which citizens would be allowed to enter the public square.

The amendment would even empower Congress to distinguish between natural individuals and artificial entities; that is, rich and powerful people will still be free to influence our government but everyone else can be barred

from coming together and pooling their resources for that very purpose.

What is an artificial entity with restricted speech rights? Churches, neighborhood associations, civic groups, single-issue organizations such as the national right to life, or NARAL, trade associations, businesses or labor unions, schools. The target of this amendment is America. Civil society. When politicians talk about outside groups, they mean outside Washington. They mean ordinary citizens coming together, rallying behind a common cause. They mean the abolition movement, the women's suffrage movement, and the labor movement, as well as the civil rights movement, antiwar movements, the pro-life movement, and the consumer rights movement. They mean citizens. That is who the authors of this amendment believe are outside intruders whose speech somehow needs to be regulated, needs to be restricted by Congress—people with ideas that are “unreasonable,” people such as Thomas Paine or Thomas Jefferson and Frederick Douglass and Susan B. Anthony and Martin Luther King, Jr.

The true danger of the idea is even put into the text in the section 3 carveout for the press. So wealthy individuals, those who happen to own newspapers or happen to own a television station or a radio network, do, under this proposed amendment, continue to have free speech. But the people who read and watch the media do not. Or the people who do not own those companies, do they not have the same rights? Under this proposed amendment, they would not. This is Orwellian. Under this amendment, Congress could establish a Federal ministry of truth of sorts to monitor the political speech of citizens and make sure they are reasonable, to make sure the activities in which they engage, those that are attempted to influence elections, are, in fact, reasonable.

Congress would, of course, be empowered to define what constitutes journalism, what falls within the parameters of this freedom of the press carveout so that irritating bloggers and reporters and producers could perhaps be silenced, assuming they were carved out of that definition. This provision will not guarantee equality. It will rather guarantee inequality.

It is right there in the text of the amendment. Some citizens' rights to free speech would be more equal than others under this proposed amendment. It is sometimes appealing at a surface level to start from the proposition that something such as this might be desirable to some for the simple reason that we do not want any one person or any one group of persons having a disproportionate impact on the electoral process. We do not want anyone or anything to be able to buy an election. But that misses the point. This would not solve that problem. In fact, this would make that problem worse.

Consider, for example, the fact that under this proposed amendment, as I

read it, and as I think most would read it, an individual would be free to spend unlimited amounts of money, thousands, tens of thousands, hundreds of thousands, maybe even millions or tens of millions of dollars supporting the candidate of her choice if that individual happens to own a newspaper or if that individual perhaps happened to own a television company or a radio broadcast network. That would be no problem. That would be beyond the scope of this proposed amendment, because under section 3 of Senate Joint Resolution 19, it makes clear that: “Nothing in this article shall be construed to grant Congress or the States the power to abridge the freedom of the press.”

So in light of section 3, everything else in Senate Joint Resolution 19 might either do a lot or it might do a little. It might do practically nothing or it might do practically everything.

Let me explain what I mean. Let's examine the text of the first two sections of this provision.

Section 1 says: “To advance democratic self-government and political equality, and to protect the integrity of the government and the electoral process, Congress and the States may regulate and set reasonable limits on the raising and spending of money by candidates and others to influence elections.”

If your intent is deemed to involve influencing the outcome of an election, then you are subject to these reasonable limits. Well, what people in Congress think is reasonable might be different than what the American people think is reasonable.

Then in section 2 it says that: “Congress and the States shall have power to implement and enforce this article by appropriate legislation, and may distinguish between natural persons and corporations or other artificial entities created by law, including by prohibiting such entities from spending money to influence elections.”

Herein lies the problem: Getting back to our hypothetical a few minutes ago, if the idea behind this is to prevent any person or any group of persons from having too much influence over elections taking place in the United States of America, this does not do that. Depending on how broadly or how narrowly Congress chooses to define this contest of freedom of the press, which it carves out and holds harmless, this legislation might do everything or it might do nothing. Let me explain what I mean.

Most of the money that is spent by political campaigns, whether by individual candidates or by organizations attempting to influence the outcome of elections, comes in the form of disseminating a message, comes in the form of either printed material, in the form of pamphlets or the electronic equivalent of pamphlets, or it comes in the form of some type of advertising. Maybe it is an advertisement in a newspaper, maybe it is an advertise-

ment on television. But that is where most political money ends up getting spent.

As understood by the founding generation and as understood and interpreted by the Supreme Court to this day, most of that material is protected in the sense that most of that material constitutes something that falls under the category of freedom of the press. Freedom of the press, of course, does not belong solely, does not belong exclusively, to those who have a press badge or those who are part of what has historically been considered our news media.

If, on the other hand, those who have drafted this amendment—if, on the other hand, those who would decide what laws to pass under this amendment to give it force, if they were to conclude that they wanted to more narrowly define “press” to include only credentialed media, perhaps newspaper reporters, perhaps newspaper reporters and radio and television reporters, then they would be significantly changing the First Amendment as interpreted by the Supreme Court. They would be significantly changing the nature of freedom of the press as recognized by the Supreme Court over the last two centuries.

If, in fact, they choose to do it that way, then we would find ourselves in an awful situation in which the owner of a newspaper would be able to spend potentially millions of dollars, perhaps tens of millions, promoting the candidate of her choice simply because she owns a newspaper. But what about someone who does not own a newspaper but nonetheless wants her views to be expressed, wants to have some way of contributing to the national debate? What if there is someone out there who is really concerned, concerned about a particular issue?

Let's say there is a voter who is concerned about the PATRIOT Act and she wants to contribute to an organization, let's say the ACLU, which would, in turn, perhaps make statements to try to influence the public debate about the PATRIOT Act. This could run afoul of all of that. In fact, under the plain language of it, it likely would. In fact, the ACLU itself has expressed this concern in a letter dated June 3, 2014, to Chairman PAT LEAHY of the Senate Judiciary Committee on which I sit.

On page 4 of that letter, the ACLU presents the following hypothetical:

For instance, would an ACLU ad urging Members of Congress to support Patriot Act reform, which runs shortly before the November 2004 election, when that issue is at play in the election, be construed as an issue ad exhorting voters to support reform, or a covert attempt to influence voters who oppose Members who do not support reform?

Similarly, would an ad by a group urging repeal of the Affordable Care Act, which runs before the 2012 presidential election, be issue advocacy or covert express advocacy?

These are questions raised by the ACLU itself.

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

Mr. LEE. I ask unanimous consent that I be given 2 additional minutes to wrap up my remarks.

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

Mr. LEE. What all of this boils down to is that the core values, the core protections underlying the First Amendment are not just important, they are not just nice to talk about, they are at the very foundation of our representative democracy. They are at the very foundation of our Republic and how it operates. If this amendment were to pass, if this were to become part of the Constitution of the United States, Congress would become more powerful at the expense of the American people.

Ultimately this will inure to the benefit of the political establishment in Washington. It would inure to the benefit, perhaps, of two political parties but everybody else would suffer. It would be more difficult for more Americans to speak on issues that concerned them. Congress would have more power and the States would have more power to restrict the speech of the American people.

It has been said in the past that this is about restricting money, not speech. It is a little bit like saying a city ordinance prohibiting people from using either an automobile or a subway car to get to a protest rally isn't restricting their access to a protest rally or the right to participate in that protest rally.

When money is the means by which the American people can have the ability to express their concern on an issue voters are facing in an upcoming election, that should concern us all. This is an attempt to weaken the most fundamental components of our rights as U.S. citizens. I must, therefore, oppose Senate Joint Resolution 19 and urge my colleagues to do the same.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Wyoming.

HEALTH CARE

Mr. BARRASSO. Mr. President, I know many Senators were back home over the last number of weeks talking to and listening to their constituents about issues on their minds. I was also at home. As a doctor and as a Senator, I heard from many people in my home State of Wyoming who have a lot of concerns about the health care law and the devastating side effects the law has on them.

Over the past few weeks there have been headlines just about every day all across the country with bad news about the health care law and its impact on the American people. Just this morning the local newspaper, *The Hill*, has a headline: "Support for ObamaCare continues to fall."

Public approval of ObamaCare continued to sink this summer, issuing the latest warning for vulnerable Democrats who will face voters this fall after backing the law.

It says that just 35 percent of voters now support the health care law. This

is a monthly poll done by the Kaiser Health Foundation which was released yesterday.

It says:

Healthcare remains one of the most important issues in midterm elections, ranking only behind the economy and jobs as voters' top issue.

I talk about health care repeatedly because I am a physician. I have taken care of patients for 25 years in my home State of Wyoming, and I have taken care of families from all around the State. They come to me with their concerns about the health care law.

President Obama says the Democrats who voted for the law should, as he said, "forcefully defend and be proud of the law." Is the President proud of the ways families across America are suffering because of his health care law and the dangerous side effects people continue to face?

Here is a headline from last Friday, September 5, front page of the *Wall Street Journal*. It says: "Hacker Breaches Part Of Federal Health Site." A computer hacker breached the Federal health site. The article says the hacker broke into part of the healthcare.gov Web site in July—in July—and uploaded malicious software, according to Federal officials.

The administration now admits it. It goes on to say that "the break-in raised concerns among Federal officials because of how easily the intruder gained access and how much damage could have occurred." This is a concern Republicans have warned about for a long time.

The Obama administration didn't do the basic things any business in America would have done to protect people and their personal information. According to this report, part of the problem in this case was that the Web site's developers never—and taxpayers have paid plenty to these developers—bothered to change a default password for the system. No one can believe it. Hackers didn't have to go around some complicated security system or break in through a back door. Oh, no. The Obama administration official admitted to the *Wall Street Journal* there was a door left open—a door left open.

The Obama administration said that so far the hackers haven't stolen anybody's personal information that they know of. Apparently, they didn't know about this breach for weeks. The hacker walked in through an open door in July, and the Obama administration didn't know anything about it until August 25. Healthcare.gov stores huge amounts of personal and private information about people, including their access information and their health care information, and people have a right to know the information is secure.

Where are the Democrats on the floor of the Senate today ready to forcefully defend leaving the door open for these hackers?

Here is another headline from the September 2 *New York Times*: "Brac-

ing for New Challenges in Year Two of Health Care Law."

We all remember how terrible the launch of the health care program was last fall. We remember right after the President sat down with Bill Clinton and he said: Oh, easier to use than Amazon, cheaper than your cell phone bill, and you can keep your doctor.

America knows those things weren't true.

We all remember the terrible launch last October. The new head of the exchange talked about what he expects it to be like this year, year two. They have had a full year now to get ready and fix the problems. Yet this Obama administration official just recently told the *New York Times*: "In some respects, it's going to be more complicated. Part of me thinks that this year is going to make last year look like the good old days."

America is not ready to go back to the Obama Web site good old days. That is what the Obama administration's person in charge of the health care exchange told the *New York Times*. Are the Democrats going to come to the floor and forcefully defend this kind of chaos and confusion with the health care enrollment for a second year in a row? It is another disgraceful side effect of the President's unworkable, unmanageable health care law.

I will give one more example of what the American people are learning about how the health care law is harming them individually. Insurance companies have been releasing their preliminary rates for 2015, and in many places for many people, premiums are going up. According to the consulting group PricewaterhouseCoopers, premiums are going up about 8 percent on average across the country. That is not what Democrats promised when they wrote the health care law. Democrats in Washington, here in the Senate, promised the rates would go down. President Obama went around the country and said people would see their health care costs go down by an average of \$2,500 per family per year. NANCY PELOSI went on "Meet the Press" and said rates will go down for everyone. That hasn't happened. Premiums have gone up. Copays are up. Deductibles have gone up. Out-of-pocket costs have gone up for millions of Americans.

As chairman of the Republican policy committee, one of the things I do is look around the country and try to find out how the policies that come out of Washington affect people all across the country. I have traveled over the past month and heard from many people that the President's health care law is hurting them individually and costing them more.

One place people are really being hurt by the health care law is Alaska. Here is a headline from *The Hill* newspaper on Monday: "Alaska insurance rates set to spike." According to the article, Alaskans buying health insurance through the State's exchange can expect a surprise spike of more than 30 percent on average.