

could guarantee that their export-import bank would be there.

That is another example that we are not even waiting right now to have the negative impact; we are already having the negative impact because we are not getting this done.

So it is very important we make sure we reauthorize the Export-Import Bank. As one company in my State said, the Norwest Ingredients company: "Loss of the export insurance provided by EX-IM Bank would be devastating to my business . . .," that a short-term extension of the Export-Import Bank does not provide the certainty that we need to finance these deals.

I think this is so much what we need to be focusing on. I appreciate my colleague's contribution from the Joint Economic Committee to this report. She talked again about the specifics of what other countries are doing.

This chart shows you the percentage of credit agency resources against a country's GDP—how much they are investing in selling their products around the globe. So we can see what India, China, France, and Germany are doing to basically dwarf what we are doing as far as making sure our products are sold around the globe.

I wish the financial market was there to help close these transactions. But just as we have a small business administration that helps get financial backers to back small businesses, the Export-Import Bank helps U.S. manufacturers sell their products overseas.

We have too much of a supply chain in the United States of America, with manufacturing in aerospace, in agriculture, and in automobiles, to give it all away by simply not reauthorizing the Export-Import Bank in a timely fashion.

So I again appreciate the cochair of the Joint Economic Committee in the release of a report focusing on why exports are so important to our economy.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. GRAHAM. Mr. President, how much time do we have?

The PRESIDING OFFICER. The Republicans have no time remaining. There are 3 minutes on the Democratic side.

Mr. GRAHAM. Mr. President, I just want to be recognized for the 3 minutes.

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

Mr. GRAHAM. Mr. President, one, I want to thank my colleague, Senator KLOBUCHAR from Minnesota, of the Joint Economic Committee, for making the case on why the Ex-Im Bank is a good government program essential to creating jobs in America from export sales.

Boeing is in South Carolina; they are in Washington. Senator CANTWELL has been a champion of this issue as long as I have been around. Now that Boeing is making 787s in South Carolina, I will just put this on the table: 8 out of 10

787s made in South Carolina are Ex-Im financed. We are competing in the wide-body market with countries such as France; China will be getting in this market. Every competitor of Boeing—GE makes gas turbines in Greenville. Most of those are sold in the Mideast through Ex-Im financing. Every competitor of these two large companies in South Carolina has an Ex-Im Bank.

So to my colleagues in the House, I think I am a pretty conservative guy, but I am also practical. Why in the world would we shut our bank down when China is growing their bank? The Chinese would support closing the Ex-Im Bank in America; so would the French; so would the Canadians; so would the British. If you really want to give the American economy a kick in the wrong place, shut our bank down and allow the other countries that compete with us to keep theirs open.

There is plenty of waste in the government. So we pick one program that is small in number, in terms of actual volume that makes money for the Treasury and creates hundreds of thousands of job opportunities. This is smart conservatism? This is what conservatism has come to be, that you take a program—that allows American companies to compete in the international market, that makes money for the American taxpayer—and you shut it down just to prove to people you are ideologically pure? That is not conservatism. That is crazy, and we are not going to let it happen.

To my Democratic friends, we should have reauthorized this a long time ago in a process befitting the Senate. There is well over half of my conference ready to vote for reforms on the Ex-Im Bank, but we are not doing anything in this body, and you are not going to pick our amendments. So there is plenty of blame to go around.

I hope we are smart enough as a House and a Senate to get this right, not to shut down the Ex-Im Bank that makes money for the taxpayer, creates thousands of American jobs, for some ideological reason disconnected with reality.

China would love this. France would love this. When it comes to my State, it would be devastating to the small businesses that benefit from Ex-Im financing. If you can close their banks down, count me in, we will close ours. But I will be damned if we are going to close ours when they have theirs up and running to put people out of work in my State and all over this country when you are talking about the best-paying jobs in America.

I look forward to a further discussion on this topic.

The PRESIDING OFFICER. All time for debate has expired.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

PROPOSING AN AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES RELATING TO CONTRIBUTIONS AND EXPENDITURES INTENDED TO AFFECT ELECTIONS—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the Senates will resume consideration of the motion to proceed to S.J. Res. 19, which the clerk will report.

The assistant legislative clerk read as follows:

Motion to proceed to Calendar No. 471, S.J. Res. 19, a joint resolution proposing an amendment to the Constitution of the United States relating to contributions and expenditures intended to affect elections.

The PRESIDING OFFICER. The Senator from Indiana.

#### ISIS

Mr. COATS. Mr. President, I rise to speak about the situation that the United States is facing regarding the new terrorist threat from the new caliphate—so-called caliphate state of ISIS.

The President has announced that tomorrow he will address the American people and explain what he proposes to do about this new situation that faces us, this Islamic state of Iraq and Syria, otherwise called ISIS or IS.

We are at a critical moment facing a serious danger, and now is the time to act together. For action to be effective, it needs our united support. That is why the President's address tomorrow is so important.

I was alarmed by his admission in a press conference 10 days ago that he had no strategic policy in mind. So I welcome this opportunity now to learn what this strategy is, and I truly hope that it will be articulated fully and completely with clarity so that not only the American people but their representatives here in the House and the Senate know exactly what the President intends on doing and proposing.

The unspeakable depravities committed by ISIS seem to have no limits. The alarm bells have become louder as ISIS henchmen continue their beheadings and their brutality and their barbarism. One of the most acute dangers ISIS poses is the wide scope of their ambitions.

First Syria, then Iraq, now Lebanon, later possibly Jordan, Saudi Arabia, and others are in their target sites.

ISIS is now widely and correctly judged to be the largest, best organized, best financed, most capable, and most ambitious terrorist organization in history.

So when the President explains his plan to degrade and defeat ISIS, I plan to carefully examine it and look through what I believe are the essential elements and hallmarks necessary for us to succeed: its determination, its courage, its resources to enact the plan, its vision for where we want to

go, a clearly outlined goal that we want to achieve, and a realism that we can be successful.

President Obama must outline the task of defending our Nation and degrading and defeating ISIS and clearly lay out before us how we will accomplish this.

When I first addressed this subject last month, I outlined five areas in which I believed urgent action was required, and I hope the President's plan will include these five areas.

First, as I have just said, I called for the Obama administration to articulate their own plan to confront ISIS and protect America. I trust this will happen tomorrow.

Second, I called for a vigorous, concerted push with Islamic states and communities to stand up to the outrageous ISIS perversion of their religion and their culture. We haven't seen outrage in the region from those moderates, the leadership, the political as well as the people who simply see this action of ISIS as a perversion of their religion. As destructive and brutal as it is, where have they been? It is time for them to step up. I believe we must make a concerted push with Islamic states and communities to stand up to this outrage that is taking place.

We should work with all political and religious authorities to speak out about how their faith and their culture is being co-opted and perverted by these ISIS criminals. We then must press them to take effective action to undercut the popular, political, and economic support ISIS extremists are getting. Genuine Muslim leaders—imams and others—need to take center stage to discredit the violent radicals and weaken their outreach and recruitment among Muslim youth.

Third, last month I called for much greater security assistance for our potential partners in this fight against ISIS. The United States should move quickly to provide arms, training, and other requested assistance to Iraqi Kurdistan's Peshmerga forces and to other states that need and request support and will work with us to address this challenge. We need to find effective ways to support and directly arm the reliable, vetted Sunni tribes and Sunni leaders in Iraq who are essential partners in combating this ISIS extremism that ultimately are Sunni Islam's greatest interest and threat.

Fourth, it is clear ISIS cannot be defeated without our participation. Therefore, I believe our current bombing campaign against ISIS targets should be continued and expanded to include ISIS bases in Syria.

If we have learned anything from the wars in Vietnam, Korea and Serbia and our experience along the Afghanistan-Pakistan border, we have learned the futility of attacking military forces that have safe haven bases just across the border or nearby leads to less than success and leads to potential defeat.

Fifth, and lastly, I believe we need to address new dangers to our homeland

by reassessing border security and determining whether it can be improved to address the threat of foreign fighters returning to the United States.

The threat of Western, homegrown, radical, and violent jihadist terrorists is real and it is growing. We know that. ISIS boasts that they have trained and motivated fighters who are already embedded in many countries throughout the world and that they have their sights trained on the United States and Europe. There is no reason to disbelieve them. So we must respond to this threat to our country in every possible way.

One effective step is to reevaluate our entry procedures, including the Visa Waiver Program. I know this is controversial. I know countries that have been loyal allies will raise alarms. But we have to understand that we need to conduct a thorough, candid assessment of how this Visa Waiver Program affects our national security interests and whether there are changes to the program that would enhance our security.

Similar reviews of our refugee and asylum policies are also necessary. As the ranking member of the Appropriations Homeland Security Subcommittee and a member of the Select Committee on Intelligence, I will seek such an assessment and pursue legislation that is responsive to the new danger we face.

In conclusion, when President Obama unveils his strategy to defeat ISIS—not manage ISIS, not contain ISIS, but to defeat ISIS—I am hopeful his presentation will include at least the essential elements I talked about: clarity and coherence, sound diplomacy to bring Muslim nations and communities into firm opposition to ISIS extremism, appropriate expanded security assistance to partners in the struggle, enhanced military action to include Syria, and greater attention to border security.

If what the President says tomorrow includes these elements, and hopefully more, then I will look very carefully as to how I can support the President and the strategy and encourage my colleagues to do the same, because I believe it is essential that to succeed against this threat, we need to speak with one voice.

We need to be united as Americans—as a Congress and Americans throughout the country in terms of the nature of the threat, what we need to do to address it, and the plan and strategy to successfully achieve that goal.

If it falls short, then I hope the Congress can work with the President to bring about the necessary steps to give us every opportunity to succeed in this challenging task. I hope we don't come to that point. I hope we can unite. I look forward to carefully examining the proposal. I trust we will be receiving at last leadership from the President of the United States and his team in terms of addressing what I think is a major crisis that cannot wait, cannot

be managed. It cannot be classified as hoping something will work out.

The world is yearning for leadership. On matters of foreign policy, it looks to the United States and it looks to the leader of the United States. We need to restore their confidence that we are taking this threat seriously and that we are engaging in an effort to address this successfully.

So we wait with great anticipation for the remarks of the President that will occur tomorrow.

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.

The PRESIDING OFFICER. The Senator from South Dakota.

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

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

Mr. THUNE. Mr. President, during the past month, two American journalists were murdered by a fanatical Islamic terrorist group, the Islamic State, known as ISIL. The murder of these two journalists is part of a campaign of horrific brutality that has included crucifixions, rape, the slaughter of civilians, and prosecution of religious minorities, including Christians and Yazidis.

Currently ISIL holds large sections of land in both Iraq and Syria, and the group has made clear that its ambitions extend even further. Meanwhile, Iran continues its efforts to enrich uranium, Ukraine is struggling to prevent further Russian incursions, and the Islamic militants in Libya recently seized the U.S. Embassy compound after Americans were forced to evacuate the war-torn country.

Here at home we are facing a crisis on our southern border thanks to the President's policies which have encouraged thousands of unaccompanied children to undertake the dangerous journey to the United States.

On the economic front, millions of middle-class families are being squeezed by the Obama economy and Obamacare. Job growth last month was a disappointing 142,000 jobs, the worst report this year, and far from the numbers we need to get the economy going again. Unemployment remains high, and the unemployment rate would be even higher if millions of Americans hadn't gotten so discouraged by the lack of job prospects that they gave up looking for work altogether.

Meanwhile, ObamaCare has not only failed to fix the problems in our health care system, it has made them worse. American families are facing higher health care premiums and fewer health care choices. In short, our country is facing serious challenges both at home and abroad.

What are Democrats doing about all these challenges? Well, this week they are taking up legislation that limits

Americans' First Amendment rights. That is right; instead of taking up any of the 40 House-passed jobs bills, addressing our border crisis, or focusing on the international challenges we are facing, Democrats have decided to spend the first part of a brief 2-week session rewriting the First Amendment. It is no wonder a George Washington University Battleground poll found that 70 percent of Americans think the country is on the wrong track.

Our First Amendment right to freedom of speech is one of our most fundamental rights. It is the right that helps protect all of our other rights by keeping government accountable and ensuring that all Americans, not just those whose party is in power, get to make their voices heard.

The Democrats' proposed constitutional amendment would severely curtail this freedom by giving Congress and State governments the authority to regulate political speech. That means Congress will get to decide how much of a voice Americans are allowed in the political process. And that is bad news for Americans of every political affiliation. Under the Democrats' legislation, the party in power could effectively silence the voices of those who disagree with them.

Democrats are unhappy about recent decisions by the Supreme Court that rolled back some of the restrictions on free speech and increased individuals' voices in the political process. So their solution is a constitutional amendment to shut down the voices of those who disagree with them. Apparently they don't realize that is not the way the American system works.

In America, if you don't like what your opponents are saying, you have the freedom to persuade your opponents to adopt your position or you persuade the American people to vote against them. You don't try to revoke their right to speak. That is what they do in totalitarian societies. It is not what we do here in America.

In the United States your political power is supposed to exist in proportion to the strength of your ideas, not in proportion to your ability to silence your critics. Fortunately for Americans of every political persuasion, the Democrats' amendment is unlikely to go anywhere in Congress—as Democrats well know.

So why are they taking up this legislation this week when there are so many problems, foreign and domestic, that need to be addressed? The answer is simple. Democrats are worried about reelection, and they think this legislation somehow will help them get reelected. They have passed this amendment to appeal to members in the far-left base who want restrictions on political speech or at least on political speech with which they disagree. Democrats are betting that seeing this amendment defeated in Congress will encourage members of their political base to come to the polls in November.

That, of course, has been Democrats' legislative strategy all year.

The New York Times reported back in March that Democrats plan to spend the spring and summer on messaging votes, "timed"—and I quote, "to coincide with campaign-style trips by President Obama."

"Democrats concede," the Times reported, "that making new laws is not really the point. Rather, they are trying to force Republicans to vote against them."

Let me repeat that. Despite the economic challenges facing American families and steadily growing international unrest, the Democrats have spent the past several months pursuing a legislative strategy in which "making new laws is really not the point."

We have seen that time and time again here over the past several months on the floor of the Senate where we come here on a daily basis casting political show votes, knowing they are not going anywhere, designed to appeal to a political constituency that they hope will come out and support them during the November elections. Instead of pursuing political consensus—the only way to actually accomplish anything in a divided Congress—Senate Democrats have brought up bill after bill to pander to their political base. It is disappointing that the Democrats have put their electoral prospects over Americans' freedom of speech this week. And it is disappointing that Democrats have spent this entire year on political show votes instead of substantial legislation to address the many challenges that are facing American families. The President has been no help. Instead of urging Democrats in Congress to work with Republicans on Senate legislation to deal with our country's most serious problems, he has been focused on campaigning. It wouldn't be a stretch to say that campaigning has been the President's main concern for the majority of his Presidency, whether it is involved in delaying Obama regulations to protect Democrats in the 2012 elections or his decision last week to defer his executive action on immigration until after the election in what White House officials essentially admitted was an attempt to protect Democrats in November.

There is a place for campaigning—we all know that. We all do it—but it is not in the halls of Congress or in the Oval Office. We were elected to govern, and that means we should be spending our time on legislation to meet our Nation's challenges. We should be taking up legislation to support job creation. We should be fighting to give middle-class families a break from ObamaCare's high premiums and reduced choices. We should be taking up measures to advance energy independence in this country and make energy more affordable for working families. We should be focused on what we need to do to address the crises abroad and America's security here at home.

Republicans are working to create jobs; Democrats are trying to save their own. It is not too late for Democrats to join Republicans to come up with bipartisan solutions to the challenges facing our country. The House of Representatives passed somewhere on the order of 350 bills, all of which are collecting dust here in the Senate, 40 of which specifically deal with the issues of the economy and job creation which every poll says is the American people's No. 1 priority. Yet here we are again in a shortened work period where we have a couple of weeks to actually do some things that would bend the curve in the direction of lowering the unemployment rate, growing the economy, creating more jobs. We have a whole series of bills that have been passed by the other Chamber, the House of Representatives, that have been sent here which specifically deal with the issue of jobs and the economy that are sitting at the desk collecting dust because the majority leader has chosen instead to try to bring to the floor a whole bunch of things he thinks are additive in terms of getting the vote out for Democrats in November elections but frankly do absolutely nothing to address the serious concerns and challenges that are facing middle-class families all across this country. The people's representatives can do better. The people's representatives should do better. Whenever Democrats here decide they are ready to stop campaigning and start governing, Republicans are ready to go to work.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Ms. HEITKAMP). Without objection, it is so ordered.

Mr. FRANKEN. Madam President, I will just come out and say it. Citizens United was one of the worst decisions in the history of the Supreme Court. It was a disaster, a radical exercise of pro-corporate judicial activism. It was seriously flawed both legally and factually.

Legally, the Court trampled its own precedence—cases such as *Austin v. Michigan Chamber of Commerce* and *McConnell v. Federal Elections Commission*, which had been on the books for years and stood for the obvious proposition that the people can enact reasonable limits on money and politics.

Factually, the Court rested its conclusions on the faultiest of premises—that unlimited campaign expenditures by outside groups, including corporations, do not give rise to corruption or even the appearance of corruption. That assessment is disconnected from reality and is horribly out of touch with the sentiments of most Americans. For example, the Minnesota

League of Women Voters issued a report in which it concluded that “the influence of money in politics represents a dangerous threat to the health of our democracy in Minnesota and nationally.” I think if you asked most people whether unlimited spending on campaigns has a corrupting effect, they would agree and say, yes, of course it does, and I think they would be right. But the decision in *Citizens United* was based on this unfounded and unbelievable idea that we have no reason to be concerned about the effects of unlimited campaign spending.

So we have this 5-to-4 Supreme Court decision that ignores the law, ignores precedent, invents facts, and as a result we ended up with a campaign finance system in tatters—one in which deep-pocketed corporations, super-wealthy individuals, and well-funded special interests can flood our elections with money, thereby drowning out the voices of middle-class Americans who don’t have the luxury of spending hundreds of thousands of dollars or millions of dollars or hundreds of millions of dollars to influence the political process.

This is real. Spending by outside groups more than tripled from the 2008 Presidential campaign to the 2012 Presidential campaign when it topped \$1 billion. Outside spending went from \$330 million in 2008 to over \$1 billion in 2012. What happened in the interim? Well, it was *Citizens United* in 2010 and the floodgates were opened.

The middle class is not just being flooded, it is being blindfolded too, because these wealthy special interest groups can often spend the money anonymously, so voters have no idea who is behind the endless attack ads that fill the airwaves.

Here is how it works: If you have millions of dollars you want to spend, you can funnel it through back channels so that it ends up in the hands of a group—typically one with a generic and benign-sounding name.

I was trying to invent a name, such as “Americans for More America” and “American America.” I was kind of joking around, and it turns out there is group that has that name. They use this money to buy ads and very often without disclosing the source of their funds. To me, this whole thing looks a lot like money laundering, except now it is perfectly legal.

Again, this is real. A study just came out which showed that in the current election cycle alone there have already been over 150,000 ads run by groups that don’t have to disclose the source of their funding, and things are just getting worse. Earlier this year, in a case called *McCutcheon v. Federal Election Commission*, the Supreme Court was at it again, recklessly doing away with a law that prohibited people from giving more than \$123,000 in the aggregate directly to candidates in an election cycle. The limit had been \$123,000. Who has that kind of money? Who has that kind of money lying around to spend

on elections? Well, I guess the super-rich have that kind of money, but the middle class certainly doesn’t. The folks I meet with in Minnesota are trying to make ends meet, pay off their student loans, train for a new job, or save some money to start a family. They sure don’t have that kind of money just lying around, and they are the folks who need a voice here in Washington.

In June the Judiciary Committee held a hearing on the subject, and we heard from a witness whose presentation I found particularly persuasive and compelling. I suggest that my colleagues read his testimony. He was a State senator from North Carolina. He said:

Suddenly, no matter what the race was, money came flooding in. Even elected officials who had been in office for decades told me they’d never seen anything like it. We were barraged by television ads that were uglier and less honest than I would have thought possible. And they all seemed to be coming from groups with names we had never heard of. But it was clear that corporations and individuals who could write giant checks had a new level of power in the state.

He went on to explain that the vast majority of outside money that was spent on State races, including the Governor’s race, came from one man—just one man—who reportedly poured hundreds of thousands of dollars into State politics. Before the Governor was even sworn into office, he announced who would write the State’s budget. Yes, it was that same donor. Apparently, the donor got his money’s worth. The budget he drafted was loaded with goodies for corporate interests and the super-rich, provided at the expense of middle-class and working folks.

I find this whole thing incredibly disturbing, this idea that a handful of superwealthy corporate interests in effect can buy our democracy—or in this case one guy. That is not how it is supposed to work. Everyone is supposed to have an equal say in our democracy regardless of his or her wealth. The guy in the assembly line gets as many votes as the CEO—one. You don’t get extra influence just because you have extra money—or you shouldn’t. The government should be responsive to everyone and not just the wealthiest among us.

The way I see it is we can go two ways from here. On the one hand, we can continue to let *Citizens United* be the law of the land. We can perpetuate the fallacy that corporations have the constitutional right to flood our elections with undisclosed money. We can let deep-pocketed special interests buy influence and access and then set the agenda for the rest of the country or we can say enough is enough. We can restore the law to what it was before *Citizens United* was decided. More to the point, we can restore the voice to millions upon millions of everyday Americans who want nothing more than to see their government represent them. That is the choice we have before us this week. For those of us who

believe the measure of democracy’s strength is in votes cast, not dollars spent—for us, I think it is an easy choice.

I am going to vote to reverse *Citizens United*, and I urge my colleagues to do the same.

I thank the Presiding Officer.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Madam President, I ask unanimous consent to speak for 25 minutes.

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

Mr. GRASSLEY. Madam President, the proceedings on the amendment before us show just how broken the Senate is under the current leadership.

Yesterday the majority leader stated:

We’re going to have a cloture vote to stop debate on this. [Republicans] say, well, great, we’ll go ahead and support that because we can stall.

He also said:

There will be no amendments. Either you’re for campaign spending reform or not. So my Republican colleagues, they can stall for time here.

This is an “Alice in Wonderland,” upside-down world the majority leader is describing. You can bet that if Republicans were blocking Democrats from describing this amendment, we would be accused of obstruction. But when we vote to proceed to this amendment, as we did yesterday, we are also accused of obstruction. It goes to show that whatever Republicans do, we will be accused of obstruction. That is a catch-22. That is the majority’s game plan—bring up partisan measures for political posturing, avoid working together to solve problems, and blame the other side no matter what the other side does. That is why the Senate is broken.

The amendment before us would amend the Bill of Rights and do it for the first time. It would amend one of the most important of those rights—the right of free speech. The First Amendment provides that Congress shall make no law abridging freedom of speech. The proposed amendment would give Congress and States the power to abridge that freedom of free speech. According to the amendment, it would allow them to impose reasonable limits, whatever those reasonable limits might be, on contributions and expenditures—in other words, limiting speech that influences elections. It would allow speech by corporations that would influence elections to be banned altogether.

This amendment is as dangerous as anything Congress could pass. Passing for the first time an amendment to the Constitution amending the Bill of Rights is a slippery slope. Were it to be adopted—and I believe it will not be—the damage done could be reversed only if two-thirds of both Houses of Congress voted to repeal it through a new constitutional amendment, with three-fourths of the States ratifying that new amendment.

So let’s start with first principles. The Declaration of Independence states

that everyone is endowed by their Creator with unalienable rights that governments are created to protect. Those preexisting rights include the right to liberty.

The Constitution was adopted to secure the blessings of liberty to Americans. Americans rejected the view that the structural limits on governmental power contained in the original Constitution would adequately protect the liberties they had fought in that revolution to preserve. So before the Colonies would approve the Constitution, the Colonies—or then the States under the Articles of Confederation—insisted on the adoption—or the addition to the original Constitution—of the Bill of Rights.

The Bill of Rights protects individual rights regardless of whether the government or a majority approves of their use. The First Amendment in the Bill of Rights protects the freedom of speech. That freedom is basic to self-government. Other parts of the Constitution foster equality or justice or representative government, but the Bill of Rights is only about individual freedom.

Free speech creates a marketplace of ideas in which citizens can learn, debate, and persuade fellow citizens on the issues of the day. At its core, it enables our citizenry to be educated, to cast votes, to elect their leaders.

Today freedom of speech is threatened as it has not been in many decades. Too many people do not seem to want to listen and debate and persuade. Instead, they want to punish, intimidate, and silence those with whom they disagree. For instance, a corporate executive who opposed same-sex marriage—the same position President Obama held at that very time—is to be fired. Universities that are supposed to be fostering academic freedom cancel graduation speeches by speakers some students find offensive. Government officials order other government officials not to deviate from the party line concerning proposed legislation.

The resolution before us—the proposed constitutional amendment cut from the same cloth—would amend the Constitution for the first time to diminish an important right of Americans that is contained in the Bill of Rights. In fact, it will cut back on one of the most important of those rights—core free speech about who should be elected to govern.

The proposed constitutional amendment would enable governments to limit funds contributed to candidates and funds spent to influence elections. That would give the government the ability to limit speech. The amendment would allow the government to set the limit at low levels. There could be little in the way of contributions or election spending. There would be restrictions on public debate on who should be elected. For sure, incumbents—those of us who sit in this body—would find that outcome to be acceptable because it would weaken

possible opposition. They would know no challenger could run an effective campaign against them.

What precedent would this amendment create? Suppose Congress passed limits on what people could spend on abortion or what doctors or hospitals could spend to perform them. What if Congress limited the amount of money people can spend on guns or limited how much people could spend of their own money on health care? Under this amendment Congress could do what the Citizens United decision rightfully said it could not; example: Make it a criminal offense for the Sierra Club to run an ad urging the public to defeat a Congressman who favors logging in the national forests; another example: Prohibiting the National Rifle Association from publishing a book seeking public support for a challenger to a Senator who favors a handgun ban or for the ACLU to post on its Web site a plea for voters to support a Presidential candidate because of his stance on free speech. Nobody wants a government that powerful which could enforce those examples I just gave as well as other examples.

Don't take my word for it. In fact, at oral argument in *Citizens United*, the Obama administration told the Court it would be legal for a corporation to be prosecuted for publishing a book that expressly advocated for or against the election of a candidate. Sounds impossible, but that is what was said. Consequently, the Obama administration and the Democratic leadership support banning books they don't agree with. Consequently, that should be a frightening prospect for all of us.

Under this amendment, Congress and the States could limit campaign contributions and expenditures without complying with existing constitutional provisions. Congress could pass a law limiting expenditures by Democrats but not by Republicans, by opponents of ObamaCare but not by its supporters.

What does the amendment mean when it says Congress can limit funds spent to influence elections? If an elected official says he or she plans to run again, long before any election, Congress under this amendment could criminalize criticism of that official as spending to influence elections. A Senator on the Senate floor, as I am right now, appearing on C-SPAN free of charge, could, with constitutional immunity, defame a private citizen. The Member could say the citizen was buying elections. If the citizen spent what Congress said was too much money to rebut that charge, he could possibly go to jail. We would be back to the days when criticism of elected officials was a criminal offense. If people think that cannot happen, it did happen in 1798 when the Alien and Sedition Acts were passed—and that is since our country was formed and since our Constitution has been governing our relationships.

Yet the supporters of this constitutional amendment say this amendment

is necessary for democracy. That is outrageous. The only existing right the amendment says it will not harm is freedom of the press. So Congress and the States could limit the speech of anyone except the corporations that control the media. In other words, under this amendment, some corporations are OK and other corporations are not OK. That would produce an Orwellian world in which every speaker is equal, but some speakers are more equal than others. Freedom of the press has never been understood to give the media special constitutional rights denied to others.

Even though the amendment by its terms would not affect freedom of the press, I was heartened to read that the largest newspaper in my State, the *Des Moines Register*, editorialized against this proposed constitutional amendment. They cited testimony from the Judiciary Committee hearing, and they recognized the threat the proposed amendment poses to freedom.

But in light of recent Supreme Court decisions, an amendment soon may not be needed at all. Four Justices right now would allow core political speech to be restricted. Were a fifth Justice with this same view to be appointed, there would be no need to amend the Constitution to cut back on this political freedom.

Justice Breyer's dissent for these four Justices in the *McCutcheon* decision does not view freedom of speech as an end in itself, as was so important to our Founding Fathers. He thinks free political speech is about advancing, in his words, "the public's interest in preserving a democratic order in which collective speech matters."

To be sure, individual rights often do advance socially desirable goals, but our constitutional rights do not depend on whether unelected judges believe they advance democracy as they conceive it. Our constitutional rights are individual. They are not "collective"—the word the Justice used. Never in 225 years has any Supreme Court opinion described our rights as collective. Our rights come from God and not from the government or from the public, and if they did, they could be taken away from us at any time. So I don't put much stock in the comment from one Justice quoted on the floor today that the Court's campaign finance decisions are wrong.

Consider the history of the last 100 years. Freedom has flourished where rights belonged to individuals that governments were bound to respect. Where rights were collective and existed only at the whim of a government that determines when they serve socially desirable purposes, the results in those countries have been literally horrific.

We should not move even 1 inch in the direction the liberal Justices and this amendment would take us. The stakes could not be higher for all Americans who value their rights and their freedoms.

Speech concerning who the people's elected representatives should be,

speech setting the agenda for public discourse, speech designed to open and change the minds of our fellow citizens, speech criticizing politicians, speech challenging government policies—all of these forms of speech are vital rights. This amendment puts all of those examples in jeopardy upon penalty of imprisonment.

It would make America no longer America.

Contrary to the arguments of its supporters, the amendment would not advance self-government against corruption and the drowning out of voices of ordinary citizens. Quite the opposite. It would harm the rights of ordinary citizens, individually and in free association, to advance their political views and to elect candidates who support their views. By limiting campaign speech, it would limit the information voters receive in deciding how to vote, and it would limit the amount people can spend on advancing what they consider to be the best political ideas.

Its restrictions on speech apply to individuals. Politicians could apply the same rules to individuals who govern corporations. Perhaps individuals cannot be totally prohibited from speaking, but the word “reasonable” is in this amendment. Reasonable limits can mean almost anything. Incumbents likely would set a low limit on how much an individual can spend to criticize him. Then the individual will have to risk criminal prosecution in deciding whether to speak, hoping a court would later find the limit he or she exceeded was unreasonable. That would create not a chilling effect on speech but a freezing effect.

This does not further democratic self-government like we are used to in this country.

When supporters such as the Senator from Illinois say that those who spend money in campaigns silence their critics, they have it exactly backwards. One person speaking does not silence anyone, but the government prosecuting people for speaking does.

My friend says that candidates, unlike individual groups, “abide by strict rules on . . . how much is being spent.” This is simply not so. That Senator is factually wrong. The rules are the same. The First Amendment requires that candidates be able to spend as much as they want. That is true for individuals, corporations, and unions as well. Individuals are limited in current law on how much they can contribute to candidates. Corporations cannot contribute to candidates at all.

The rules for expenditures are different. Candidate expenditures are expenditures by others independent of the candidate and are unlimited because they are simply free expression. Individuals and corporations cannot and, in fact, do not make unlimited campaign contributions under current law.

My friend also discussed fraud in voting, which he says does not exist, and opposed voter ID laws. The amendment

before us has nothing to do with voting. Even if it did, polls consistently show that about 75 percent of Americans support a requirement that voters produce photo ID.

Prevention of fraud is common sense. Voter fraud exists, despite the tactic of voter ID opponents repeating over and over that it does not. In my State of Iowa, there have been successful prosecutions for in-person voter fraud.

In North Carolina recently, 765 registered voters appeared, based on their names, birth dates, and last four digits of their Social Security numbers, to have voted in another State. That certainly warrants investigation. We would have more evidence of voter fraud if this administration did not block efforts to prosecute its existence.

When Florida sought from the Department of Homeland Security a list of noncitizens it could compare against its voter rolls, the Department refused to supply it.

Let's turn back to the amendment before us, which affects only free speech rights, not voting rights. Keep our eye on the ball. The amendment would apply to some campaign speech that could not give rise to corruption.

As my friend from Illinois stated, under current law an individual could spend any amount of his or her own money to run for office, but an individual could not corrupt himself by his own money and could not be bought by others if he or she did not rely on outside money.

Yet the amendment would allow Congress and the States to strictly limit what an individual could contribute to or spend on his or her own campaign. That would make beating the incumbents who would benefit from the new powers to restrict speech much more difficult.

In practice, individuals seeking to elect candidates in the democratic process must exercise their First Amendment freedom of association in order to work together with others for a common political purpose. This amendment could prohibit that altogether. It would permit Congress and the States to prohibit “corporations or artificial entities . . . from spending money to influence elections.”

That means labor unions. That means nonprofit corporations such as the NAACP Legal and Educational Defense Fund, Inc. That means political parties.

The amendment would allow Congress to prohibit political parties from spending money to influence the elections. If they can't spend money on elections, then these political parties would be rendered as mere social clubs.

The prohibition on political spending by for-profit corporations also does not advance democracy. Were this amendment to take effect, a company that wanted to advertise beer or deodorant would be given more constitutional protection than a corporation of any kind that wanted to influence an election.

The philosophy of the amendment, as you can see, is very elitist. It says the ordinary citizen cannot be trusted to listen, to understand political arguments, and evaluate which ones are persuasive. Instead, incumbent politicians interested in securing their own reelection are trusted to be high-minded. Surely they would not use this new power to develop rules that could silence not only their actual opposing candidate but associations of ordinary citizens who have the nerve to want to vote them out of office.

As First Amendment luminary Floyd Abrams told the Judiciary Committee:

[P]ermitting unlimited expenditures from virtually all parties leads to more speech from more candidates for longer time periods, and ultimately to more competitive elections.

Why would anybody want to destroy that political environment—more speech, more candidates, longer time periods, and ultimately competitive elections? Incumbents are unlikely to use this new power to welcome competition.

In fact, the committee report indicates that State and Federal legislators are not the only people who would have the ability to limit campaign speech under the amendment. It says States and the Federal Government can promulgate regulations to enforce the amendment. So unelected State and Federal bureaucrats who do not answer to anyone would be empowered to regulate what is now the freedom of speech for individuals and entities that has been protected for 227 years by our Bill of Rights. That would make a mockery of the idea that this proposed amendment advances democracy.

Another argument for the amendment—some voices should not drown out others—also runs counter to free speech, and it is also very elitist. It assumes voters will be manipulated into voting against their interests because large sums will produce so much speech as to drown out others and blind them to the voters' true interests.

We had a perfect example very recently in Virginia's Seventh Congressional District. The incumbent Congressman outspent his opponent 26 to 1. Newspaper reports state that large sums were spent on independent expenditures on the incumbent's behalf, many by corporations. No independent expenditures were made for his opponent. His opponent won. That sounds like really drowning out a political point of view.

That appears to be undue influence? No. The winner of that primary spent just over \$200,000 to win 55 percent of the vote.

Since a limit that allowed a challenger to win would presumably be “reasonable” under the amendment, Congress or the States could limit spending on House primaries to as little as \$200,000, all by the candidate, with no obviously unnecessary outside spending allowed.

The second set of unpersuasive arguments used by the proponents concerns



Citizens United. That case has been mischaracterized as activist. As Mr. Abrams stated, that case continues a view of free speech rights by unions and corporations that was expressed by President Truman and by liberal Justices in the 1950s. What Citizens United overruled was the departure from precedent, and Citizens United did not give rise to unfettered campaign spending.

The Supreme Court in 1976, in *Buckley v. Valeo*, ruled that independent expenditures could not be limited. That decision was not the work of supposed conservative judicial activists.

Wealthy individuals have been able to spend unlimited amounts since then. And corporations and others have been able to make unlimited donations to 501(c)(4) corporations since then as well.

As Mr. Abrams wrote to the Judiciary Committee in questions for the record, "What Citizens United did do, however, is permit corporations to contribute to PACs that are required to disclose all donors and engage only in independent expenditures. If anything, Citizens United is a pro-disclosure ruling which brought corporate money further into the light." So I do not think my colleagues are correct in saying that this amendment is about so-called "dark money." And limiting speech is totally separate from disclosure of speech. This amendment says nothing about disclosure.

And it is the amendment, not Citizens United, that fails to respect precedent. It does not simply overturn one case.

As Mr. Abrams responded, it overturns 12 cases, some of which date back almost 40 years. As the amendment has been redrafted, it may be 11½ now, depending on what "reasonable" means.

Justice Stevens, whom the Committee Democrats relied on at length in support of the amendment, voted with the majority in three of the cases the amendment would overturn.

Some members of the Committee may not like the long established broad protections for free speech that the Supreme Court has reaffirmed. But that does not mean there are 5 activists on the Supreme Court. The Court ruled unanimously in more cases this year than it has in 60 or 75 years, depending on whose figures you use. Its unanimity was frequently demonstrated in rejecting arguments of the Obama administration.

I have made clear that this amendment abridges fundamental freedoms that are the birthright of Americans. The arguments made to support it are unconvincing. The amendment will weaken, not strengthen, democracy. It will not reduce corruption, but will open the door for elected officials to bend democracy's rules to benefit themselves.

The fact that the Senate is considering such a dreadful amendment is a great testament to the wisdom of our Founding Fathers in insisting on and

adopting a Bill of Rights in the first place.

As Justice Jackson famously wrote, "The very purpose of a Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts."

"One's right to life, liberty, and property, to free speech, a free press, freedom of worship and assembly, and other fundamental rights may not be submitted to vote; they depend on the outcome of no elections."

We must preserve our Bill of Rights including our rights to free speech. We must not allow officials to diminish and ration that right. We must not let this proposal become the supreme law of the land.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. MERKLEY. I ask unanimous consent to speak for up to 10 minutes.

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

Mr. MERKLEY. We have heard on this floor some lengthy speeches that brought a number of arguments to bear in an effort to appear learned, insightful, founded in law and founded in history, all to obscure the fundamental fact before this body, which is some on this floor today want to see a government owned and operated by the powerful, not the people. But that is exactly the opposite of what our Constitution was set up to do. The Founders of our Nation proceeded to lay out in very clear terms that the entire premise of our government would not be ruled by the few over the many. It would not be a system of government set up of, by, and for the powerful. They laid that vision out in the very first words of our Constitution.

This premise is so well-known to citizens that when you say: What are the first three words of our Constitution, they will say, together: "We the People," because that is what animates our system of government—"We the People." Those who came to argue for the government by and for the powerful are simply trying to destroy our Constitution and our vision of government.

Citizens United, a court case that absolutely ignores the fundamental premises on which our Nation is founded, is a dagger poised at the heart of our democracy. It is a decision by five Justices that this framework doesn't matter.

The writers of the Constitution felt this was so important to convey to every citizen that this is the meaning, the core meaning of what our government is about, that they proceeded to write those words in a font that is approximately 10 times the size of everything that comes after "We the People of the United States. . . ." And all that follows is to illuminate, expand on that vision.

It was President Lincoln who summarized the genius of our democracy in his speech at Gettysburg: ". . . of the people, by the people, and for the people." He proceeded to say that we must not let this vision perish from this Earth.

Yet Citizens United, day by day, election by election, is diminishing and destroying the very vision that President Lincoln summarized in that speech on the battlefield at Gettysburg.

What does Citizens United say? It says that entities that are not individuals, that have no claim to the Bill of Rights, can spend unlimited sums to inundate the airwaves and drown out the voice of the people.

Imagine, if you will, the town square. Let's turn the clock back to the early phase of our democracy.

There we are at the town square and everyone is supposed to have their chance to have their say in influencing the decisions that are to come. The town council says: Do you know what, Mr. Jones or Mrs. Anderson, you get 30 seconds, but now over here we are going to give 4 hours to your opponent. Would anyone consider that an exercise in democracy? Oh, yes, the individuals get 30 seconds, but the powerful entity—maybe the big landholder—gets 4 hours to make his or her case. That is not democracy. That is not "We the People." That is rules that are twisted to fix the game on behalf of the powerful against the people, and that is what Citizens United represents.

Our system of government is such that it is essential that citizens believe that every citizen has a fair shot to participate because if they do not believe there is a fair shot, then, in fact, the premise of democracy—"We the People"—is destroyed because why participate if the system is rigged? That is what we are talking about—the rigging of the system. I think those five Justices simply have not read the Constitution, have not read the first three words, do not understand the premise, the foundation, the heart of our system of government and what it is intended to accomplish. It is as if they scratched out the first three words of the Constitution and said: We are rewriting it. We are going to rig the system for "We the Powerful" over the people. That is what this debate is about.

In Citizens United, these five Justices—a one-vote majority over the four who protested against this bizarre effort to destroy the premises of our democracy—said: Unlimited sums, dark money—such sums "do not give rise to corruption or the appearance of corruption." They could not be more wrong. Corruption in this sense is the rigging of the game such that citizens do not have a fair voice, and rigging the game is exactly what Citizens United does. It is so obvious that, of course, it gives rise to the appearance that the game is rigged because it is.

Think about the situation I described where the town council says to Mr. Anderson or Mrs. Jones: You get 30 seconds; the opponent on the other side

gets 4 hours. That is exactly what we are seeing in elections across the country. You may see in some elections that the average donation may be \$50. Along come the Koch brothers, who in most States would be out-of-State, out-of-State oil and coal billionaires, coming in and maybe spending \$3 million or \$5 million or more through a variety of front groups they have set up.

How many individual donations does it take to get the same time to present your case as the Koch brothers spending, say, \$3 million? Well, it would take about 60,000 \$50 donations to buy the same opportunity to speak. So Citizens United is very much like that town council saying: You, madam citizen, get 30 seconds, but you, mister rich, powerful individual, get 4 hours. So, of course, it is corrosive and corrupting. It erodes fair opportunity for all citizens to have their voice heard. And because it does erode the ability of all citizens to have their voice heard, of course, it enhances the belief, that is, the appearance that the system is rigged, the appearance of corruption.

It changes the debate in this Chamber because colleagues look at these millions of dollars brought to bear by just a couple individuals and they say to themselves in the back of their head: I better not step on the toes of that group that can now spend millions of dollars in my election way down in a southern State or way up in a western State or way up in the northeast. I better not step on their toes. If that is not corrosive and corrupting to a "We the People" debate and decision-making, I do not know what is.

Let's take an example. Not so long ago the party across the aisle was saying: We think we have a good idea on how to use a market-based system to control sulfur dioxide. Rather than putting a limit on each smokestack, we will create an overall limit and allow the market to allocate the most cost-effective way to reduce that sulfur dioxide pollution. That cap-and-trade system invented across the aisle, proposed across the aisle, passed across the aisle, actually worked pretty well. In fact, it worked spectacularly. Sulfur dioxide and acid rain were decreased faster, more cheaply than anyone envisioned. If the range of possible outcomes was considered to be 1 through 10, this was a 25. It was a resounding success.

But along come two individuals who have these billions of dollars who are getting into elections all over the country, who are threatening to put millions in to those who disagree, and they say: No, no, no. Sulfur dioxide, hmm, do not apply this idea that worked so well for the carbon dioxide pollution; do not do that; no matter how well this idea worked, do not do that because we won't fund your election. If you are with us, we will fund massive amounts of campaign ads to attack your opponents. That is exactly what the Koch brothers have done, and they reversed the entire position of my

colleagues across the aisle in a couple years—in about a 2-year period—from a market-based control of a major pollutant, carbon dioxide, to arguing that no, no, no, it cannot be controlled. That would be an energy tax.

Well, this happens time and time again, and the people across this Nation do, in fact, pay attention. They are seeing the system is rigged. That is why in one poll 92 percent of Americans said this program is broken. I thought to myself: What is wrong with the other 8 percent? Haven't they paid attention? Don't they know how much this system is being corrupted by Citizens United, by the decision of those five Justices?

Well, in addition, there is another form of corruption that comes from Citizens United; and that is those individuals who have been elected by these vast sums are beholden to those who elected them and they will choose no policy that goes against those who have pulled their strings and gotten them elected. That is definitely a form of serious corruption in a democracy, where ideas are supposed to be debated and decided, analyzed, not where vast corporate or individual wealthy billionaires pull the strings. So it is destroying the competition between ideas on how to take a path that works for "We the People" instead of "We the Powerful."

When people back home see those in this Chamber arguing to cut food stamps while not cutting a single egregious tax giveaway to powerful oil companies, they see the corrosive influence of Citizens United. When they see folks across the aisle arguing that you should not eliminate these subsidies that go to companies that ship our jobs overseas, and that you should oppose subsidies to bring those jobs home, they see the powerful influence of Citizens United. The list could go on and on.

We have a particular challenge because the concentration of wealth in America is greater than it has been since 1920, greater than it has been for virtually a century. And now we have a system, thanks to our Supreme Court majority of five, that says wealth can be brought to bear to buy elections across this Nation. This is not the system that colonists thought about when they were trying to set up a government that would serve every American—not the few—that would serve humble, ordinary working Americans—not the most powerful—that would serve those in every economic level for a better vision, a better opportunity for employment, a better opportunity for health, a better opportunity to live a quality life, instead of just those who have the biggest bank checkbooks.

I urge my colleagues, let's take up this issue. How could any issue be more important than this issue that goes to the very core of our democracy? Let's not try to run these lengthy, lengthy speeches with learned, learned quotes, to try to disguise what this is about:

the wealthiest, the most powerful oppressing the fundamental nature of our democracy.

Together we can stay the hand that holds the dagger aimed at the heart of democracy, and it is our responsibility to do so for this generation and for the generations to come.

Thank you, Madam President.

# RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:56 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Ms. BALDWIN).

## PROPOSING AN AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES RELATING TO CONTRIBUTIONS AND EXPENDITURES INTENDED TO AFFECT ELECTIONS—MOTION TO PROCEED—Continued

The PRESIDING OFFICER (Ms. BALDWIN). The Senator from Utah.

Mr. HATCH. Madam President, more than 40 years ago, in *New York Times v. Sullivan*, Justice William Brennan described "a profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open." The measure now before the Senate shows that this commitment is in serious jeopardy.

Next week marks the 227th anniversary of the drafting of the U.S. Constitution. Those who participated in that process agreed that individual liberty requires limits on government power, but they differed on how explicit and extensive those limits should be. Many thought the simple act of delegating enumerated powers to the Federal Government and reserving the rest to the States would be enough. Others were more skeptical of government power and insisted that the Constitution needed a bill of rights. Those skeptics, however, were not skeptical enough. The measure before us today, S.J. Res. 19, would allow the government to control and even prohibit what Americans say and do in the political process.

Yesterday a member of the majority leadership said this measure is "narrowly tailored." It is possible to believe that only if you have never read S.J. Res. 19 and know nothing about either the Supreme Court's precedents or past proposals of this kind. This is not the first attempt at empowering the government to suppress political speech, but it is the most extreme.

Four elements of this proposal are particularly troubling.

First, its purpose is to advance what it calls "political equality." None of the constitutional amendments previously proposed to control political speech has made such a claim. The irony is astounding. At the very time in our history when technology is naturally leveling the political playing