

UNANIMOUS CONSENT AGREEMENT—TREATY
DOCUMENT NO. 117-1

Mr. WHITEHOUSE. Mr. President, I also ask unanimous consent that the Secretary of the Senate be authorized to make grammatical, technical changes to the resolution of ratification with respect to Treaty Document No. 117-1 in order to reflect the addition of material.

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

DISCLOSE ACT

Mr. WHITEHOUSE. Mr. President, I am here today as we close in on the vote on the DISCLOSE Act scheduled for tomorrow to urge my colleagues to vote yes on that measure. I have introduced the DISCLOSE Act in every Congress since Leader SCHUMER first unveiled it in 2010 on the heels of the wretched Citizens United decision.

Every Congress, just about every time I have set foot in Washington, I have sounded the alarm on the ever-growing tsunami of slime that Citizens United unleashed into our elections. I rise once more today to urge this Chamber to end the flood of dark money drowning our democracy.

This is not inevitable. As late as 2006, the amount of dark money sloshing around in our elections was only \$5 million. In 2020, it had crossed the billion-dollar threshold. Big special interests don't spend a billion dollars without expecting return on investment, and that has damaged our democracy.

Voting to clean up that mess presents clear choices: whether or not billionaires and big corporations can purchase influence in secret, whether or not Americans deserve to know who is buying that influence, whether or not corruption has a place in our American democracy.

Twelve years after Citizens United, the evidence is in. Dark money powers up corporations and megadonors to pump billions into phony front groups. Those groups, often with soothing names like People for Puppies and Prosperity, then spew bile and slime into our elections. We often can't know exactly who paid for that bile and slime, but when corporations and the ultrarich keep getting what they want from a dark money-funded Congress, well, you see that over and over and over again; and Americans' suspicions grow. Their gut tells them the corporations and billionaires are behind the phony ads in an effort to rig our political system.

And Americans' instincts are right. Academic studies show that economic elites and business interests command huge influence in government policy while regular people have statistically little or none. Studies also show that politicians elected to Federal office with the support of dark money are more likely to support legislation aligned with big corporate interests. Regardless of what the American people want, the big donor interests win time after time.

Dark money isn't limited to elections either. I have come to the floor now 18

times to expose a decades-long, right-wing scheme to capture the Federal judiciary and its crown jewel, our Supreme Court. This scheme included a \$580 million secretive campaign of dark money and phony front groups to pack the courts with judges selected to green-light donor-friendly policies, running multimillion-dollar ad campaigns to keep the confirmations of those judges and Justices on track.

Now, the result is the Court that dark money built is delivering big for its donor puppeteers. In a matter of days, the FedSoc Six on the Supreme Court overturned *Roe v. Wade*, manufactured new polluter-friendly legal doctrines, and threw out centuries-old gun safety regulations—all things big donors wanted; all things majorities of Americans did not want. What is more, one rightwing donor just dumped \$1.6 billion to supercharge the dark money operation that captured the Court and cement that dark money network's hold over the Federal judiciary. And guess what. We wouldn't know who that donor is if someone hadn't tipped off the press—ProPublica and the New York Times. Think about that. We only know this because we get occasional little glimpses of these megadonors' covert schemes. That means this is only the tip of the iceberg. And where that \$1.6 billion goes on its way out into our political system will be obscured in dark money channels.

No wonder Americans' trust in the government is cratering. Fifty-eight percent of voters say our government needs major reforms or a complete overhaul. Just a quarter of Americans say they have confidence in the Supreme Court. That is down 11 percent just from last year. Americans know something is deeply amiss in our democracy.

Mr. President, I believe to restore trust in government, we need to flush dark money out of government. Year after year, poll after poll, overwhelming majorities of Americans say: money in politics and wealthy political donors are the root of Washington's dysfunction. Election cycle after election cycle, even during COVID, voters listed political corruption among their most important issues. Americans no longer trust that their voices matter here, not as much as the dark money voices of big corporations and billionaires. And it is time to listen to them. It is time to rid our system of the corrupting influence of unlimited dark money.

Even the Citizens United Justices recognized that unlimited political spending without transparency would corrupt. Even the Justices who opened the floodgates of unlimited political spending knew that if it was not transparent, it would corrupt. They just wouldn't do anything about it.

The DISCLOSE Act hinges on a very simple idea: that Americans deserve to know who is spending to influence their vote. If you agree with that sim-

ple idea, vote for the DISCLOSE Act. If you believe that corporations and billionaires shouldn't hide behind phony front groups while spending gobs of money on elections, you should vote for the DISCLOSE Act. If you oppose corruption, you should vote for the DISCLOSE Act. It is time for every Member of this body to go on record about this poison in our system. And with any luck, with 10 Republicans joining us, we can return to a Congress that serves America again, and Americans deserve that.

I yield the floor to my distinguished colleague, Senator MERKLEY.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. MERKLEY. Mr. President, when I was in grade school, I had basic civics education. We learned about the fact that the vision of America was based on individuals standing up for their ideas in the public square. They could say: Here is what I think should take us forward, and here are the arguments behind it.

And someone else could say: Not so quick. I don't think that is the right path. We should do something else.

But in the course of this debate, those people gathered in the square could decide which way to go, partly based on whether they admired the thinking and the ideas being presented by the individuals, perhaps also what they knew about the individuals who were making those comments. But this is a basic competition of ideas freely expressed by members of the community and debated openly.

Well, I thought that was a beautiful thing; and it really goes to the notion of freedom of speech and the power that flows up from the people because it is the people gathered and discussing ideas who are making decisions. And in a republic, like our Republic, those decisions also involved whom you vote for because of that set of ideas; and that person is sent to a State legislature or the House of Representatives or the U.S. Senate to fight for those ideas. Isn't that a beautiful concept of complete transparent debate?

You know who else agreed with this idea who is no longer with us? Antonin Scalia. Now, I don't know that I have ever quoted Antonin Scalia before, former Supreme Court Justice who passed away a few years ago. He had this to say about disclosure. He said:

Requiring people to stand up in public for their political acts fosters civic courage, without which democracy is doomed.

And then he continued:

For my part, I do not look forward to a society which, thanks to the Supreme Court, [on which he sat] campaigns anonymously . . . hidden from public scrutiny and protected from the accountability of criticism. This [he said] does not resemble the Home of the Brave.

So here is a very conservative Justice saying that, without transparency, without public accountability, democracy is doomed.

I love the revolutionary idea that flows up from the people or, as Abraham Lincoln put it, that we are of the people, by the people, for the people.

Seven weeks from now, Americans are going to go to the polls, and they are going to cast their vote on initiatives and on individuals running for office based on what they have heard. And here is the challenge. A lot of what they have heard is not about people standing up in public with the courage of their convictions but about secret campaign spending where there is no accountability—the exact kind of influence that Antonin Scalia said dooms our democracy.

Citizens United, the decision in 2010, is something we talk about quite a bit. What it basically said is that if you don't give money directly to a candidate but instead run a campaign on their behalf, you can spend as much as you want. So unlimited spending—unlimited. This created super PACs that can collect unlimited spending from corporations, unlimited spending from individuals, and run unlimited campaigns on behalf of someone—super PACs.

But here is the thing, when they made that decision, the Court thought that perhaps Congress would act to make sure that all of those donations were disclosed. They weren't making a decision that they liked secrecy. After all, Antonin Scalia who voted for Citizens United said:

With secrecy, democracy is doomed.

Well, we haven't acted because we have a triple veto baked into the way the Senate acts that says you need a supermajority to get a bill to the floor, a supermajority to close debate on amendments, and a supermajority to go to a final vote on a bill.

Colleagues across the aisle have said: We wanted to protect that secret money because we think it helps us.

That secret money is all about not government of, by, and for the people; that secret money is about government of, by, and for the powerful. So they are using their veto for the powerful to corrupt our country, to corrupt the core vision of government of, by, and for the people. That is what this DISCLOSE Act is all about, to say that we only thrive if the money is legitimate in campaigns.

Let me explain this. There are two standards that my Republican colleagues have been fighting for: one standard for ordinary people and a completely different standard for the rich and powerful.

For ordinary people, they have supported public disclosure. So for ordinary people in America who spend \$200 on a campaign, it is publicly disclosed. Everybody knows who you gave the money to.

But if a billionaire doesn't write a \$200 check but writes a \$200 million check on behalf of running a campaign for an individual, it is secret. It is secret—secrecy for the rich and powerful, disclosure for ordinary Americans.

This is all about the equivalent of a stadium sound system by the powerful that drowns out the voice of ordinary people. That drowning-out effort, as my colleague just pointed out, has gone higher and higher and higher. The sound system from the stadium has gotten louder and louder and louder, drowning out the voices of people. In 2010, it was some 60 million in dark money. In 2016, collectively over the years they had reached a billion dollars, and, in 2020, over a billion dollars in a single year.

And now we have Barre Seid, who donated his company, \$1.6 billion, into the dark money network. This money, spent without accountability, is used to smear candidates.

There is a saying—a saying I heard as a little kid—and that saying was: The lie gets halfway around the world before the truth gets its pants on. But in our social media world, it is more like the lie gets three times around the globe before the truth gets out the front door. The truth is being hammered constantly by the smear campaign from dark money.

So this is what we have: a vote coming up on whether you believe in secret money smear campaigns or you believe in public accountability and preserving the vision of government of, by, and for the people.

This is so important to our future. I wonder what Antonin Scalia, lying in his grave, might be thinking when he sees the outcome of Citizens United, an outcome he did not intend.

You know, I had the experience of being the target of one of these smear campaigns in 2014. The Koch brothers were bragging, and they held a meeting. They said: We are going to put a lot of money—millions of dollars—into an organization called Freedom Partners. And Freedom Partners, along with the network, is going to spend \$200 million in the 2014 campaigns.

They came to Oregon, and the press reports said that they were putting \$3.6 million into television ads attacking me.

Now, I was in a different position than many targets because the Koch brothers had bragged about this money. So they did not take advantage of the anonymity that they could have. I decided to call them out. I put up an ad and said: Where is this money from? It is out-of-State oil and coal billionaires who have come to our State who want to elect my opponent because they share an agenda, and here is the agenda they have advertised: great investment for them, terrible choice for Oregon.

That was my response. I was able to respond because, in that case, the Koch brothers had chosen to waive the secrecy. They wanted people to know what they were doing. They wanted people to tremble and fear over the fact that they could write a check for \$3 million, or \$5 million, or \$10 million, or \$50 million.

This is even more evil when it is secret because then you can't respond

about the source and what they are all about.

We have seen some recent examples. The Elections Project—what is that dark money up to? That dark money is up to trying to override article I, section 4 of the Constitution. They want State legislatures, without any influence from Congress or from Governors, to be able to write election rules. That is not what the Constitution says.

In addition, they want State legislators to be able to ignore the vote in their State and reassign electors for President to whomever they want. That is what that dark money group is doing.

How about Heritage Action? Jessica Anderson, the executive director, was caught on video bragging about her organization's role in passing voter suppression laws in Georgia. That is what that dark money is up to. They are trying to stop Americans from voting. How un-American is that? How unpatriotic is that? How “destroying the freedom and rights of Americans” is that? That is what Heritage Action is up to in trying to destroy democracy here in the United States of America.

Then we had the dark money groups coming together and saying that they were going to have an under-the-dome-type strategy to stop the DISCLOSE Act. What does “under the dome” mean? It is a reference to the dome over the Capitol. “Under the dome” is about using the triple veto here in the Senate to stop the DISCLOSE Act.

We twice had 59 votes to try to hold a debate on the DISCLOSE Act, but not 60—1 vote short. Now they are trying to do it again, to use the Republican caucus under the Senate rules—an under-the-dome strategy to support the sleazy, terrible, dark money attacks corrupting elections in America.

I say “corrupting” because how can an individual, if they can't see who is donating the money, if they don't know what is true and what isn't, because the highest percentage of these ads are actually putting fake facts forward; they are putting lies forward—that is why I call them a smear campaign. If smear campaigns are inundating the airways, how can citizens make an informed judgment? They can't. That is why Antonin Scalia said this type of secrecy would destroy democracy, and on this, he was right.

Let's pass the DISCLOSE Act. Let's save the vision of government of, by, and for the people.

I yield to my colleague from Oregon. The PRESIDING OFFICER (Ms. SMITH). The Senator from Oregon.

Mr. WYDEN. I thank my colleague, and I know that Senator VAN HOLLEN is here as well.

I am going to be brief. I particularly want to thank our colleague from Rhode Island because he has been relentless in terms of making this case day after day. I want to put this in very personal kind of terms because all of us who have the honor of serving in the U.S. Senate can relate to this issue.

Senator WHITEHOUSE has added a reform to his proposal that is very personal to me and I think embodies the accountability and the transparency that Oregonians and people in Minnesota, Michigan, and Maryland are calling for. Here is how I would start it: A number of years ago, I authored legislation that millions of Americans now understand is called Stand By Your Ad. Stand By Your Ad stipulated that as an elected official or a candidate, you would have to actually put your name behind these attack ads where you go after your opponent. And, now, day after day, in these next 50-plus days, we are going to see plenty of these ads.

The law worked well, and it is still on the books today, much to the chagrin of some officials who would like to take a quick hit on their opponent—an official or a candidate—and then scamper off without any accountability.

I do want to make clear, because of the good work of the Senator from Rhode Island, that Stand By Your Ad doesn't mean as much today because we now know the premium is ongoing for these secret, incredibly negative ads on your opponent because the people paying for dark money ads aren't required to put their name behind what they are saying.

That is an extraordinarily strong hit against openness and accountability and transparency in our democracy. Oregonians and people across the country are rightfully disgusted by it. It is extraordinary the lengths that those who are orchestrating these dark money attacks will go in order to make their case when there is no accountability.

I see my seatmate from the Finance Committee. We have worked together for years to change the Medicare statute that barred Medicare from negotiating to hold down the price of medicine. Big Pharma protected this negotiating ban like it was the Holy Grail. My colleague and I would come to the committee day after day and talk about: How is this common sense? Everybody in America negotiates in order to get the best possible deal.

But we looked, particularly in this session, at the start of the debate as a classic study in dark money. Big Pharma, and groups associated with it, spent enormous sums of money attacking me personally in Washington, DC, media. There was scary music, and there were attacks about how anybody who wanted these reforms was like a leech and taking away cures from the American people.

The striking part of all of this, and why what Senator WHITEHOUSE has had to say is so important, is that the ad wasn't even directed at me, because it was in Washington, DC. I am barely a household word in my own household, let alone in Washington, DC.

And what was the point of these extraordinarily large sums attacking me in Washington, DC? The point of it was to scare my colleagues—Senator STA-

BENOW, Senator VAN HOLLEN, all of my colleagues here—because there was so much money at the hands of these extreme groups associated with Big Pharma that wanted to undermine a commonsense reform backed by millions of Americans that Medicare should negotiate.

At one point, someone said: Oh, there is so much opposition to this effort to negotiate.

I said: Are you kidding me? The opponents of negotiating on Medicare must be in a witness protection program because we can't find anybody who thinks you shouldn't negotiate.

Yet Big Pharma was willing to spend huge sums of money—dark money—not really to damage me politically, because my constituents live in Oregon, but to scare other Senators.

So people, of course, are going to get bludgeoned with these dark money ads every time they turn on the television, the radio, or watch a video online. I just don't think that Americans should be forced to guess or wonder what special interest is funding these ads that come from murky groups that have these radical names like the Coalition for Prosperity and Justice. We all know that they are not going to tell you who they really are.

My colleague from Maryland has been very patient. We had some glitches in the schedule, and we want to hear from our friend from Michigan as well.

I want to thank Senator WHITEHOUSE for basically taking the “Stand By Your Ad” concept and kind of reconfiguring it in the DISCLOSE legislation. Senator WHITEHOUSE's bill would require the heads of corporations, unions, or other organizations to identify when they are behind political ads, the same way Stand By Your Ad works under the original version of the law that I authored.

And remember—and I want this to be the takeaway about this issue—Senator WHITEHOUSE's proposal and extending “Stand By Your Ad” in this kind of fashion treats everybody the same. This is quintessential good government. It is not about going after somebody on the right or somebody on the left. This is about common sense. It is not a radical, leftwing proposal.

The American people ought to know who is trying to influence their votes. By the way, when we authored the original “Stand By Your Ad” proposal, it used to be bipartisan. And as my colleague from Rhode Island has mentioned, of late, it has been the Republicans who have been protecting dark money and protecting the basic kind of disclosure that I think our system of government has been all about.

The American people have strong differences of opinion on issues. There is no question about that. But I have had more than 1,020 open-to-all townhall meetings. What nobody disputes is that openness and accountability is what the American system is all about.

So, Senator WHITEHOUSE, our thanks to you for spending years and years at

it because you are taking us, in a significant way, back to what I think used to be common sense, used to be accountability, used to be something that transcended the kind of thing that Big Pharma was doing early on where they didn't even pretend—they didn't even pretend—it was about an individual legislator; it was about scaring off all Members of Congress.

We can do better. Senator WHITEHOUSE's proposal moves us in that direction, and I want to thank my colleague from Maryland, who also was trying to deal with the scheduling kind of challenge, and look forward to working with him and my seatmate on the Finance Committee and Senator WHITEHOUSE, another exemplary member of the Finance Committee.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. VAN HOLLEN. Madam President, I ask unanimous consent that the following Senators be permitted to speak prior to the scheduled vote: myself for up to 10 minutes, Senator STABENOW for up to 10 minutes, Senator CANTWELL for up to 5 minutes, and Senator MENENDEZ for up to 5 minutes.

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

DISCLOSE ACT

Mr. VAN HOLLEN. Madam President, I too want to thank the Senator from Rhode Island, Senator WHITEHOUSE, for his laser focus on the issue of disclosure and transparency. And I want to thank my colleagues here on the floor: Senator WYDEN; Senator STABENOW; and Senator MERKLEY, who was here before; and others within our caucus.

In fact, every member of our Democratic Caucus supports the DISCLOSE Act. We support it because the stakes are so high for the future of our democracy. Billions of dollars that have crept in and now are gushing into our political system to influence our elections pose a grave threat to our Republic and to the future of our democracy.

Make no mistake, these are corporations and very wealthy people who are spending billions of dollars in secret money to influence people's votes so that they can get their way at the expense of the public interest. You have got a very few people with very deep bankrolls who are using their funds to try to shape our democracy and bend our democracy to suit their interests at the expense of everybody else.

And, as President Biden said in his remarks on this earlier this week, even foreign entities—foreign entities that are not allowed to contribute to political campaigns are engaged in these political expenditures—under current law, use dark money, front groups, to try to influence our elections and steer the course of our democracy here in the United States from overseas. That, by itself, should scare the hell out of every Senator and every American.

Madam President, I want to talk a little bit about how we got here. How