

Statement of Senator Angus King  
Senate Rules Committee  
July 23, 2014

Our constitutional system contains many provisions that are in tension with one another—important provisions which often touch our basic rights and responsibilities in sometimes contradictory and conflicting ways. One of these which I wrestle with daily as a member of the Intelligence Committee, for example, is the tension between the fundamental charge of the Preamble that we are “to provide for the common defense and insure domestic tranquility” while at the same time observing the privacy protections of the Fourth and Fifth Amendments.

Another is the subject of today’s hearing—how do we respect and enhance the freedom of expression enshrined in the First Amendment while protecting the government from being corrupted by the unchecked flow of money to public officials. We have wrestled with this problem for well over a hundred years through periodic scandals and periodic corrections, new laws and new ways to evade those laws. But, as I observed at the outset of our Committee’s hearing on this subject several months ago, we have never seen anything like what is happening today.

The average Senator now must raise more than \$5,000 a day, every day, seven days a week, 365 days a year for six years to be prepared for next election. But as disheartening as this is, it is only part of the story. Over the last decade, and accelerating in the last five years, is a new phenomenon—the unchecked, unlimited, undisclosed gusher of money from individuals, interest groups, and shadowy organizations that has become a kind of parallel universe of essentially unregulated campaign cash.

In recent years, the Supreme Court has steadily chipped away at two of the three pillars of campaign finance regulation which go

back to the early days of the last century—effectively eliminating limits on sources and amounts. But the Court’s fundamental basis for doing so was the assumption that the third pillar—disclosure of the source of contributions—remained as a bulwark against the corruption which would otherwise threaten the heart of our political process.

Here’s Justice Kennedy in *Citizens United*—

“The First Amendment protects political speech; and disclosure permits citizens and shareholders to react to the speech of corporate entities in a proper way. This transparency enables the electorate to make informed decisions and give proper weight to different speakers and messages.”

Justice Roberts was even more explicit in the recent *McCutcheon* case—

Disclosure of contributions minimizes the potential for abuse of the campaign finance system. Disclosure requirements are in part justified based on a governmental interest in ‘provid[ing] the electorate with information’ about the sources of election-related spending. They may also ‘deter actual corruption and avoid the appearance of corruption by exposing large contributions and expenditures to the light of publicity.

Makes total sense, but sadly, this kind of disclosure—the disclosure which the Court relied upon as a principal justification for these decisions--simply doesn’t exist under today’s campaign finance laws. And the result is an almost total loss of accountability, the hiding of vital information from voters—who it

is that is trying to influence their vote--, and an inevitable slide toward corruption and scandal.

I know that many consider this a partisan issue. I do not. Although the momentary advantage under the present system appears to favor the Republicans, the whim of a couple of liberal billionaires could change that perception overnight. This is a systemic issue which should be fixed with an eye to the long-term health of our democracy, not a fine calculation of who might gain an edge in the next election.

Today we meet to consider a bill to remedy this shortfall. Senator Whitehouse has been a leader on this issue of disclosure for years and his bill in the past has been painfully close to passing. His DISCLOSE act is seen by many experts as a fair approach to giving voters the information they need while balancing the concerns of organizations trying to avoid cumbersome reporting requirements.

But his is not the only effort in this town. I would be a poor politician if I did not mention my own bill, the Real Time Transparency Act, which would require members of Congress, PACs, and political committees to report donations electronically within 48 hours. I also call on the SEC to re-engage in the transparency cause and move a rule giving shareholders the ability to see where their money is being spent, especially when it comes to politics. Allowing investors to see how much money a corporation spends on candidates and political activity should be a clear value that both sides of the aisle could support.

Probably the purest form of free political speech in America is the traditional New England Town Meeting. It's a place where

citizens from all walks of life gather together, usually on a cool Saturday morning in early March, to debate, argue and decide the school budget, whether to buy a new police cruiser, or which roads will be paved in the coming year. I've been to these meetings in Maine and heard the spirited debates--and seen some folks go home angry and hurt when their point of view didn't prevail. But everyone speaks up for themselves in Maine, and I've never seen someone stand to speak in disguise. I've never seen someone stand in disguise. We know who's doing the talking and that, in itself, is valuable information.

And so it should be in November—because what is an election but a big Town Meeting, where the people decide the future of their community or their country? And an essential part of the debate, an essential part of how we all make decisions, is knowing who's doing the talking.