

**Senate Judiciary Committee Hearing “*Examining a
Constitutional Amendment to Restore Democracy to the
American People*”
June 3, 2014**

Statement of Senator Cornyn

- Thank you, Mr. Chairman.
- Today is June 3rd, and we have just a few weeks before the August recess.
- So far this year, by my count, we have marked up just three bills in the Senate Judiciary Committee.
- The House Judiciary Committee, for its part, has marked up eleven bills this year.
- Not every bill is worth passing, to be sure. But the limited time we have raises the question: why are we considering today an amendment with no chance of becoming part of the Constitution?

- The reason, I suspect, is the same reason the Majority Leader has spent countless hours on the Senate floor not legislating, but attacking private citizens for their speech.
- The Majority Leader and his party – and now this Committee – are trying, desperately, to change the subject.
- They are trying to convince Americans that the reason for our troubles is not six years of the failed policies of the Democratic Party, but the fact that some who disagree with Democrats choose to participate in the political process.
- Americans are not going to fall for it.
- The Majority Leader states that “shadowy” and “dark” money “poses the greatest threat to our democracy that [he has] witnessed during [his] time in public service.”

- He gives us faceless “corporations and special interest groups” – and two individuals with faces – as villains, claiming that undoing the Constitution’s protection of free speech will cure all our ills.
- This sounds like fantasy because it is complete fiction.
 - As Mr. Abrams’ testimony shows, the Citizens United decision did not drive the increase in campaign spending the Majority Leader decries.
 - Nor will legislation under the proposed amendment lead to a decrease.
 - Take the 2002 McCain-Feingold campaign finance reform bill, which the Majority Leader claims cleared the air of the influence of special interests:
 - That law did not reduce campaign spending: in the 2008 election cycle, before *Citizens United*, President Obama and Senator McCain raised and

spent nearly twice as much as President Bush and Senator Kerry spent in 2004.

- While the proposed amendment will fail to achieve its stated goals, it will succeed in limiting free speech and empowering politicians.
- Don't take it from me: according to the ACLU, the amendment "would undermine the goals [of] ... encouraging vigorous political dissent and providing voice to the voiceless."
- It would "fundamentally 'break' the Constitution and endanger civil rights and civil liberties for generations."
- The proposed amendment will do so by eliminating the protection of free speech that the First Amendment provides.
- It will give legislators, including Congress, limitless power to regulate citizen involvement in the political process.

- Politicians will be authorized to impose any kind of regulation on political speech.
 - Courts will have no standard they can use to rein in excessive infringement on free speech rights.
 - And, as the proposed amendment makes clear, any law it authorizes will trump First Amendment rights like free speech and assembly.
- I can't tell you how this power would be used by the politicians it would arm – maybe they will be both benevolent and farsighted enough to avoid unintended consequences. But I doubt it.
 - I suspect they will use their new power to protect themselves, setting contribution limits so low that challengers will never be able to run against them.

- I suspect they will blur the line between issue and express advocacy, to block political views they do not like, including criticism of themselves.
- Or perhaps the politicians will do exactly what proponents of say they fear: bar individual citizens from contributing to campaigns entirely, limiting that privilege solely to corporations. Because under this amendment, they could.
- The Majority Leader focuses on the impact the amendment would have on billionaires. But it would eliminate free speech and other protections for rich and poor alike.
- Politicians will be able to regulate the political process as they wish, and courts will be powerless to stop them.
- This attempt should frighten all Americans. It frightens me.