



## **McConnell Stands for Free Speech**

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Perhaps the biggest problem with giving the government power to regulate political speech — “campaign-finance reform” — is that that power has been routinely used to try to silence political opposition.

Over the past seven years, many such regulations have been struck down, on First Amendment grounds, in a series of court decisions. The best known of these are the Supreme Court decision in *Citizens United v. Federal Election Commission* and the U.S. Court of Appeals decision in *SpeechNow.org v. Federal Election Commission*. These decisions have increased freedom of speech across the political spectrum — for example, *Citizens United* allows both corporations and unions to spend money to support or defeat candidates, something unions took great advantage of in the recent Wisconsin recall election.

[SpeechNow.org](http://SpeechNow.org) allows anybody to form an independent expenditure committee (what the press has dubbed “super PACs”) to raise money to advocate for the election or defeat of a candidate. *Emily’s List v. Federal Election Commission*, another important Court of Appeals case striking down federal regulations, was filed by Emily’s List, the influential liberal, pro-Democrat PAC. Nevertheless, many Democrats have openly worried that these decisions will hurt their party at the polls.

Sadly, the response of many Democrats has been to try to discredit these judicial decisions and, worse, to silence conservative and pro-Republican citizens exercising their constitutional rights to free speech and association.

Hence, in his 2010 State of the Union address, President Obama falsely and somewhat xenophobically claimed that *Citizens United* would “open the floodgates for . . . foreign corporations to spend without limits in our elections.” (The decision specifically did not change the law regarding foreign contributions and expenditures, and the Supreme Court summarily reaffirmed those laws the next year.) But his words inaugurated an unprecedented effort to silence conservative speakers.

Part of the attack has been informal. Both the Obama administration and the Obama campaign have publicly vilified Republican and conservative donors, suggesting that they were guilty of criminal activity, tax evasion, and unpatriotic behavior. Meanwhile, “progressive” groups have harassed gatherings of private citizens, and organized boycotts

not only of conservative businesses and speakers, but also of those who merely do non-political business with those speakers.

The response has also included formal legal challenges. For example, in 2010 and again this year Senate Democrats have sought to pass the “DISCLOSE Act,” which would require Americans to make new, unprecedented reports to the federal government regarding their political activity. In introducing the bill, lead sponsor Chuck Schumer (D., N.Y.) noted that “the deterrent effect [of such reporting] should not be underestimated.” No, it should not, given that financial supporters of Proposition 8 in California found their employers boycotted until they resigned or were fired, and their property vandalized. The DISCLOSE Act also contained numerous provisions aimed directly at hindering speech by the business community, while exempting unions.

Unable to pass the DISCLOSE Act as legislation, Democrats have attempted to enact it through regulation by the Federal Election Commission. However, that body is a non-partisan, independent agency, with three Democratic and three Republican commissioners, and it has so far refused to go along. Thus, efforts have begun to regulate what is perceived to be pro-conservative or pro-business speech at agencies where Democrats are in control, including the Federal Communications Commission, the Securities and Exchange Commission, and elsewhere. The president has also threatened to issue an executive order requiring businesses seeking government contracts to first inform the administration of any political activities by the corporation and its executives.

How determined is the administration? Earlier this week, top adviser David Axelrod stated, “We will use whatever tools [are] out there, including a constitutional amendment,” to stop conservative spenders — specifically naming two private citizens that he thought should be silenced. Never before has the Constitution been amended to restrict the rights of U.S. citizens to participate in politics.

Today, Friday, June 15, at 11:15 a.m. at the American Enterprise Institute, Senate Minority Leader Mitch McConnell will offer [an address](#) about these threats to free speech, urging Americans to unite and remain vigilant in defending the Constitution (the speech can be watched online [here](#)). The senator is expected to call attention to the ways in which the administration is working to undermine free speech through harassment and intimidation, and using regulations and even executive orders to silence political opposition. He is expected to call on Americans of all political stripes to stand up for free speech and to oppose efforts to amend the First Amendment in order to give government the power to regulate political speech.

Over his career, Senator McConnell has established himself as the Senate’s strongest and most principled defender of the First Amendment, opposing both Democratic and Republican efforts at “campaign-finance reform” and other restrictions on speech. His engagement on this issue is truly a call to arms not only for Republicans, but for all those who care about free speech.

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