

Vote today is one last partisan shot against free speech

Posted by **Thomas Mitchell**

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The DISCLOSE Act is scheduled for a vote today.

Despite the urgings of President Obama and the [editorial page of The Washington Post](#) it appears the bill will lack the 60 votes for cloture, largely due to Republican resistance on free speech grounds.

[Obama argued Monday](#) — in what many described as a blatant partisan campaign speech on behalf of Democrats up for election this fall — “You'd think that making these reforms would be a matter of common sense, particularly since they primarily involve just making sure that folks who are financing these ads are disclosed, so that the American people can make up their own minds. Nobody is saying you can't run the ads; just make sure the people know who in fact is behind financing the ads.”

Actually many people are saying the bill would scare many people away from exercising their free speech rights out of fear of retribution or merely embarrassment. Additionally, complying with its requirements is costly and burdensome, thus chilling free speech rights in the political arena.

Among those pointing this out are groups as diverse as the [ACLU](#) and the Cato Institute.

In a June letter to the House of Representatives before it passed the DISCLOSE Act, the [ACLU argued](#):

“It is both impractical and unfair to hold relatively small contributors responsible for every advertisement that an organization publishes. Any effort to increase voter awareness of an organization's funding must respect the freedom of private association that the Supreme Court recognized in [NAACP v. Alabama](#). In that case, the Supreme Court sternly rebuked government-mandated membership disclosure regimes as thinly veiled attempts to intimidate activist organizations that worked by instilling a fear of retaliation among members of the activist group. The lessons of that era must not be lost simply because the causes of today are different from those of the civil rights era.”

[Cato said](#), “In general, DISCLOSE exploits loopholes in Citizens United limits on government control of speech to contravene the spirit of that decision and the letter of the First Amendment.”

Citizens United was the case that overturned much of the restrictions of the McCain-Feingold Act, which the DISCLOSE Act attempts to loophole out of existence.

[Clarence Thomas argued](#) in his partial dissent in [Citizens United](#), “Disclaimer and disclosure requirements enable private citizens and elected officials to implement political strategies specifically calculated to curtail campaign-related activity and prevent the lawful, peaceful exercise of First Amendment rights.”

It is not as simple as requiring disclosure of supporters and financing. The bill strikes at the heart of freedom to associate and speak out on the issues of the day in what ever way is convenient to you.



Who is that woman with the gavel?

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