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NATIONAL RIGHT TO LIFE NEWS

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Obama and Top Hill Democrats Push New Bill to Restrict NRLC Communications to the Public

GAG RULE? President Obama, flanked by his party's congressional leaders, Speaker Nancy Pelosi (D-Ca.) and Senate Majority Leader Harry Reid (D-Nv.). All three are pushing for sweeping new legal limits on the ability of organizations such as NRLC to communicate with the public about the actions of those who hold or seek federal elective office.

Rationing Advocate Is Obama's Nominee to Oversee Implementation of New Health Care Law

By BURKE J. BALCH, J.D.

President Obama has nominated Dr. Donald Berwick, president and chief executive officer of the Institute of Healthcare Improvement, to direct the Center for Medicare and Medicaid Services. This massive bureaucracy within the federal Department of Health and Human Services will have the largest role in implementing the Obama Health Care Rationing Law enacted earlier this year.

Given the content of that law, Berwick is an apt choice. He is on record as an open advocate of rationing health care. For example, in a June 2009 interview

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Dr. Donald Berwick

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Obama and Top Hill Democrats Push New Bill to Restrict NRLC Communications to the Public

WASHINGTON (June 11, 2010)—President Obama and congressional Democratic leaders are pushing hard for quick enactment of a bill that would place extensive new legal restrictions on the ability of corporations–including incorporated nonprofit citizen groups such as NRLC–to communicate with the public about the actions of federal lawmakers.

NRLC is strongly opposed to the bill, viewing it as a blatant political attack on the constitutional rights of the organization and of its members and donors.

The bill, called the "DISCLOSE Act," was crafted in response to the ruling of the U.S. Supreme Court in *Citizens United v. Federal Election Commission*, handed down on January 21, 2010. In that case, the Supreme Court invalidated federal laws and regulations that had prevented an incorporated group called Citizens United from buying TV ads to promote a movie critical of Hillary Clinton while she was running for president. By a 5–4 vote, the Court ruled that the First Amendment protects the right of corporations to spend money on ads or other communications that criticize or praise those who hold or seek federal office.

Rep. Chris Van Hollen (D-Md.), prime sponsor of "DISCLOSE Act" in the House.

Sen. Charles Schumer (D-NY), prime sponsor of "DISCLOSE Act" in the Senate

In previous arguments before the Court, the Obama Administration, represented by the office of Solicitor General Elena Kagan, had argued that the government could prohibit a

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NRLC opposes confirmation

Supreme Court Nominee Kagan Not Pro-Life on Abortion, Human Cloning, Assisted Suicide

By DAVE ANDRUSKO

When pro-abortion President Barack Obama nominated Solicitor General Elena Kagan to replace retiring pro-abortion Supreme Court Justice John Paul Stevens, the most common description of the 50-year-old Kagan was that she resembled a "blank slate." This was no doubt part of her appeal as Obama sought to make sure his second Supreme Court nomination ran as smoothly as his 2009 nomination of now-Justice Sonia Sotomayor.

Kagan, the one-time dean of the Harvard Law School, has never served on the bench (if confirmed, Kagan would be the first justice without judicial experience in almost 40 years), written sparsely as an academician, and, all in all, remained under the radar.

But two months plus out from her nomination, a clearer picture of Kagan is beginning to emerge. Based on an accumulation of direct and indirect evidence about her positions on

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Supreme Court nominee Elena Kagan with President Obama and Vice President Biden

DISCLOSE Act

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corporation from disseminating even a book if it contained material that opposed a federal candidate.

The White House and top congressional Democrats have sharply criticized the decision. In his January 27 State of the Union address, which was attended by six Supreme Court justices, President Obama denounced the ruling, saying that it would "open the floodgates for special interests–including foreign corporations–to spend without limit in our elections. ... And I'd urge Democrats and Republicans to pass a bill that helps to correct some of these problems."

Democratic lawmakers then moved rapidly to craft legislation that is intended to make it as difficult as possible for corporations (including nonprofit, issue-oriented corporations such as NRLC) to spend money to communicate with the public about the actions of federal officeholders, while leaving considerably more latitude for labor unions–generally allies of the dominant liberal wing of the Democrats–to take advantage of the Court's ruling. They made clear their determination to try to put the new restrictions into effect as quickly as possible, in order to mute outside organizations as much as possible before the November elections.

The legislation, dubbed the "DISCLOSE Act," was introduced in April by Congressman Chris Van Hollen (D-Md.), who chairs the Democratic Congressional Campaign Committee (the arm of the Democratic Party chiefly responsible for helping elect Democrats to the House), and by Senator Charles Schumer (D-NY), who is a top contender to become the leader of Senate Democrats if Senate Majority Leader Harry Reid (D-Nv.) loses his re-election campaign in November. The respective bill numbers are H.R. 5175 and S. 3295.

Schumer said that the bill would "make [corporations] think twice" before getting involved in election-related speech. "The deterrent effect should not be underestimated," he said.

Rep. Michael Capuano (D-Ma.), who voted for the bill at a May 20 committee meeting, said, "I hope it chills out all–not one side, all sides. I have no problem whatsoever keeping everybody out. If I could keep all outside entities out, I would."

But Bradley Smith, chairman of the Center for Competitive Politics and a former chairman of the Federal Election Commission, commented in an essay in the June 7 edition of *National Review*: "That Congress would respond to a Supreme Court decision affirming corporations' freedom of speech by restricting that freedom to an even greater extent than it did before the decision is remarkable. The attempt is unlikely to withstand judicial challenge, but, as Senator Schumer made clear early on, he believes the courts won't have time to rule on the constitutionality of the act before the 2010 election is over."

After quick hearings, a House committee approved the 90-page bill on a party-line vote on May 20. House Democratic leaders had hoped to pass the bill through the House the following week, but they were forced to postpone action due to vigorous lobbying against the bill by an array of organizations, including NRLC, the Family Research Council, the NRA, and the Chamber of Commerce.

At *NRL News* deadline on June 11, House Democratic leaders remained firm in their determination to push the bill through the House before the end of June, in order to allow time for the Senate to also pass the bill before the start of the traditional congressional recess in August. (See "Take Action Now," at the end of this article.)

If the House passes the bill, then "this is going to be a priority" for Senate Majority Leader Harry Reid (D-Nv.) as well, Van Hollen told *Roll Call*, a Capitol Hill newspaper.

On May 27, NRLC sent House members a strongly worded, four-page letter opposing the bill, signed by Executive Director David N. O'Steen, Ph.D., and Legislative Director Douglas Johnson, expressing strong objections to the legislation.

"There is very little in this bill, despite the pretenses [that it merely advances "disclosure"], that is actually intended to provide useful or necessary information to the public," the letter said. "The overriding purpose is precisely the opposite: To discourage, as much as possible, disfavored groups (such as NRLC) from communicating about officeholders, by exposing citizens who support such efforts to harassment and intimidation, and by smothering organizations in layer on layer of record keeping and reporting requirements, all backed by the threat of civil and criminal sanctions."

"Enactment of such a law is not a curb on corruption, but itself a type of corruption–a corruption of the lawmaking power, by which incumbent lawmakers employ the threat of criminal sanctions, among other deterrents, to reduce the amount of private speech regarding the actions of the lawmakers themselves," the letter charged.

The letter also noted that those pushing the bill "hope to ram this legislation into law—including a specific provision making it effective 30 days after enactment, without any interpretative regulations from the Federal Elections Commission—to set up legal minefields that they hope will, for at least a year or more, deter disfavored organizations from effectively communicating with the public about the public policy agenda of the current Administration and of the dominant faction of the majority party of the current Congress."

NRLC also advised lawmakers that key roll call votes on the legislation will be included in NRLC's congressional scorecard for the current Congress.

The entire NRLC letter of May 27 is posted on the NRLC website at http://www.nrlc.org/FreeSpeech/NRLCletteronDISCLOSEAct.pdf

On June 10, *Roll Call* reported that Rep. Heath Shuler (D-NC), a cosponsor of the bill, had proposed that it be amended to exempt certain nonprofit corporations (known as "501c4 corporations"), such as NRLC, from some of the bill's provisions, in an attempt to reduce opposition to the measure. **But the article also quoted a prominent backer of the bill, Meredith McGehee, policy director of the Campaign Legal Center, as rejecting such an exemption, saying, "It becomes the loophole that eats the whole purpose and intent of the legislation."**

TAKE ACTION NOW

The U.S. House of Representatives could take up the "DISCLOSE Act" (H.R. 5175) at any time. If the House passes the bill, Senate Democratic Leader Harry Reid (Nv.) has also promised quick action on the legislation, perhaps in July. It is vital that your federal representatives, in both the House and Senate, hear from you promptly in opposition to this legislation.

Please immediately contact the office of your representative in the U.S. House of Representatives, and the offices of both of your U.S. senators, to give them a message in your own words, but along these lines: "*I urge you to oppose the so-called 'DISCLOSE Act' (H.R. 5175 in the House, S. 3295 in the Senate). I am strongly opposed to incumbent politicians trying to restrict the free speech of organizations about the elected officials who are supposed to represent us. I will be paying close attention to how the representative/senator votes on this legislation, which I view as an attack on the First Amendment.*"

You must rely on telephone, e-mail, and faxes–there is not time for U.S. mail. Here is how you can reach them:

* Call the U.S. Capitol Switchboard, 202-225-3121, and ask to be put through to the office of the person who represents you in the U.S. House of Representatives. If you do not know who represents you, simply give the operator your zip code and you will be connected to the correct office.

* You can reach the office of each of your U.S. Senators by the same method at 202-224-3121.

* You can also send your representative and your senators e-mail messages against this legislation through the NRLC website Legislative Action Center at *http://www.capwiz.com/nrlc/home/*

* You can also express your opinions by calling lawmakers' district offices, and/or by sending them letters by fax. The various phone and fax numbers for most members of Congress are available through the NRLC website Legislative Action Center at *http://www.capwiz.com/nrlc/dbq/officials/*

(To see how one of your representative²s has voted in the past on key pro-life issues, call up his or her profile, then click on the "Votes" tab.)

It just takes a few minutes to send an appropriate message to both senators and to your House member, using the easy-to-use tools on the Legislative Action Center.

Please act quickly!