***Government and the Power of the Purse.***—The unconstitutional conditions doctrine limits the authority of the federal government to impose conditions on the receipt of federal funds that limit the speech of the recipient. However, as an exercise of its spending power, Congress may refuse to subsidize the exercise of First Amendment rights by those recipients. The distinction between these two closely related principles seemed, initially at least, to hinge on the severity and pervasiveness of the restriction placed on the exercise of rights to free speech. What has emerged more recently is the principle that Congress may condition the receipt of federal funds on acceptance of speech limitations on persons working for a project receiving the federal funding—even if the project also receives non-federal funds—provided that the speech limitations do not extend to the use of non-federal funds outside of the federally funded project.

In *Regan v. Taxation with Representation*,[1007] the Court held that Congress could constitutionally limit tax-exempt status under § 501(c)(3) of the Internal Revenue Code to charitable organizations that do not engage in lobbying. "Congress has merely refused to pay for the lobbying out of public moneys," the Court concluded.[1008] The effect of the ruling on the organization's lobbying activities was minimal, however, since it could continue to receive tax-deductible contributions by creating a separate affiliate to conduct the lobbying. In *FCC v. League of Women Voters*,[1009] by contrast, the Court held that the First Amendment rights of public broadcasting stations were abridged by a prohibition on all editorializing by any recipient of public funds. There was no practical alternative means, as there had been in *Taxation with Representation*, by which the stations could continue to receive public funding and create an affiliate to engage in the prohibited speech. The Court rejected dissenting Justice Rehnquist's argument that the subsidization principle of *Taxation with Representation* should be controlling.[1010]

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stitution affords any relief. Id. at 16. Although the plurality opinion of the Chief Justice Burger and Justices White and Rehnquist may be read as not deciding whether any public right of access exists, overall it appears to proceed on the unspoken basis that there is none. The second question, when Justice Stewart's concurring opinion and the dissenting opinion are combined, appears to be answerable qualifiedly in the direction of constitutional constraints upon the nature of access limitation once access is granted.

[1007] 461 U.S. 540 (1983).

[1008] 461 U.S. at 545. *See also* Cammarano v. United States, 358 U.S. 498, 512–13 (1959) (exclusion of lobbying expenses from income tax deduction for ordinary and necessary business expenses is not a regulation aimed at the suppression of dangerous ideas, and does not violate the First Amendment).

[1009] 468 U.S. 364 (1984).

[1010] 468 U.S. at 399–401, & n.27. *See also* Oklahoma v. Civil Service Comm'n, 330 U.S. 127 (1947).