

Truth police a dangerous direction

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Wouldn't it be great to have a political campaign in which everyone told the truth? No half-truths, false insinuations, hyperbolic accusations or bald-faced lies. Just the facts.

That appears to be the aim of an Ohio law that the Supreme Court will consider Tuesday. The Ohio law makes it illegal to knowingly or recklessly make a false statement about a candidate with the purpose of influencing an election.

This certainly sounds good. After all, our democracy depends upon voters making intelligent choices, and it's hard for them to do so when they're bombarded with lies.

But what sounds good in theory raises problems in practice.

Take the statement "Obama is a socialist." This is certainly false and a person who said it would probably know it. But can we send him to jail?

Would it matter that the word "socialist" is open to interpretation? (Some people might think it means anyone who prefers government solutions over market ones.)

Can we at least send someone to jail for saying "Obama was born in Kenya," a statement that is verifiably false?

But what if the person who made the statement had read it on the Internet? Should that be a defense to a criminal prosecution? Or are speakers required to do more thorough research before they speak?

The statement in the Supreme Court case was prepared by a pro-life group to put on billboards during Ohio Congressman Steve Driehaus' campaign for re-election. It said: "Shame on Steve Driehaus! Driehaus voted FOR taxpayer-funded abortions."

The pro-life group says this message was true because Driehaus voted for the Affordable Care Act, which the group says will lead to federal money being used for abortions.

Driehaus says it was false and points to a separate federal law, the Hyde Amendment, which forbids federal funds from being used for abortions. The pro-lifers counter that even the Hyde Amendment allows for funding of abortions to save a mother's life or for rape victims.

Even if there was a molecule of truth in the pro-life group's message, isn't it still misleading? Did Driehaus vote for the ACA so federal money could slip through a loophole to pay for a raped woman's abortion? Or did he support it because it expands health coverage to more people, forbids discrimination against people with pre-existing conditions and allows older children to stay on their parents' insurance plans?

Still, you can see that it's not easy to be the truth police. Even misleading statements can have an ounce of truth. Hyperbolic statements are par for the course in American politics. And people inevitably make mistakes when discussing complicated policies like the ACA or the war on terror.

Do we really want Big Brother monitoring our political discussions with the threat of a criminal sanction looming in the background? Or would we be concerned that this threat would chill the speech of even the most informed and thoughtful speakers who feared that a mistake could land them in jail?

Are we better off with free-for-all mudslinging and relying on journalists, fact-checkers, and satirists to help us sort out the truth? Is the Cato Institute's Ilya Shaprio correct in saying that "A crushing send-up on The Daily Show or The Colbert Report will do more to clean up political rhetoric than the Ohio Election Commission could ever do?"

The Supreme Court is unlikely to answer these questions in this case. That's because the Court is focusing on a narrow procedural issue of whether the dispute is "ripe" enough for a court to resolve.

But we don't need the Court to know that a government "Ministry of Truth" is not the solution to misleading political discourse. Instead, the solution is for citizens to be engaged and informed voters who demand honesty from politicians and punish those who lie.

Those who create misleading political ads are betting we won't live up to that responsibility.

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