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Martians and Bill O'Reilly »

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February 3, 2010 01:28 PM EST by John Stossel
**MORE ON SPEECH
 AND POLITICS**

Although I say the First Amendment is clear:

"Congress shall make no law ... abridging the freedom of speech." That carves out no excuses for Congress. If paying to air political messages is speech -- and it is -- then even Martians and Klingons and should be permitted to fund independent political speech.

Eugene Volokh of the *Volokh Conspiracy* disagrees with my first-amendment absolutism. Volokh notes that the first-amendment doesn't protect things like death threats, or using a sound truck to blast a political message in a residential neighborhood.

Additionally, corporations are still banned from making campaign donations, which are not considered a form of speech. Individuals are also limited to \$2,400 per candidate. Volokh thinks these are reasonable limitations from a constitutional perspective because "the donation is separate from the political message. We can limit contributions, but still allow people to express support for candidates."

Bill O'Reilly also argues that the First Amendment may not apply because "a corporation isn't a person." But as CATO's Ilya Shapiro writes:

Well, of course they aren't — but that's constitutionally irrelevant: It doesn't mean that corporate entities also lack, say, Fourth Amendment rights. Would the "no rights for corporations" crowd be okay with the police storming their employers' offices and carting off their (employer-owned) computers to chill criticism of some government policy?

Corporations have to have some constitutional rights or nobody would form them in the first place.

And how about foreign corporations? It's not clear. In the majority opinion, Justice Kennedy specifically declined to address whether foreigners and foreign corporations have the right to political speech. ("We need not reach the question whether the Government has a compelling interest in preventing foreign individuals or associations from influencing our Nation's political process.")

According to Volokh, the legal precedent is that foreigners in the United States DO have the right to free speech, but foreigners abroad do not.

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Sandi Trixx

Everyone talks about corporations giving politicians money, as if the money is the source of the corruption. How about reigning in the power of the politicians to enact any law they want regardless of how much it violates individual rights?
February 3, 2010 at 8:08 pm

John Dewey

Bill O'Reilly misunderstands the ruling. Scalia made it clear it is speech - not speakers - which is protected by the First Amendment. The First Amendment protects the citizen from a powerful government that would decide what speech the citizen may hear or read. It matters not whether the speaker is a person or a corporation. It's the listener who is being protected from censorship.
February 3, 2010 at 6:52 pm

Michael

Mr. Stossel, I actually wrote a piece for my school newspaper about this situation. Just letting you know libertarian thought is on college campuses! <http://media.www.tcdailyskiff.com/media/storage/paper792/news/2010/02/03/Opinion/Corporations.And.Unions.Should.Have.Voice.Heard.Through.Ads-3863056.shtml>
February 3, 2010 at 6:34 pm

Logan Durand

The proper response to the "yelling fire in a theater" argument for government control of speech is not to argue about where the line should be drawn, but to do away with the ill-defined "right to free speech" and recognize the importance of private property rights in determining what may be said where. Threatening another person's body or invading his home with noise pollution are illegal, not because of state definitions of "protected speech", but because of the boundaries of property.
February 3, 2010 at 6:03 pm

LAD

So the government can't ban speech for people and groups of people. However, if the government defines your group as a corporation then they can ban your speech? This reminds me of the no fly list. In America your rights can't be taken by the government without due process of law. However, if the government puts your name on a secret list first, then they can deny rights to people on the list without due process of law. Sheep to the slaughter.
February 3, 2010 at 3:49 pm

dullgeek

When the framers declared inalienable rights they described them as "endowed by our creator". I don't think they meant that our creator only endows rights to people who happen to be US citizens. I think they meant all people, everywhere have inalienable rights. I think the gov't purpose is to protect those rights w/in the borders of this country. So when a foreign {person,company} comes here, they should have the same protection of rights as a US {person,company}.
February 3, 2010 at 3:06 pm
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- John Stossel joined FOX Business and FOX News in October 2009. His show, *Stossel*, airs on the Fox Business Network on Thursdays at 8 p.m. ET. He is the New York Times best-selling author of *Give Me A Break* and *Myths, Lies and Downright Stupidity*. His "Give Me a Break" commentaries take a skeptical look at a wide array of issues, such as education, the economy, parenting, and more.
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