

LONDON.

There has been much talk of late, both at home and abroad, regarding reforms to the economic model we enjoyed so heartily in the last decade, and have come to so bitterly resent in this one: the type of capitalism labelled by the famous economist J.K. Galbraith as “the Corporate System.” Indeed, much of the action regarding a new capitalist model has centred around the limits of corporate influence on sovereign states: from the Occupy London movement’s push to democratise the City of London (Fulcrum 32) to the piracy/privacy conflict playing out in Congress and across the Internet, simplistically summarised as Corporate Giants (the American film & music industry) vs. the People (Anonymous, Megaupload, Wikipedia, et al).

In 2010 the US Supreme Court upheld the right of corporations to make political expenditures (to lobby Congress and make party donations) by attaching the First Amendment (right to free speech) to the law of Corporate Personhood, saying: “*Corporations are people, and money is speech.*”

In this special feature, the *Fulcrum* editorial team explore the ideas behind this statement.

do corporations have feelings?

There is something profoundly Orwellian in the contradictory idea that “Corporations are people and money is speech” (one is reminded of 1984’s infamous party slogans “War is Peace”, “Freedom is Slavery”, and “Ignorance is Strength”). But this type of Marxist rhetoric belongs to the twentieth century, which already appears archaic, and is of no practical help in understanding what the Supreme Court might have meant when they made the decision recorded above.

Taking each part in turn, the first question must of course be: if companies *are* people, what type of people are they? Do they possess the traits of a normal individual? Psychological flaws, personal beliefs and preferences? Does a Corporation have family, friends and a history of sexual partners? Or are they more like an official title, (e.g. Prime Minister) which is an actual person constantly changing?

Thomas Hobbes would have asked, are they *Natural Persons* (real people like you and me) or *Artificial Persons* (made up ideas like a politician or the Queen)? It is perhaps possible they possess both qualities.

After all, the Queen is both an *Artificial Person* (Britain’s Head of State) and a *Natural Person* (Lizzy, who likes horse racing and small dogs). When we speak about the Queen we must be very careful in specifying which persona we are referring to, as testified by the fact that “We prefer New Zealand eggs for breakfast” is not the official preference of the British People.

In order to determine what type of person a Corporation might be, it follows to ask: where does a company form its opinions? Is there a chain of representation uniting the employees’ political will into a body called *The Corporation*? Or does the Corporation have some means to speak for itself, and by itself?

It may well be that a company represents the *interests* of its employees (as in a co-op), but it still cannot say it represents the workers’ *political will*. The Corporation is dedicated to business, not to the pursuit of a common political goal. Even if it could represent the views of its workers, there is no reason why the worker should speak twice in the State, once as a citizen and once as an employee. By giving everyone in a Corporation two votes, the democratic underpinning of Western politics is undermined, so it must be that the Corporation represents itself alone and is a unique entity. But how does it form its own political views? Most Corporations are managed by a Board of Directors, whose job is to determine the company’s financial goals (like growth, profit, and returns). In every case these specific economic interests will align to a certain political position, which the Corporation will seek to influence – they give money to politicians as a type of investment. Thus Corporations may have a political bias, but this cannot be called a true political preference because they are incapable of transcending their own self-interests.

Real people often act out of a sense of the “common good” (I would prefer not to pay any tax, but I vote that everyone should because I realise it is best for the State as a whole).

The Corporation cannot do this.

what is money saying?

If Corporations are people, albeit pretty self-obsessed ones we wouldn’t be friends with in real life, then how does this relate to “money is speech”?

The difficulty with this comparison is that it doesn’t seem logical. When we see a statement like “X is X” we expect to be able to switch the values around freely. But if the two terms aren’t exactly the same, we at least expect them to be interchangeable through synonyms. The phrase “money is currency” makes sense because money can be understood as a type of currency. Even when the exchange is a bit more abstract, something like “expression is speech”, we can still see the logic by guessing what might be meant and swapping out the terms accordingly.

But no matter what word-swap we play with “money is speech” the two terms don’t match. In fact, they don’t even belong to the same type category of words. In the context of the Supreme Court we can understand that both Corporation and Person are constructed legal entities. In this case, “free speech” is an abstract concept whereas “money” is its total opposite, an actual thing operating in the world. This makes it difficult to see how they could be the same.

Probably the confusion is tied to one of the greatest fallacies still taught in modern business schools, and that is of *consumer choice*. Students are told that “the consumer votes with his dollar”, which is supposed to mean that people express their content or discontent with a company by buying or boycotting their products.

In this respect, one can see how money might be a form of free speech: what consumers choose affects what products are made and available on the market, as long as the consumer is totally free to choose whatever he or she wishes. Unfortunately, this analogy doesn’t even hold true in economics, let alone the legal heights of the Supreme Court. The reasons are manifold: consumers would have to have near perfect knowledge about what they were buying and the differences between products: I was recently disgusted to discover runners I’ve bought for years are made by child labour; It ignores the power of marketing and advertising to influence consumer choice: Coca-cola never release a new drink unless they can be sure it won’t impact on existing sales; It doesn’t take into account the power of Corporations to influence market price and availability: whether this means artificially raising the price of a particular commodity by hoarding, or suppressing another company’s products (just as BP buys up the patents on rival technologies to sustain the oil industry).

All in all, it is fair to say that under no circumstances does money equal free speech. If it did, then the most logical extreme would be to invert the flow: if Corporations can express themselves by giving money, the People can do the same by taking it. In this light theft becomes a legitimate form of political expression, and the August Riots become a powerful message...

Fulcrum would like to correct an error in M. Gandy’s piece (32), which should have read: “*Contra theorists of radical change we are better served by more circumspect commentators...*”



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