

1983

## Correspondence

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# Correspondence

Dear Editor:

Mr. Mark Feldman's article on freedom of commercial speech across international borders (Winter, 1983, p. 87) reveals not only the biases of the American legal system for all the world to see but also the inability of attorneys immersed in that tradition to put themselves outside it. What seems to some of us as perfectly reasonable is rejected for no really good legal reason by developing countries—only because they wish not to be overwhelmed by our multinationals.

A close look reveals the author's major, but unspoken premise is none other than the legal fiction par excellence—namely that a corporation is a person and has the right of free speech. No less august a body than our own Supreme Court has effectively granted that right to corporations in political matters, even unrelated to their own businesses, *First National Bank of Boston v. Bellotti*, 435 U.S. 765 (1978), allowing them to use economic strength to bid up the price of media, displacing most individuals from the most cherished right and duty of the free citizen—political speech. Yet the court asks for proof of what will obviously be of profound detriment to American democracy. What has this to do with commercial speech, you ask?

To the Third World, commercial speech is in fact political. This reveals the other unspoken premise of the article—that one aspect of America—blown out of all proportion—is best for the rest of the world, too, ignoring the lesser import of private, commercial development in traditional societies. That is, greed-driven use of manipulative advertising to create unlimited and profligate wants, the shallow materialism of the consumer person, is what the world should allow America to sell it. Ignore such historic antiquities as Washington's "honesty is the best policy" and Lincoln's "Right makes might" and the whole panoply of ideals—justice, freedom from want, brotherhood, equality—they don't fit our new influence-peddling, bullying style anyway.

It is strange that much of the rest of the world, supposedly less concerned with individual rights than we, refuses to grant these anonymous, collective, agglomerations of wealth, responsible to no one, the right to monopolize their speech as we have allowed oligopolies to do to ours. Who would have expected the last defense of the Jeffersonian ideal—the self-reliant, respon-

sible individual actively participating in civic affairs with a voice roughly equal to that of others—to have come from abroad? Some people don't buy this corporate distortion of American speech. Nations, unlike Americans, have the right to say no to such legal sophistry, without a constitutional amendment.

Very truly yours,  
STEPHEN R. HILDRICH, ESQ.  
West Haven, Connecticut

## Reply to Hildrich Letter

Dear Mr. Hildrich:

I sure hope you're right about Mr. Feldman's biases. We could use a little more bias toward free speech around the world these days. There's an awfully large part of this world that doesn't want any part of it. And I suggest that your commercial speech/political speech distinction is a bit strained. Economic control, as Hayek pointed out, is the control of the means on which every other freedom depends. A nation which decreases its economic freedom is less politically free. Somebody's got to decide how many pigs are to be reared, how many buses to run, how many shoes to be sold, and whatever system is chosen becomes the law of the land. If it's not going to be the market system with the price mechanism allocating the resources, it's going to be the government, and that involves all kinds of considerations that have nothing to do with production or distribution. And you don't have to read *1984* to get the message; Ministries of Truth and Ministries of Plenty are alive and well today around the world, managing information and ensuring economic stagnation.

Your description of multinationals, greed driven users of manipulative advertising to create unlimited and profligate wants in the Third World, ought to be retired to the home for exhausted cant. If you look at the Third World economies that are booming (Hong Kong, Singapore, South Korea and Taiwan to name a few) and those that are not, to put it mildly, it looks like the difference between economic success and failure are governments themselves. As Melvyn Krauss states in a book to be reviewed in this journal, it is government, not multinationals, which are out of control in the Third World.

The one common denominator in the economic miracles of the Third World is a domestic economic policy which lets the free market and natural economies do their job. These days multinationals are the means by which modern technology is transferred into the Third World, and no businessman is going to invest in a country with a predatory or hare brained economy. The result is that those Third World countries which are trying to

attract foreign investment have to get their own economic house in order, and that is to everybody's good, the developed world's as well as the Third World's.

I think you're quite right to be concerned about collective agglomerations of wealth, responsible to no one, monopolizing speech in the Third World, but I think you ought to take a closer look at who's doing the agglomerating and monopolizing. The countries which embargo ideas and information from the West are usually the ones with the most repressive domestic policies. That doesn't sound very Jeffersonian to me.

F.S.R.

## Articles in Foreign Languages

*Recently we published in Spanish an article dealing with Latin American law. The thought was such an article might be more valuable to those readers concerned with Latin America. We asked for your comments. Your letters reflected a fairly even split, pro and con. Two letters are reprinted below. I hope you will continue to let Bob Lutz know where you stand on this issue.*

F.S.R.

Dear Editor:

I recently received Volume 17, Number 2 of *The International Lawyer* and was amazed to find that you had printed an entire article in a foreign language. While this may seem to you to be the broad-minded thing to do, there are many of us who do not speak Spanish and never intend to. The reason I subscribe to The International Law and Practice Section of the ABA is to learn more about the affairs of other nations. I cannot do this if the article, and even the title, are printed in some language other than English.

On a broader scale, the article might be a concession to the people who believe that fractionalization of the nation through a multiplicity of tongues is somehow "desirable" or enriches our lives. If I want my life enriched by exposure to a foreign language, I will go to a foreign country.

Thank you for your time and attention.

JOHN CHARLES HEEKIN  
Port Charlotte, Florida

Dear Editor:

Congratulations on publishing the Spanish version of "Empresas Multinacionales Andinas." I cannot overemphasize the importance of reading

such articles in the language in which they are written. I hope an article in Spanish will become a permanent feature of each issue of *The International Lawyer*. Perhaps you could have a foreign language section where articles of interest from around the world could be published in their original language. Again, my congratulations for having the journalistic foresight to take this quantum leap forward.

Sincerely,  
RICHARD J. BOLES  
Durham, North Carolina