See also: Arrest; Automobile Searches; Fourth Amendment; Search; Seizure.

FURTHER READING

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AU

See Americans United for Separation of Church and State

Austin v. Michigan Chamber of Commerce (1990)

In *Austin v. Michigan Chamber of Commerce*, 494 U.S. 652 (1990), the U.S. Supreme Court upheld a provision of the Michigan Campaign Finance Act requiring corporations to draw from segregated (as opposed to general treasury) funds for contributions to political candidates. The state argued that such a restriction was necessary to prevent advantages accrued in the economic marketplace from overwhelming the political marketplace. Because it desired to use its general funds to purchase local media advertisements for a state candidate, the Chamber of Commerce alleged a violation of its First Amendment right to free political expression and association.

Departing from the sentiments expressed in *First National Bank v. Bellotti*, 435 U.S. 765 (1978), in which the Court resisted the supervision of corporate speech—and distinguishing the chamber's claims from those considered more recently in *Federal Election Commission v. Massachusetts Citizens for Life*, 479 U.S. 238 (1986), in which a federal expenditure restriction on voluntary political associations was found to be unconstitutional as applied—Justice Thurgood Marshall, writing for the majority, reasoned that the state-conferred advantages bestowed upon corporations, and especially the composition and organization of the chamber's corporate form, justified such restrictions. That is, as opposed to the concerns expressed by the Massachusetts Citizens organization, an entirely voluntary group existing for exclusively political purposes, the chamber, Marshall explained, was not assembled merely to exert political influence; to the contrary, it engaged in a variety of nonpolitical activities, its members were not able to disassociate easily if they disagreed with the organization's allocation of resources, and thus it was more like a traditional business corporation. Moreover, the majority concluded, where vast amounts of money could tend to distort or corrupt the political system, the state had the prerogative to enact such regulations to preserve the integrity of its electoral process.

With customary vitriol, Justices Antonin Scalia and Anthony M. Kennedy, in separate dissents, chastised the majority for its "illiberal" approach to freedom of speech. For one thing, many individuals and groups receive some form of financial support or incentive from the state. What made corporations any different? Of greater concern, however, was the state's (and the Court's) apparent desire to maintain some degree of "fairness" in political debate—implying that too much speech, of a certain kind or from a certain type of speaker, justifies state intervention in the free exchange of ideas. Why or how could the government assume that its proprietary responsibilities extended to such normative determinations? Displaying a laissez-faire attitude toward speech regulations, the dissenters argued that citizens alone were qualified to evaluate the nature, scope, and degree of such speech.

Austin presents a series of interesting questions for understanding concerns about freedom of speech in campaign finance law. Most striking is the majority's rhetorical sleight of hand—resuscitating the concern for "equalization" declared dead in *Buckley v. Valeo*, 424 U.S. 1 (1976) yet justifying it with "anticorruption" rationale. As opposed to the *Bellotti* Court's expressed indifference toward speaker identity, the *Austin* Court fixed on the particular nature of the group involved, determining that the chamber's unregulated expression would overwhelm other "voices" and create a disjunction between the degree or volume

of expressed sentiment and the actual amount of public support for certain candidates and issues. Under such circumstances, then, to prevent domination by certain groups and to preserve the integrity of the process itself, the state had a compelling interest in maintaining such expenditure restrictions.

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See also: Buckley v. Valeo; First Amendment; *McConnell v. Federal Election Commission.*

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Eule, Julian. "Promoting Speaker Diversity: *Austin* and *Metro Broadcasting.*" In *The Supreme Court Review,* ed. Gerhard Casper, Dennis Hutchinson, and David Strauss, 105–32. Chicago: University of Chicago Press, 1991.

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Automobile Searches

Automobile searches do not merit the same level of protection under the Fourth Amendment as do searches of persons, homes, or businesses. The seminal case with regard to automobile searches is *Carroll v. United States,* 267 U.S. 132 (1925), in which the U.S. Supreme Court articulated an exception to the warrant requirement of the Fourth Amendment for automobile searches. In this Prohibition-era case, law enforcement agents stopped the car in which George Carroll and John Kiro were driving based on their belief that the two were transporting liquor in violation of the National Prohibition Act. The agents did find evidence of bootlegging, and that evidence was used to secure their convictions. In dismissing the defendants' arguments that the search of their car ran afoul of the Fourth Amendment, the Court focused on the mobility of automobiles, which makes it easy for evidence to be moved and, accordingly, makes it impractical for law enforcement to secure a warrant. The Court subsequently further justified this automobile exception in *California v. Carney,* 471 U.S. 386 (1985), based on the reduced expectation of privacy individuals enjoy when they or their belongings are in a car.

This automobile exception does not mean, however, that police have carte blanche to conduct warrantless searches simply because the search is of a car or a person in a car. Under most circumstances, there must be probable cause to believe that the automobile in question has been involved in illegal activity, as noted by the Court in *Brinegar v. United States,* 338 U.S. 160 (1949). Accordingly, random traffic stops for license and registration checks are not permissible, the Court held in *Delaware v. Prouse,* 440 U.S. 648 (1979). Sobriety checkpoints, on the other hand, are, as the Court ruled in *Michigan Department of State Police v. Sitz,* 496 U.S. 444 (1990). Under a pilot program initiated by the Michigan state police, temporary checkpoints were set up along certain roadways. When these checkpoints were in operation, all cars passing through them were briefly stopped to ascertain whether the drivers were intoxicated. Those who demonstrated signs of intoxication were detained and given a field sobriety test. In upholding the validity of this program, the Court focused on the strong interest states have in deterring drunk driving and the limited nature of the intrusion. The Court also distinguished this case from *Prouse* by noting that the sobriety checkpoints involved stopping all cars, whereas the practice challenged in *Prouse* involved stops of cars solely at the unrestrained discretion of law enforcement officers.

Although people enjoy greater protections under the Fourth Amendment than automobiles, drivers are subject to search, without a search warrant, when arrested for a traffic offense, as the Court ruled in *United States v. Robinson,* 414 U.S. 218 (1973). Further, drivers may be arrested for even minor traffic offenses, an issue in *Atwater v. City of Lago Vista,* 532 U.S. 318 (2001). Even in the absence of an arrest, however, an officer may ask the driver of a vehicle stopped for a traffic infraction to step out of the car. In its ruling on this issue in *Pennsylvania v. Mimms,*