

The robing room has fine light mahogany paneling on all sides, rich red carpet with contrasting geometric border, with 9 locker doors of the same wood lined up on one side where the justices don their black robes before going into the main courtroom of the Supreme Court. JUSTICE STEVENS, wearing his trademark bow tie, is already there with his locker door open putting on his robe when JUSTICE KENNEDY enters in shirt and tie but no jacket. They exchange greetings in a surprisingly collegial manner.

JUSTICE KENNEDY

Good morning, John.

The open door to JUSTICE STEVEN'S robe locker is in the way of JUSTICE KENNEDY opening his.

JUSTICE STEVENS

(casually, with a twinkle in his
eye)

Good morning . . .

They shake hands, a gesture which JUSTICE STEVENS retains long enough to stop JUSTICE KENNEDY momentarily in this tracks to engage him in a discussion.

JUSTICE STEVENS

Anthony, I've reviewed your draft majority opinion in the Citizens United case. Don't you think you are rather taking liberties with the words of James Madison?

JUSTICE KENNEDY

(good natured)

Certainly not. Madison spoke of factions. I read [present tense] that as encompassing all manner of associations, including corporations. On certain topics corporations may possess valuable expertise .

. . .

JAMES MADISON and ALEXANDER HAMILTON appear ghostlike off to the side and start their own conversation commenting, speaking over the dialog in italics below which is reduced in volume.

JUSTICE KENNEDY

. . . leaving them the best equipped to point out errors or fallacies in speech of all sorts, including the speech of candidates and elected

officials.

JUSTICE STEVENS

The conceit that corporations must be treated identically to natural persons in the political sphere is not only inaccurate but also inadequate to justify the Court's disposition of this case.

JAMES MADISON

What manner of folly is this? I spoke of political factions. These are INDIVIDUAL rights. I never intended to include the artificial personage of a mercantile corporation. This is a most peculiar and disturbing development.

ALEXANDER HAMILTON

Frankly, I share your profound dismay. This is out of balance beyond anything I would have imagined.

JUSTICE KENNEDY

I would find that there is a public interest being able to listen to what every possible speaker has to say, and that the government is not permitted to censor that.

JUSTICE STEVENS

That would be to convert our right of free speaking into a free LISTENING clause, implicitly completing the conversion of business entities into full natural persons.

JUSTICE SCALIA has now also entered the robing room, also without jacket, and listening in on this conversation, cannot resist throwing in his 2 cents.

JUSTICE SCALIA

Apparently, John Paul, you feel no obligation to provide even an isolated statement from the founding era to the effect that corporations are not covered by the literal text of the First Amendment.

JUSTICE STEVENS

Can you come forward with any express statements that they are? Because a majority of this court essentially petitioned itself to change the law, we don't even have a factual record in this case to support a basis for doing so . . .

Virtually every one of your arguments was made and rejected in the very precedents you cite. The proposed majority opinion is essentially an amalgamation of resuscitated dissents. The only relevant thing that has changed is the composition of this Court.

JAMES MADISON

Who are these men, who put words in my mouth, on which I would have choked on the spot?

ALEXANDER HAMILTON

. . . and who elevate airy and unfounded speculation to Olympian heights of undeniable fact?

JUSTICE STEVENS

While American democracy is imperfect, few outside the majority of this Court would have thought its flaws included a dearth of corporate money in politics.

In the meantime, JUSTICE THOMAS has also wandered in, the only one wearing a jacket. He pauses to note, but has nothing of substance to add to the discussion.

JUSTICE THOMAS

(to himself, giving little weight)

Hmmm . . .

JUSTICE STEVENS

I find the proposed opinion to be beyond misguided. It is above all reckless.

JUSTICE SCALIA throws up both hands, the back of one slightly brushing the underside of the side of his chin, vaguely reminiscent of an impolite gesture, but not clearly so.

Dissolve back to the Sunday News show.