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'#Republic': A new First Amendment in cyberspace?

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Reviewed by Glenn C. Altschuler

#Republic

Divided Democracy in the Age of Social Media

By Cass R. Sunstein

In 1927, John Dewey wrote that the essential need of democracy, of self-government and freedom, properly understood, was "the improvement of the methods and
That problem may well be getting worse. For years, beginning with Republic.com (2001), Cass Sunstein has issued warnings that with the advent of "The Daily Me," cyberspace entices us to filter out everything and everyone we do not wish to see and hear, thereby reducing shared experiences and opinions with which we do not agree. In #Republic, Sunstein, a former official in the Obama administration and a professor of law at Harvard, indicates that "echo chambers," "cybercascades," "conspiracy theories," and "fake news," spread to millions in seconds via the web, are producing fragmentation, political polarization, and terrorism. Ripped straight from the headlines, but informed by hard data, #Republic should command the attention of American citizens across the political spectrum.

Many of us, Sunstein points out, become more convinced we are right - and more extreme in our views - the more contact we have with like-minded people (by, for example, watching Fox News or MSNBC or getting information filtered by social media). On Facebook, efforts to debunk false beliefs are typically ignored, and at times produce an even stronger commitment.

Public policy, Sunstein maintains, has a role to play in setting a context for a more deliberative democracy. Acutely aware of the risks, he recommends a fundamentally different approach to the First Amendment. Demonstrating, quite persuasively, that "free speech" is not an absolute, he suggests that the "clear and present danger" doctrine has outlived its usefulness and ought to be replaced by an interpretation in which speech would be protected - or not - according to its content rather than its likely or actual consequences. After all, the benefits of allowing terrorist organizations to explicitly incite violence on social media might well be dwarfed by the costs.
Asked in 1787, "What have you given us?" Benjamin Franklin replied, "A republic, if you can keep it." The year 2017 may well be the right time to ask hard questions about the relationship between our choices and our freedom, and between citizens and consumers, questions about what we need to do to keep our republic.

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