

Approved: 2-23-98
Date

MINUTES OF THE SENATE ELECTIONS AND LOCAL GOVERNMENT COMMITTEE

The meeting was called to order by Chairman Janice Hardenburger at 1:30 p.m. on February 17, 1998 in Room 529-S of the Capitol.

All members were present:

Committee staff present: Dennis Hodgins, Legislative Research Department
Mike Heim, Legislative Research Department
Theresa Kiernan, Revisor of Statutes
Graceanna Wood, Committee Secretary

Conferee appearing before the committee: Harriet Lange, Kansas Association of Broadcasters
Wendy McFarland, ACLU

Others attending: See attached list

Chairman Hardenburger opened the hearing on **SB 450**. The unclassified employees of the Board of Regents are not covered by either **SB 450** or **SB 431** which prohibits state employees from accepting anything of value except under certain circumstances. The Board of Regents requested until next year to look at **SB 431**, a similar bill, that had been heard by the Committee earlier.

Senator Huelskamp made a motion to include unclassified employees of state institutions under the control and supervision of the State Board of Regents in the prohibitions as stated in **SB 450**, seconded by Senator Petty.

The committee discussed in detail the prohibition as it applied to state institution employees.

The amendment was passed.

Senator Petty moved that **SB 450** be passed favorably as amended, seconded by Senator Huelskamp. Motion carried.

Chairman Hardenburger opened the hearing on **SB 567**, relating to political advertising and introduced Senator Vidricksen, sponsor of the bill.

Senator Vidricksen informed the Committee that the bill relates to political advertising that falsely represents that a candidate as in the incumbent for the office when in fact the candidate is not the incumbent. Also political advertising that makes false claim stating or implying the support or endorsement of any person or organization when the candidate does not have such support or endorsement.

The Committee discussed what is considered false advertisement.

Conferee Harriet Lange, Kansas Association of Broadcasters submitted testimony in favor of the bill, stating some concerns to the language. (Attachment #1)

Wendy McFarland, ACLU testified in opposition to **SB 567**. (Attachment #2)

Chairman Hardenburger informed the Committee that further discussion of the bill would be heard tomorrow.

Meeting was adjourned at 2:30 p.m.

Next meeting will be at 1:30 p.m. February 18, 1998.



Kansas Association of Broadcasters

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TO: Senator Janice Hardenburger and
Members, Senate Committee on Elections and Local Government

FROM: Harriet Lange 

RE: SB 567 / political advertising

February 18, 1998

The Kansas Association of Broadcasters serves a membership of radio and television stations in Kansas. We can support SB 567 in principle, with some reservations contingent on clarification in portions of the bill.

The language on page one, lines 26-29 is unnecessary, at least as it relates to licensed broadcast stations. A radio or television station may not edit or censor the content of a candidate's "use" of a station, even if the ad contains an outrageous message, or a negative message as part of a "smear" campaign. And we may not edit out libelous material if it is a candidate's "use". (To be a "use", the ad must contain the candidate's voice or picture). Because stations may not censor a candidate's "use", stations are immune from a civil action for libel, when a "use" has occurred.

Stations may censor political ads that are not a "use" by a candidate. Because stations may censor in these circumstances, they are NOT immune from libel or slanderous statements. Rather than change the content of an ad that a station finds objectionable, without the sponsor's approval, a station would most likely decide not to air it.

A station is required to be sure a political ad contains the proper sponsorship ID. If the spot does not contain the proper ID, the station must add it, even if it requires over dubbing a portion of the spot.

Regarding page two, lines 6-11, we appreciate that the bill includes the broadcast media in the requirement that ads be placed to inform the public of violations. However, while the bill would require placement of ads in all local newspapers, it calls for placement of ads, not in all broadcast media in the district, but only in "appropriate" broadcast media. We're not sure how "appropriate" is defined. Whether by placement of ads or distribution of news releases, print and broadcast media should be treated similarly.

Thank you for your consideration.

Elec. & Local Gov.

Date: 2-17-98

Attachment: # 1

American Civil Liberties Union of Kansas and Western Missouri

Wendy McFarland / Lobbyist (785) 233-9054

Testimony On Campaign Finance Reform Presented To The Senate Elections Committee February 17, 1998

FREE SPEECH VIOLATION

THE ACLU SEES PROVISIONS IN MANY OF THE MORE THAN 30 CAMPAIGN FINANCE REFORM BILLS NOW UNDER CONSIDERATION AS CONSTITUTING THE MOST SUSTAINED AND COMPREHENSIVE ATTACK ON THE FIRST AMENDMENT IN KANSAS HISTORY. HOW MANY KANSANS KNOW THAT A MAJORITY OF THEIR LEGISLATORS ARE ABOUT TO AMEND THE FIRST AMENDMENT?

WHAT IS CAMPAIGN FINANCE REFORM?

CAMPAIGN FINANCE REFORMS BEGAN WHEN SOMEONE SAID "WE'RE GOING TO START REGULATING HARD MONEY." HARD MONEY IS GIVEN DIRECTLY TO PARTICULAR CANDIDATES FOR PARTICULAR CAMPAIGNS.

THEN THEY SAID "WELL THAT DOESN'T WORK BECAUSE THE INCORRIGIBLE PUBLIC KEEPS BUTTING IN WITH SOFT MONEY THAT THEY GIVE DIRECTLY TO PARTIES FOR ISSUE ADVERTISING." SO THEY STARTED REGULATING SOFT MONEY TOO.

THEN SOMEONE SAID "THAT WONT WORK EITHER BECAUSE FREEDOM KEEPS ERUPTING MAKING IT HARDER TO CONTROL".

NOW THEY'VE GOT THE SIERRA CLUB ON THE LEFT AND THE NATIONAL RIGHT TO LIFE COMMITTEE ON THE RIGHT WHO RUN THESE DARNED EXPRESS ADVOCACY ADS THAT EXPRESSLY ADVOCATE THE ELECTION OR DEFEAT OF A NAMED CANDIDATE SO THEY DECIDE THEY JUST HAVE TO REGULATE THAT TOO AND BE DONE WITH IT.

BUT THEN THEY SAID, "THAT'S NOT GOOD ENOUGH BECAUSE THOSE INSUBORDINATE CITIZENS KEEP ORGANIZING INTO GROUPS AND RUNNING ISSUE ADS IN CONTEXT OF CAMPAIGNS SO WE HAVE TO REGULATE THOSE KIND OF ATTEMPTS AS WELL."

AND WHEN THEY SEE THE PUBLIC STILL ASSERTING THEIR RIGHTS TO INFLUENCE ELECTIONS EVEN AFTER REGULATING HARD MONEY, SOFT MONEY AND ISSUE MONEY, THEY REALIZE THE ONLY THING LEFT TO DO IS SET A PERMISSIBLE AMOUNT OF ALL SPEECH IN THIS COUNTRY PERTINENT TO POLITICS.

Elec. & Local Gov.

Date: 1-17-98

Attachment: # 2

A RUNAWAY TRAIN REACHING UNCONSTITUTIONAL SPEEDS

THIS IS THE NATURAL PROGRESSION OF THE RUNAWAY TRAIN CALLED CAMPAIGN FINANCE REFORM WHICH SEEMS TO PICK UP SPEED WITH EVERY SUCCESSFUL UNSEATING OF THE HERETOFORE UNSEATABLES. THE STEAM FOR THIS MIDNIGHT TRAIN TO REELECTION IS BEING PROVIDED BY INCUMBENTS, MANY OF WHOM SURVIVED THE LAST GO-ROUND AND DON'T RELISH THE IDEA OF ANOTHER BATTLE WHERE THE WEAPONS OF CHOICE ARE FOUND NOT IN THE SECOND AMENDMENT BUT IN THE FIRST.

AND SINCE INCUMBENTS CURRENTLY OCCUPY THE STEAM ENGINE, SOME OF THEM WANT THE OPPOSITION'S BATTLE PLANS IDENTIFIED, REGISTERED AND PAID FOR UP FRONT TO AVOID ANY DERAILMENT OF THEIR REELECTION EFFORTS. SINCE THIS RUNAWAY TRAIN IS HEADING DOWN A PATH RIDDLED WITH CONSTITUTIONAL LAND MINES, THE ONLY WAY TO STOP IT IS FOR THE 1998 KANSAS LEGISLATURE TO REALIZE THAT ALTHOUGH THEY PAVE THESE TRACKS WITH THE GOOD INTENTIONS OF LEGISLATING MORE ETHICAL BEHAVIOR, THEY ARE NEVERTHELESS ON THE ROAD TO A HELL WHERE KANSANS CAN NO LONGER SPEAK FREELY ABOUT A CANDIDATE OR ISSUE.

THIS TYPE OF CONTROL OVER OUR CELEBRATED RIGHT TO FREE SPEECH IN A FREE MARKETPLACE IN A FREE COUNTRY SHOULD NEVER BE ALLOWED.

MAKE NO MISTAKE, WHAT WE ARE ALREADY DEEPLY INTO IS GOVERNMENT JUDGING THE CONTENT OF SPEECH WHEN YOU LOOK AT THE LANGUAGE IN BILLS SUCH AS SB 112 AND 113. GOVERNMENT NOW SAYS THE CONTENT OF YOUR SPEECH WAS INTENDED TO AFFECT AN ELECTION. THEREFORE IT WILL BE PROSCRIBED.

THE PROBLEM OF GOVERNMENT REGULATING THEIR OWN ELECTIONS

THE MOST FUNDAMENTAL PROBLEM WITH HAVING THE GOVERNMENT REGULATE ELECTIONS IS THAT ELECTIONS ARE INTENDED TO CONTROL THE GOVERNMENT. THINK OF THE NATIONWIDE PUBLICITY KANSAS WOULD RECEIVE WERE YOU, OUR LEGISLATORS, TO SIMPLY RECUSE YOURSELF FROM VOTING ON THESE REFORM MEASURES WITH THE HONORABLE EXPLANATION THAT THERE APPEARS TO BE A CONFLICT OF INTEREST AND THEREFORE THESE MEASURES SHOULD BE VOTED ON BY THE PEOPLE.

ANONYMITY GUARANTEED! BUT ONLY WHEN IT SUITS A GOVERNMENT PURPOSE

THE GENERAL PROVISIONS COMMON TO MOST OF THE CAMPAIGN FINANCE REFORM MEASURES INCLUDE GIVING MORE MUSCLE TO THE KANSAS COMMISSION ON STANDARDS AND GOVERNMENTAL CONDUCT TO MAKE SURE EVERY KANSAN IS COMPLYING WITH THE COMPLICATED MASS OF REGULATIONS AT HAND. THIS COMMISSION HAS GIVEN CLEAR INDICATION OF THEIR WILLINGNESS TO ACT ON TIPS FROM ANONYMOUS SOURCES AND HAVE RECEIVED YOUR TACIT APPROVAL OF SUCH METHODS.

BY THIS VERY INDICATION THOUGH, THEY ACQUIESCE TO THE NOTION OF THE IMPORTANCE OF ANONYMITY WHEN IT PRESENTS ITSELF IN THE FORM OF ANONYMOUS TIPS AND YET THE APPRECIATION FOR ANONYMITY QUICKLY DISSIPATES WHEN THEY SEEK, AND YOU APPEAR POISED TO GRANT, POWER TO DISALLOW ANONYMITY TO THE LONELY PAMPHLETEER WHO STANDS ON THE STREET CORNER HANDING OUT HIS "VOTE FOR KILROY" MESSAGE OR TO THE SMALL GROUP OF NEIGHBORHOOD RETIREES ON MAPLE AVENUE WHO WOULD UNITE ONE TIME TO OPPOSE A BALLOT ISSUE THAT WOULD DOUBLE THEIR ALREADY EXORBITANT PROPERTY TAXES BY HANDING OUT LAPEL STICKERS IN THE STATEHOUSE.

SB 112 AND VIRTUALLY EVERY OTHER REFORM MEASURE THAT HAS COME BEFORE YOU WOULD REQUIRE THAT PAMPHLETEER OR THE RETIRED RESIDENTS OF MAPLE AVENUE TO GIVE GOVERNMENT THEIR NAMES, TELL WHERE THEY GOT THE MONEY TO PAY FOR THE FLYERS AND STICKERS AND STATE THEIR PURPOSE FOR SPEAKING OUT.

AND IF THE INFORMATION PROVIDED DOESN'T PASS THE MUSTER OF THE NEW "ETHICS" COMMISSION, THEN THEY CAN EXPECT TO RECEIVE THE MOST INVASIVE OF SUBPOENAS, *DUCES TECUM*, , MEANING THEY ARE COMMANDED TO APPEAR AND BRING THEIR DOCUMENTS, ANOTHER POWER YOU SEEM POISED TO GRANT THIS COMMISSION.

THERE IS NO SIGNIFICANT DIFFERENCE IN THE REASONING USED TO JUSTIFY THE PROTECTION OF ANONYMITY FOR A SOURCE COMPARED TO THE ANONYMITY DESIRED BY ONE WHO CIRCULATES POLITICAL FLYERS. BOTH PRESUMEDLY WISH TO PROTECT THEIR PRIVACY, SOMETIMES IN AN ATTEMPT TO AVOID PERSECUTION OR RETALIATION BUT SOMETIMES JUST THE SIMPLE WISH TO BE LEFT ALONE.

ARE YOU NOW OR WERE YOU EVER A MEMBER OF THE...?

WHEN BILLS SUCH AS THOSE BEING HEARD TODAY FORCE THE IDENTIFICATION OF NOT ONLY A LARGE ORGANIZATION'S MEMBERSHIP LIST BUT ALSO THE SMALL GROUP OR INDIVIDUAL WHO SEEK ONLY TO PUBLISH A HANDBILL OR FLYER ANONYMOUSLY, IT IS QUITE CLEAR YOU ARE ENTERING AN AREA FILLED WITH CONSTITUTIONAL PROBLEMS. PRIVACY IS DEAR TO ALL KANSANS AND YOUR VOTE TO APPROVE THESE MEASURES SHOULD ONLY BE CAST AFTER LONG DELIBERATION OVER THE FREE SPEECH AND PRIVACY RIGHTS YOU WILL BE DENYING YOUR CONSTITUENTS WITH A YES VOTE.

THE LONELY PAMPHLETEER AS REPORTER

THE FIRST AMENDMENT IS IN NO WAY LIMITED TO REPORTERS FOR THE ESTABLISHMENT PRESS...LIBERTY OF THE PRESS IS THE RIGHT OF THE LONELY PAMPHLETEER WHO USES CARBON PAPER OR A MIMEOGRAPH MACHINE JUST AS MUCH AS THE LARGE METROPOLITAN PUBLISHER WHO UTILIZES PRESSES THAT WOULD FILL THIS ENTIRE ROOM. THIS DISTINCTION WAS CLEARLY STATED IN *BRANZBURG v. HAYES* AND *LOVELL v. GRIFFIN*.

IN ANOTHER CASE, THE COURT WROTE 'IF PERSONS CAN BE REQUIRED TO DISCLOSE TO GOVERNMENT THE IDENTITY OF ALL PERSONS WHO WORKED ON A PAPER OR PAMPHLET THAT CONTAINED INFORMATION ABOUT AN ISSUE OR CANDIDATE, AND THEN REQUIRED TO DESCRIBE EACH OF THEIR JOBS AND GIVE THE DETAILS OF FINANCING THE PUBLICATION, THEN ANY EDITOR, REPORTER, TYPESETTER OR CAMERAMAN COULD BE COMPELLED TO REVEAL THE SAME INFORMATION ABOUT HIS PAPER OR TELEVISION STATION IF HIS PAPER OR STATION CARRIED THIS STORY'. THE COURT CONCLUDED THE FIRST AMENDMENT CLEARLY FORBIDS THIS RESULT.

TO SPEAK ANONYMOUSLY...OR NOT AT ALL

REQUIRING DISCLOSURE OF EXPENDITURES UNDER THESE CIRCUMSTANCES DESTROYS THE TIME HONORED RIGHT TO POLITICAL ANONYMITY. ANONYMITY IS A PRECONDITION TO FUND RAISING BY CONTROVERSIAL PARTIES AND HAS TRADITIONALLY RECEIVED STRONG CONSTITUTIONAL PROTECTION THE MOST RECENT OF WHICH CAN BE FOUND IN *MCINTYRE v. OHIO*.

IN **TALLEY v. CALIFORNIA** THE COURT HELD THAT "DISTRIBUTION OF ANONYMOUS POLITICAL LEAFLETS IS A CONSTITUTIONALLY PROTECTED ACTIVITY BECAUSE THESE PUBLICATIONS HAVE PLAYED AN IMPORTANT ROLE IN THE PROGRESS OF MANKIND. PERSECUTED GROUPS AND SECTS FROM TIME TO TIME THROUGHOUT HISTORY HAVE BEEN ABLE TO CRITICIZE OPPRESSIVE PRACTICES AND LAWS EITHER ANONYMOUSLY....OR SIMPLY NOT AT ALL."

THE TRUTH AND THE FALSE OF IT ALL

MANY OF THE 1998 KANSAS REFORM BILLS WERE INTRODUCED BECAUSE SOME LEGISLATORS FELT THEY WERE THE TARGET OF FALSE OR MISLEADING CAMPAIGN LITERATURE AND THEY WANT TO PUT A STOP TO IT.

EFFORTS TO REFORM CAMPAIGN FINANCE BOTH AT THE FEDERAL LEVEL AND IN OTHER STATES HAVE, IN THE PAST, FUELED THE ADOPTION OF BROAD CONTROLS THAT INEVITABLY TURNED TO CONTENT REGULATION OF CAMPAIGN LITERATURE BY OUTLAWING FALSE OR MISLEADING CAMPAIGN STATEMENTS. OF COURSE, WHAT APPEARS FALSE AND MISLEADING TO ONE CANDIDATE IS DEEMED ULTIMATE TRUTH BY ANOTHER. MOST OF THESE ATTEMPTS HAVE BEEN INVALIDATED BY THE COURTS.

IN **THOMAS v. COLLINS** THE COURT TOOK A STRONG POSITION AGAINST GOVERNMENT DEFINING WHAT IS FALSE OR DECEPTIVE CAMPAIGN SPEECH REALIZING THIS POWER WOULD CHILL POLITICAL ADVOCACY. THEY WROTE "THE VERY PURPOSE OF THE FIRST AMENDMENT IS TO FORECLOSE PUBLIC AUTHORITY FROM ASSUMING A GUARDIANSHIP OF THE PUBLIC MIND...IN THIS FIELD, EVERY PERSON MUST BE HIS OWN WATCHMAN FOR THE TRUTH BECAUSE THE FOREFATHERS DID NOT TRUST ANY GOVERNMENT TO SEPARATE THE TRUE AND THE FALSE FOR US."

THE CHRISTIAN COALITION'S CULINARY TALENTS WITH PORK

IF POLITICAL PUNDITS AROUND THE STATEHOUSE ARE ACCURATE, THEN THE PURPOSE OF THESE MEASURES IS TO QUELL THE EFFECTIVE METHODS OF PUBLICATION EMPLOYED DURING THE LAST ELECTION BY THE CHRISTIAN COALITION IN UNSEATING THOSE WHO WERE THOUGHT TO BE UNSEATABLE. THE ACLU SHOULD REMIND YOU THAT AT THE SAME TIME YOU FIND COMFORT IN QUASHING THEIR METHOD OF USING A VOTING RECORD BY REQUIRING THE BURDEN OF EXPLANATION TO IT'S USE, YOU WILL ALSO BE SANCTIONING GOVERNMENT SPONSORED FISHING EXPEDITIONS THAT WILL NET THE BIG AND SMALL FISH ALIKE EFFECTIVELY MAKING SILENT ANY KANSAN WHO MIGHT NOT WANT THEIR MEMBERSHIP TO CONTROVERSIAL ORGANIZATIONS MADE PUBLIC BY SUBPOENA OR FORCED DISCLOSURE.

THE ACLU IS SYMPATHETIC TO THOSE AMONG YOU WHO ARE HONEST, HARDWORKING, ETHICAL LEGISLATORS WHO HAVE BECOME THE TARGET OF ANONYMOUS ATTACKS ON YOUR VOTING RECORDS BUT ENACTING LAWS THAT WILL SUFFOCATE AND BURDEN THOSE WHO ONLY WISH TO PARTICIPATE IN THE ELECTORAL PROCESS IS NOT THE ANSWER. PORK BARRELING LEGISLATION MAKES YOU VULNERABLE TO SUCH MISUSE OF YOUR VOTING RECORD. EITHER ACCEPT THIS OR ENACT A LIMITATION ON YOURSELVES THAT PROHIBITS PORK BARRELING.

"WELL MR. CHIEF JUSTICE, AT THE TIME THIS SEEMED LIKE THE EASIEST WAY TO MAKE EM' PLAY FAIR"

THE UNITED STATES SUPREME COURT HAS SAID THEY WILL ONLY RECONSIDER THEIR FIRM POSITION FAVORING THE FREEDOM OF INDIVIDUALS TO SPEAK POLITICALLY WHEN ALL OTHER LESS INTRUSIVE MEASURES TO SOLVE CAMPAIGN FINANCE REFORM PROBLEMS HAVE BEEN CONSIDERED BY GOVERNMENT.

WHO AMONG YOU CAN HONESTLY SAY YOU HAVE GIVEN SERIOUS CONSIDERATION TO ANY OTHER REMEDIES THAT WOULD AVOID THE CHILL THESE MEASURES PLACE ON FREE SPEECH? IF THESE AND OTHER BILLS BECOME LAW AND ARE CHALLENGED BY THE ACLU OR OTHER PARTIES, THE COURT WOULD DEMAND A DETAILED LIST OF ACTUAL ABUSES TO JUSTIFY THE HEAVY HAND OF KANSAS GOVERNMENT AND ABSENT THOSE ACTUAL EXAMPLES, THEY ARE NOT LIKELY TO UPHOLD THE DRASTIC LIMITATIONS THIS BILL PLACES ON RIGHTS OF SPEECH AND PRIVACY.

IN RUSSIA, THEY'D ARREST YOU FOR SAYIN' THAT

WHEN VISITORS FROM FOREIGN SOILS VISIT OUR COUNTRY, THE ONE SINGLE GREATEST ENVY THEY SHARE OF OUR UNITED STATES IS THE FREEDOM WE ENJOY TO SPEAK PUBLICLY OR PRIVATELY WITHOUT FEAR OF GOVERNMENT RETALIATION.

IF THE ACLU APPEARS TODAY AS OVERLY PASSIONATE IN OUR OPPOSITION, THEN I MUST PLEAD GUILTY. WHEN THIS CELEBRATED RIGHT IS UNDER THREAT OF PREREGISTRATION, PRIOR RESTRAINT, FORCED ATTRIBUTION AND TAXATION BY THOSE WE ELECT TO PROTECT IT, THEN EVERY KANSAN SHOULD BE CONCERNED.

AS AN ACLU LOBBYIST, I AM FORBIDDEN FROM OFFERING ANY OF YOU SO MUCH AS A PIECE OF HARD CANDY TO GET YOUR VOTE. THE ACLU WILL NEVER ENDORSE OR SUPPORT ANY CANDIDATE FOR OFFICE. PRIOR TO ACCEPTING MY POSITION WITH THE ACLU HOWEVER, I WAS A KANSAN WHO ALWAYS SPOKE FEARLESSLY FOR WHAT I BELIEVED IN AND CAMPAIGNED FOR THOSE I WISHED TO SEE IN OFFICE. I WOULD NOT HAVE RELISHED THE IDEA THEN OF HAVING TO REGISTER MY INTENT WITH GOVERNMENT TO PROTEST, CRITICIZE OR SUPPORT ANY POLITICAL CANDIDATE OR ISSUE.

IN CONCLUSION:

WHAT KANSANS DON'T WANT

1. WE DO NOT BELIEVE KANSANS WISH TO GIVE UP THE RIGHT TO PUBLISH HANDBILLS OR PAMPHLETS ANONYMOUSLY IF ANONYMITY IS ALL THAT WOULD PROTECT THEM FROM UNFAIR RETALIATION OR DISCRIMINATION.

2. WE DO NOT BELIEVE KANSANS WISH TO REGISTER EACH YEAR AND BE FORCED TO PAY A FEE FOR THE RIGHT TO LEND THEIR SUPPORT TO OR SPEAK OUT AGAINST ANY CANDIDATE.

3. WE DO NOT BELIEVE KANSANS WISH TO GIVE ANY GOVERNMENT COMMISSION THE RIGHT TO DEMAND MEMBERSHIP LISTS OF AN ORGANIZATION OR CLUB OF WHICH THEY ARE MEMBERS. FOR THOSE WHO SEE THIS AS AN EXAGGERATION THEY NEED LOOK NO FURTHER THAN OUR NATIONS CAPITOL FOR PROOF. LAST AUGUST SOME 26 NON-PROFIT ADVOCATES APPEALED TO THE AMERICAN CIVIL LIBERTIES UNION FOR HELP WHEN THEIR MEMBERSHIP LISTS AMONG OTHER INTERNAL MEMOS WERE SUBPOENAED BY THE SENATE COMMITTEE EMPOWERED TO INVESTIGATE CAMPAIGN FINANCE. AMONG THEM, ON THE RIGHT, THE CHRISTIAN COALITION, THE NATIONAL RIGHT TO LIFE COMMITTEE,

THE HERITAGE FOUNDATION AND THE BETTER AMERICA FOUNDATION, CREATED IN 1993 BY OUR OWN BOB DOLE. GROUPS ON THE LEFT INCLUDED THE NATIONAL EDUCATION ASSOCIATION, THE SIERRA CLUB, THE AMERICAN TRIAL LAWYERS ASSOCIATION, THE AFL-CIO AND EMILY'S LIST. THE ACLU PROMISED TO CHALLENGE WHAT WERE OBVIOUSLY POLITICALLY MOTIVATED SEARCH MISSIONS. IT WOULD ONLY BE A MATTER OF TIME AND CIRCUMSTANCE BEFORE IT WOULD HAPPEN HERE.

4. WE DO NOT BELIEVE KANSANS WISH TO FORFEIT THEIR RIGHTS UNDER THE FIFTH AMENDMENT AGAINST SELF INCRIMINATION TO ENABLE THIS COMMISSION TO SUBPOENA THEM ABOUT ANY MATTER UNDER THEIR VAST AUTHORITY WITHOUT THE BURDEN OF REASONABLE SUSPICION BEING MET. THEIR NEW PROPOSALS STRIKE THAT REQUIREMENT WHICH IS CURRENT LAW.

5. WE DO NOT BELIEVE KANSANS WISH TO BE TOLD BY GOVERNMENT THAT IF THEY WISH TO USE THE VOTING RECORD OF A CANDIDATE IN THEIR FLYER, THE

BURDEN OF PROTECTING THAT CANDIDATE'S VOTING RECORD FROM BEING MISUNDERSTOOD, FALLS TO THEM WHEN THEY ARE FORCED TO PRINT ON THEIR FLYER THE FACT THAT SOME BILLS CONTAINED MANY MEASURES OTHER THAN THOSE BEING ADDRESSED IN THE FLYER. THE PORK BARRELING OF LEGISLATION IS AN ISSUE OF YOUR OWN CREATION AND IT DOES NOT SEEM RIGHT THAT THE PEOPLE OF KANSAS SHOULD BEAR THE BURDEN OF EXPLAINING IT. FRANKING PRIVILEGES SHOULD BE USED TO MAKE YOUR VOTING RECORD UNDERSTOOD.

6. WE DO NOT BELIEVE KANSANS WISH TO HAVE PRIOR RESTRAINTS PLACED UPON THEIR RIGHT TO SPEAK BY HAVING TO REGISTER THEIR INTENT TO DO SO.

WHO DO I REPORT THIS POTATO SALAD TO?

I PERSONALLY DO NOT WISH TO SEE THE EXPRESSION OF SERIOUS CONCERN ON THE FACE OF A RESPECTED HOUSE MEMBER AS WITNESSED TWO DAYS AGO IN THIS VERY COMMITTEE. HIS CONCERN STEMMED OVER WHAT FORMS OF SPEECH REQUIRE REPORTING AND WHAT DO NOT. ALREADY HE APPEARED TO BE ASKING THE YET TO BE RENAMED "ETHICS COMMISSION" WHETHER HIS ANNUAL BARBECUE WOULD BE SUBJECT TO THE REPORTING REQUIREMENTS FOR EVERYONE WHO ROLLED UP THEIR COLLECTIVE SHIRTSLEEVES TO DISH UP THE POTATO SALAD AND HOT DOGS.

THE TRUTH WE MUST FACE BY THE VERY INTRUSIVE AND AMBIGUOUS NATURE OF THESE PROPOSALS IS THAT HIS CONCERN WILL BECOME THE CONCERN OF EVERY ELECTED OFFICIAL, EVERY CANDIDATE, EVERY CLUB, EVERY ORGANIZATION, EVERY BUSINESS AND MOST OFFENSIVELY, EVERY INDIVIDUAL KANSAN WHO PARTICIPATES IN AN ELECTION.

MOST OF THE WRONGS YOU SEEK TO RIGHT CAN BE MOST EFFECTIVELY DEALT WITH IN THE OPEN EMBRACEMENT OF YOUR FIRST AMENDMENT RIGHTS TO RESPOND TO UNFAIR CRITICISMS OR MERELY BY SAYING NO TO A CONTRIBUTION OF QUESTIONABLE SOURCE.

ETERNAL VIGILANCE MAY BE THE PRICE OF LIBERTY BUT MUST IT BE REPORTED AS A CONTRIBUTION OR AN EXPENDITURE?

THE ACLU HAS SUCCESSFULLY DEFENDED THE RIGHTS OF NAZIS TO MARCH IN SKOKIE ILLINOIS, NOT BECAUSE WE AGREED WITH THEIR MESSAGE BUT BECAUSE WE HAVE NEVER LOST SIGHT OF THE FACT THAT IT IS THE MOST UNPOPULAR SPEECH THAT MUST BE VIGILANTLY PROTECTED TO INSURE THE RIGHT OF EVERY AMERICAN TO SPEAK. WE LOST OVER A MILLION MEMBERS AS A RESULT OF THAT CASE...OVER HALF OUR MEMBERSHIP LEFT US BUT WHEN YOUR CLIENT IS THE BILL OF RIGHTS, YOU DON'T COMPROMISE.

PLEASE TRY TO SEE BEYOND THE PRESENT DAY POLITICS OF THESE MEASURES AND REALIZE THE HISTORIC IMPORTANCE OF PROTECTING THE RIGHTS OF YOUR CONSTITUENTS TO PARTICIPATE IN GOVERNMENT BY SPEAKING FREELY, AT TIMES ANONYMOUSLY, AND ALWAYS WITHOUT FEAR OF REPRISAL OR CENSORSHIP.

AS ROGER BALDWIN, THE FOUNDER OF THE AMERICAN CIVIL LIBERTIES UNION ONCE EXTOLLED UPON OUR PURPOSE, "THERE ARE SPACES RESERVED IN HELL FOR THOSE WHO REMAIN QUIET DURING TIMES OF TROUBLE." WRITE LAWS THAT ENCOURAGE BOISTEROUS DEBATE AND ACTIVE GRASS ROOTS PARTICIPATION, NOT LAWS THAT PLACE CONSTRAINTS UPON OUR ABILITY TO DO SO.