

Common Cause Nebraska

Newsletter / Spring 2008

I find in my travels and reporting a longing for common cause, a call to citizenship that goes beyond “What can you do for *me*?”

Tom Brokaw, from his book, *Boom! Voices of the Sixties*

The work of Common Cause to improve ethics in Washington goes back to 1972, the first days of the organization.

"Common Cause's outspoken criticism of then-President Richard Nixon's re-election committee, better known as CREEP, resulted in a General Accounting Office audit of the independent nonprofit group. Common Cause went along with it and came out smelling like a rose.

"Common Cause spoke out against the war in Vietnam and played an instrumental role at both the state and federal levels in the passage of open-meeting laws and the Freedom of Information Act..."

"Keeping Washington Honest; Watchdogs Doggedly Pursue the Truth," *Roll Call* January 2004

This is how Common Cause began, fighting for openness, ethics and honesty in government, with a “call to citizenship that goes beyond ‘What can you do for me’.” These words remain the principles for which Common Cause stands.

In This Issue:

Senator DiAnna Schimeck’s Redistricting Plan.

“LB 402 adopts a Redistricting Act which changes how the process of redistricting is done in Nebraska. Under the bill, the Redistricting Committee of the Legislature is established and is responsible for administering the Act...”

Perhaps you're tired of hearing about this, but remembering the fiasco in 1991 is enough to make any citizen of Nebraska pay attention to what's happening with redistricting. The legislature passed a bill which many found objectionable. It was taken to the Nebraska Supreme Court which found it unconstitutional. The legislature had to return from summer vacation to fix it—but the call did not draw all senators back, and the state police had to round them up. Great hilarity in the press and embarrassment for almost everyone else.

No one wanted that again. Sen. Schimeck's Act in 2000 made changes, among them a provision, for the first time, for the public to view the Act before the legislature voted on it.

The census is taken in years ending in 0. It must be finished by the end of that year. In the following year, ending in 1, the redistricting plan is drawn and voted.

The population has increased in the eastern part of the state, especially in Omaha and Lincoln. Districts 1 and 2 will have more representatives in the state legislature, and District 3 will have less. There will be much re-arranging of lines, of both congressional districts and state districts. You may well be affected—a good reason to keep an eye on this plan in 2001.

This bill, introduced by Senator DiAnna Schimeck, is of importance for several reasons. Only a few points can be noted here.

- **After this session, the legislature will have no one with unicameral history of more than two years. There were experienced senators on hand.**
- **The Redistricting Committee of the legislature is established. The committee shall be comprised of nine members of the legislature, three from each congressional district. No more than five members appointed to the committee shall be of the same political party.**
- **No congressional district...shall be drawn for the purpose of favoring a political party, an incumbent, or any other person or group.**
- **Redistricting plans shall only be prepared in years ending in one.**

Will this one sentence be enough to keep some enterprising senators from redistricting the state again, in the middle of the decade, to re-arrange Congressional Districts according to their political ambitions? **It happened in states in the last ten years.**

- **After receiving the redistricting plans and making them available to the legislature, the committee shall schedule at least one public hearing in each congressional district for soliciting input on the proposed plans...**

In 1990, the meetings were held via interactive TV, with viewing sites in each district.

- **Following the public hearings, the committee shall make available the testimony received and ...submit it to the legislature...The report shall**

include comments and conclusions...based on the information and testimony received at the hearings...

There are many reasons to thank Senator Schimek for the years of service she has given and for the tough jobs she has been willing to undertake—not least that of redistricting. She will be missed. She is term-limited.

Avery's Amendment Plugs Loophole

Senator Bill Avery's Constitutional Amendment 4CA sought to plug the loophole in the Nebraska Constitution that almost let Regent David Hergert escape impeachment.

Hergert and his attorneys charged that failure to report campaign expenditures, for which he had been fined \$35,000, occurred during the campaign. The wording of the impeachment law read, "liable for impeachment for misdemeanor **while in office.**" But the Accountability and Disclosure Commission reported that Hergert had filed a campaign expenditure after the election, while he was in office., therefore making him liable. He was impeached, the case went to court, and Hergert was found guilty of

Senator Avery's constitutional amendment added to the wording "liable for impeachment **related to elections by which the officer was elected.**" **The hole was plugged.**

Senator Tom White sought to amend the bill, adding the words "...impeachment for any misdemeanor **which evinces moral turpitude** which arose out of the election to, or discharge of the duties of his or her office."

After questions and discussion about the meanings or applications of the word "turpitude" in an impeachment charge, the bill was passed as amended.

"Turpitude". That should put some fear into the hearts of anyone considering a misdemeanor.

Preister Keeps Meetings Open to the Public

Citizens complained that the Open Meetings Act requiring that in all elected bodies discussion and decision-making should be public was being ignored. Many decisions were made "in executive session" after the meeting had ended. Officials responded that in some sites—school board, town council meetings, for example, the law simply wasn't known. Senator Don Preister addressed that in a bill in the 99th Nebraska Legislature.

Jack Gould, CCE, suggested in committee hearing that the laws regulating public meetings be placed within plain view in the meeting room and be read before each meeting.

The bill passed, but Senator Preister's office continued to field calls about misconceptions in the law.

The laws had been meant to allow any member attending a government meeting to speak. In last year's session, Senator Mick Mines introduced a bill that put roadblocks in the way of public participation. A citizen wanting to speak at a public meeting would first pick up a form, fill it out, return it to the office, and then wait for 10 days to receive permission to speak—on that item only. The bill was held over but has had no hearing this session.

, Senator Don Preister's LB962 clarifies speakers' rights. **The law prohibits all elected bodies and boards from requiring people to place their names and concerns on a meeting agenda before speaking at a meeting where public comment is allowed.**

Under the bill public bodies would still be allowed to control their meetings. Citizens can testify only if time has been set aside to take public comments, Time limits can be set on testimony, and limits can be set on topics to be discussed. Speakers can be required to be courteous.

Said Senator Preister in the *Omaha World Herald* , "What I've been trying to do all along is allow the public access to their publicly elected bodies to give them information, to raise issues, and to feel part of government."

The bill was passed and signed by the governor. We all must thank Senator Preister for his unflagging interest in keeping government open to the people. **This is his last session. He is term-limited.**

A REAL Ethics Committee for the House!

Common Cause has scored a major legislative victory. In the past few years, Congress has been riddled with scandals, the ethics committee ignored. **On March 11th**, with a vote of 229-182, **and largely through the efforts of Common Cause, the House of Representatives passed a monumentally important resolution to create an independent, bi-partisan panel of non-lawmakers to help review and investigate possible ethics violations by House members.**

Excerpts are taken from an article by Common Cause President Bob Edgar in the *Christian Science Monitor*.

For decades, Congress has used a peer review system to police itself. ...In a political environment, where favors and loyalties are traded for power and legislative accomplishments, self-policing simply does not work. House Members, in particular, essentially refuse to do it.

Consider that in the past five years, which have seen some of the worst congressional scandals in recent history – two House Members jailed on bribery charges, two under indictment for corruption, at least two under FBI investigation, plus former lobbyist Jack Abramoff – the House Ethics Committee has remained silent and virtually inactive.

When the Democrats took control of the House in 2006, House Speaker Nancy Pelosi (D) of California pledged to lead a more ethical House. To her credit, members passed a major ethics bill last year that contained some of the most sweeping reforms since Watergate.

[It did not] address enforcement of the rules. Rep. Michael Capuano (D) of Massachusetts proposed creating the **OCE, an independent and impartial panel of six outside experts chosen by House members of both parties to investigate allegations of wrongdoing and monitor compliance of House rules. The panel would improve oversight of the ethics rules by eliminating the absolute secrecy surrounding the existing process. It would also provide for much-needed independence in a process that has been plagued by overt conflicts of interest.**

Dawning of an Ethical New Day?

We can hope so. **The House of Representatives adopted all the rules.**

CCNE has long sought an independent ethics committee for the Nebraska Legislature with no success. Ex-senator and now mayor of Omaha Chris Beutler tried for an Ethics Committee bill hooked to a pay-raise for senators, using a carrot and stick approach. It went nowhere.

And here in Nebraska, each of our Congressional Representatives, Jeff Fortenberry (1), Lee Terry (2) and Adrian Smith (3), VOTED NO.

So don't hold your breath in Nebraska.

Will It Never Stop Revolving?

We had high hopes for this one. A "revolving door" bill had been introduced three times previously. by Senators Curt Bromm and DiAnna Schimeck, Gene Tyson, and Ernie Chambers, only to be voted down by the Government Committee.

This time, Governor Heineman requested that Senator Bill Avery introduce the bill!

Avery's LB 870 would prohibit an individual holding the office of Governor, Lieutenant Governor, Attorney General, State Treasurer, Secretary of State, Auditor of Public Accounts, member of the Legislature, member of the Public Service Commission, member of the State Board of Education, or member of the Board of Regents of the University of Nebraska from being employed as a lobbyist for compensation, contingent in any manner on the outcome of administrative or legislative action, until two years elapsed after such individual ceased to hold his or her office.

The governor stated that all government officers should be above

The bill was heard in committee on January 29. with Jan Rogers and Jack Gould from Common Cause and Peggy Adair from the League of Women Voters speaking in favor. No one spoke against it. But it took a beating from the committee.

Two weeks later, a motion for indefinite postponement passed 5-2. in executive session, with Senators Adams, Aguilar, Friend, Lautenbaugh and Rogert voting aye, and Senators Avery and Karpisek voting no. Senator Pahls was absent.

What Happened?

Well, for one thing, after the initial press conference, the governor never offered any public encouragement.

And senators who left office last year became lobbyists: Don Pederson, Kermit Brashear, Doug Cunningham, Matt Connealy, and Dave Landis. Enough to discourage votes this session.

Landis was paid \$10,000 to lobby against reduced workers' compensation fees for in-patient medical procedures at the Nebraska Medical Center. Landis said he did not intend to continue as a lobbyist.

Pederson, who served as chair of the Appropriations Committee, was approached by Assurity Life wanting to sell a building near the capitol to the state. Pederson took the offer to Governor Heineman. Yes, the state, always needing room and parking near the capitol, would like the building.

The \$20 million building was added to the Appropriations bill. The bill had not been passed at the end of the session, but it was pretty much a done deal. Pederson registered as a lobbyist and was paid \$20,000.

Kermit Brashear is presently lobbying for several firms. Recently, ex-Senator and now Lincoln Mayor Chris Beutler hired ex-Senator Brashear to lobby for moving the State Fair Grounds, freeing the location for Research Center for UNL.

Senator Avery promises to be back with this one, but it's a pretty good bet that there will be several new lobbyists again next year.

Important words in the bill: it would keep any officer from being employed as a lobbyist **for compensation contingent in any manner on the outcome of administrative or legislative action.** An ex-senator, or any private citizen can lobby for or against a bill **without pay.** Common Cause, the League of Women Voters and any number of organizations lobby without pay. No money there. Just hard, honest work.