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### Bob Campbell statement about the right to privacy

Bob Campbell

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RIGHT TO PRIVACY

FEBRUARY 3, 1972

BILL OF RIGHTS COMMITTEE

HEARING D.P. #33

Second only to environment, the concern of the citizens of our state and our nation over the past few years has been the ever decreasing area of individual privacy. It has always been the highest ideal in a free society that every person have the most important right of all, the right to be let alone. Too often affirmative action by the state and others has been well intending but has been an unfortunate and unnecessary intrusion upon the individuals right to privacy which is widely discussed but unfortunately not widely respected. At this point in our history it is not a constitutional right expressly guaranteed either by the state of Montana or the United States Constitution. My delegate proposals number 14 & 33 would as much as possible provide this right. Let us state the proposed right as follows:

"The right of privacy being essential to the well-being of a free society, the state shall not infringe upon this right without the showing of a compelling state interest."

Early in our nations history our forefathers realized that certain areas of individual freedom must be protected in a Bill of Rights. In balancing the rights of the state with the rights of the individual it was no accident that they favored the rights of the individual and they granted the individual more guarantees of freedom than any government had done to that time or since. The right of the government to act is defined by the Constitution and laws which the representatives enact. The individual and this Convention is the finest example of representative government reexamining our basic structure to provide for the present and future needs of the citizens of Montana and to protect the rights of our people from intrusions unforeseen by an earlier age.

In their wisdom our forefathers placed beyond the power of our government inviolate, certain basic human rights knowing that

freedom for the individual could not survive without the explicit protection of such things as a persons freedom of speech, press, religion, and peaceful assembly to protest the action of elected officials.

Their minds were fresh with the memories of foreign governments who did not provide these protections in their government or in the methods of their ruling, and it was the good judgment of this nation that it accepted certain limitations on governmental action.

For example the intolerable situation of a single church-dominated government too often crushed the rights of the individual and to insure that this government would never be so inclined they built a "wall of separation between church and state" which has been a model for the world ever since.

Not all problems can be foreseen at any one time in history and each generation of a free society must reexamine the protections afford from an earlier age and where new problems arise, new protections must be established. At that time of the founding of this nation the guarantee that a citizen shall be secure in their persons, papers, homes, and effects from unreasonable searches and seizures was more than adequate. No thought of protecting a right to privacy was considered in a time when your nearest neighbor was miles away. But today in our complex society things have changed, and in the past few years we have witnessed an alarming intrusion into our lives by both private and public influences. The power of government has expanded and it is now time to recognize and protect our lessening area of individual privacy by establishing in our new Constitution the essential but yet unrecognized right to privacy.

I am not proposing that we establish a solid wall of separation, as has been established in the area of church and state, for to do so would be unrealistic. What I am proposing is that we

establish a "semi-permeable wall of separation" which, unlike the separation between church and state, recognizes that as a participating member of society there are areas of legitimate state interest and these areas may effect an individuals right to privacy. However, under my proposal the people would say to our state government. "You have a right to invade my personal privacy, but before you do, the burden is on you to establish that you have a compelling state interest in doing so."

This simple but unprecedented establishment of the right to privacy meets the needs of a society whose confidence in government has declined as the power of government has expanded. The people of Montana have been traditionally suspicious of the motives of some of those in power, and in many cases their doubts were fully justified. But the old politics is rapidly changing and I believe that the people of our state are ready to establish a new constitutional right to privacy which would require a complete reexamination of all our governmental agencies and actions and mandate our government to respect our right to privacy. This would, at the same time restore some of lost confidence of the people by giving them the constitutional and psychological assurances that we have the right to be let alone.

I have no doubt that if adopted this right will be an historic first step in the rights of free people, in a complex society, who now want to take positive steps to regain individual dignity and privacy to which we are entitled to, but which we have not been receiving.

*Bob Campbell*  
Delegate Proposal # 33  
Right to Privacy  
Bill of Rights Committee  
Helena, Montana 59601