



March 22, 2010

Ethics Committee
Arizona State Senate
Capitol Complex
1700 W. Washington
Phoenix, AZ 85007-2890

RE: Sen. Russell Pearce

Dear Senate Ethics Committee,

This firm represents Ernest Hancock, publisher of Freedom's Phoenix and its FreedomPhoenix.com website, and I ask that any replies be directed to me.

I am writing to request that a formal inquiry be initiated into the actions of Sen. Russell Pearce, specifically the Senator's widely disseminated assertion that Mr. Hancock's publication of factual and current material on a pending bill sponsored by the Senator "was just short of a domestic terrorist act."

Specifically, on March 16, 2010, Mr. Hancock's Freedom's Phoenix publication published an opinion piece by John Green, asserting, among other matters, that the Sen. Pearce sponsored SB 1070 would promote the institution of national ID. Mr. Hancock sent an e-mail with a link to this opinion article to a number of e-mail addresses, including the e-mail address of a number of Arizona Senators and Representatives.

Perhaps as a consequence of Mr. Hancock's e-mail, and what are believed to have been numerous calls to the House and Senate regarding this bill and its companion generated as a result of that e-mail, on March 17, 2010, the vote on the bill was put off and the bill "retained on the schedule".

On March 18, 2010, Sen. Pearce sent out an e-mail **using his official Senate e-mail account**, in which he defended the bill and concluded (referring to Mr. Hancock's e-mail): "This whole email campaign was just short of a **domestic terrorist act**."

It should not need stating, yet given Sen. Pearce's reckless accusation here, it is important to point out the following fundamental principles, enshrined in our founding documents:

Arizona Constitution, Art. II § 5: "The right of petition, and of the people peaceably to assemble for the common good, shall never be abridged."

Arizona Constitution, Art. II § 6: "Every person may freely speak, write, and publish on all subjects, being responsible for the abuse of that right."



U.S. Constitution, Amendment I: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

The rights to speak freely and to petition one's government are fundamental to our system of ordered liberty. Moreover, Mr. Hancock's actions combined his exercise of free speech with his petition to legislators on a matter pending before these deliberative bodies. I can think of few activities more deserving of the highest levels of protection.

Sen. Pearce's response, using his position as a member of the Arizona State Senate, and via his official Senate e-mail account, labeling Mr. Hancock's protected and privileged speech as "just short of a domestic terrorist act" is an outrage – and nothing short of a pointed threat to directly or indirectly punish Mr. Hancock by labeling him a terrorist, with all the negative consequences that label likely entails.

In this day and age, one should not lightly cast about accusations including the term "terrorist". Sen. Pearce, in what appears to be a blatant abuse of the power of his office and station, overstepped the bounds of civil discourse, and threatens Mr. Hancock's liberties – to punish Mr. Hancock and chill the exercise of his rights to free speech and to petition.

I ask that the Ethics Committee take on this matter, investigate it fully, that Sen. Pearce be admonished and censured, and that he be required to retract his veiled threats.

Respectfully,



Michael Kielsky
Counselor & Attorney at Law