HOUSE . . . . . No. 7677

The Commonwealth of Massachusetts

EXECUTIVE DEPARTMENT
STATE HOUSE BOSTON 02133
October 19, 1973

To the Honorable Senate and House of Representatives:

I am returning, herewith, without my approval, House Bill No. 3460 entitled, "AN ACT FURTHER REGULATING THE PUBLICATION OF POLITICAL ADVERTISEMENTS BY NEWSPAPERS OR OTHER PERIODICALS."

It is only after having given this legislation, especially its intent and its impact, the most careful consideration that I have decided not to approve House Bill No. 3460.

The bill is intended to eliminate the remaining vestiges of what we all agree has been an unfair and unjustified practice of daily and weekly newspapers--charging candidates for public office higher rates than they have charged their regular commercial customers.

I commend those who have persevered in the face of numerous obstacles for many years to design and have approved a statute which would be both constitutional and practical in its application. I know that a number of legislators, organizations, and citizens have struggled with this problem for a long time in order to legislate an end to the discrepancy between the advertising rates charged to political candidates and to commercial clients.

I support the intent of this legislation -- ending this unfair practice and, at the same time, taking a step towards controlling the burgeoning costs of campaigning for public office. When considered from this perspective, the bill merits our unqualified support.

To consider only the intent of a proposed statute, however, is not enough. As Governor, I must also evaluate the entire range of its impact.

Having done so, I am returning this bill without my approval, for I find it to be one which is both an unwise advance by the State in regulating one of the truly free institutions in our nation and one which is also a dangerous precedent.

All the daily newspapers and an overwhelming majority of the weekly publications in Massachusetts have already eliminated, voluntarily, the practice of charging higher rates to political candidates. Only a handful have not yet done so. I urge those few to end this practice promptly. I have today sent a letter to the Massachusetts Publishers Association urging them to take every appropriate step to assure that all their members comply with our stated objective immediately. I am certain they will do so.

I am convinced that the Commonwealth should not take this step along the perilous path of regulation of our newspapers. It is a precedent which we would be well advised to avoid, especially when the objective will, I am sure, be attained through the voluntary cooperation of those involved.

Throughout the history of this Commonwealth, and even during the Colonial Period, our newspapers have consistently been one of the most vigilant guardians of the liberties which we cherish. The value of a press, free of government regulation, has once again been dramatically demonstrated, both locally and nationally, in recent times. Let us not now embark on a process the future of which is not at all forseeable -- that of regulating our unfettered press.

I must also point out that the bill, despite its recent refinements, does have certain technical deficiencies. The Supreme Judicial Court indicated in the opinion which it rendered on this legislation on July 13th that whether a particular person is indeed a "candidate" may not be free from doubt and the legislation might be more exact if it referred to a "legally qualified candidate". In addition, the bill prohibits charging for "any paid political advertisement an amount greater than the local display rate charged for a paid non-political advertisement". Thus, the bill would preclude a newspaper from charging the higher rate to national

political advertising which it customarily charges to all "national" advertising. Although I believe such a result is unintended, I think it would be unavoidable.

In conclusion, I support the intent of this legislation, but believe that its practical impact -- the regulation of one aspect of our press -- would be an unwise step and a perilous precedent. I have weighed the considerations, determined we should not intrude into the precious freedom of the press, and am returning House Bill No. 3460 without my approval.

Respectfully submitted,

Francis W. Sargent

Governor,
Commonwealth of Massachusetts