

No Standing News

Since we have no standing, we stand with those left standing.

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PHELPS COUNTY PROSECUTOR ALSO SHOWS CONTEMPT FOR MISSOURI SUNSHINE LAW

Phelps County Prosecutor Kenneth L. Clayton had more than the month he wanted to study the Sunshine Law Complaint against the City of Rolla, which was hand delivered to him on March 31, 2000 by NSN Editor, Robert W. Nash. About fifteen other people also went to the courthouse to meet and talk to their prosecutor, but Clayton would only speak to Robert Nash; everyone else had to wait in the lobby. After the April 30th deadline had come and gone with no word from Clayton, Nash called his office on Tuesday, May 2nd and faxed him a memo May 4, trying to get an answer. Nash was still waiting for his call to be returned when **Clayton finally produced a written response, not to Nash but to the Rolla Daily News!**

Clayton explained in his letter to the RDN that he was too busy to enforce the Sunshine Law. He didn't say the complaints weren't valid; he's just "plenty busy" and won't do anything about it because it would take a great deal of time to "represent the plaintiff in a civil lawsuit of this magnitude." His excuse was predictable but unconvincing. When his term began, taxpayers paid for a special prosecutor to clean up Pat King's backlog so Clayton, unlike most prosecutors, started with a nearly clean desk. The ½ cent sales tax (remember "Stop Crime With a Dime"?) has bought

him more staff and a bigger budget than any prosecutor in county history. All prosecutors claim to be overburdened, but they always seem to find the time and resources to keep the bad check collection service going full blast for local merchants. It's a matter of case management and priorities.

Nash, NSN members and many who signed the petition were actually quite relieved. Asking the local prosecutor was a necessary first step, but no one was enthusiastic about having this issue handled by an inexperienced attorney. Better for him to leave it alone than botch it. In Clayton's excuse he quoted from RSMo 610, the "Sunshine Law", telling the paper that "taxpayers" could "obtain legal counsel" and sue the city. Everyone knows that; it's what some city officials like to say when they flout the law - "If you don't like it, sue us." However, taxpayers are already paying a lawyer to prosecute violations of state law - they pay Clayton to do it. If, as he suggests, the only way citizens can get better government is to pay \$150 an hour for private lawsuits, then he is telling us that in Phelps County better government belongs to those who can pay for it. That's a bad thing for a prosecutor to say, but he is in a position to know. Many old timers will tell you that they have long known that the law around here belongs to those with power and money. It may be a fact -but it is wrong.

It would have been nice - no, it would have been astonishing - to find we had a prosecutor who was so principled that he was willing to prosecute those violations without fear or favor even if it meant that he had to put the Rolla Mayor and Council in the dock. We didn't have very high expectations, though, because we

can't remember having a county prosecutor that courageous since... well, we can't remember ever having that kind of county prosecutor. Phelps County voters, when they have any choice, usually have to choose between the inexperienced and the inept to fill the prosecutor's position. Two of our former prosecutors were elected right out of law school, both very wet behind the ears. One hadn't yet passed his bar exams the other was eventually disbarred.

Many of the people who signed the petition, and some who were afraid to, predicted that Clayton wouldn't have the guts to touch this issue. What was surprising was the number of Democrats who agreed with that assessment of the prosecutor. Some were very frank in expressing their disappointment with Clayton's performance. It is odd to hear this when he is barely halfway through his first term, and it is especially strange to hear it from members of his own party. If Clayton is getting political advice from someone, it's apparently bad advice. The Sunshine Law is not a partisan issue: it's an issue of open government and it affects everyone. The Sunshine Law is a test of whether citizens can trust their elected officials and whether elected officials are willing to be accountable. There are some officeholders wise enough to understand that this law is a litmus test, sometimes the only one voters base their opinions on. The example that springs to mind is Phelps County Clerk Carol Bennett and her predecessor Lucie Smith. They have always been willing to provide information to the public and do not do it grudgingly. Perhaps that's why they have so little trouble getting reelected.

We already knew what the Sunshine Law meant to Rolla city officials, and now we know what it means to the county prosecutor - not much. We can't help but wonder what it means to Kenneth Clayton's party? Do they agree with him or not? What was their reaction upon hearing that a party spokesman, one of their "standard bearers," will not enforce the law that provides access and accountability to government? As a matter of fact we don't recall ever hearing either county political party say publicly that they support the Sunshine Law and that they expect officeholders of their party to meet its requirements for open and accountable government. Are both party organizations so concerned with "The Big Picture" - scoring state and national offices - that they don't care how their local officeholders meet these standards? If asked, we're positive the Democratic leadership would say the Sunshine Law is important - it is, after all, the law. Easy to say, but how convincing is passive endorsement if, when the chips are down, their own prosecutor doesn't care enough to put teeth in it? Prosecutor Clayton, a Democrat, has unwittingly handed the opposition party a beaut of an opportunity. It will be interesting to see if Phelps County Republicans have the guts to take advantage of it, or do they, too, quietly endorse open government requirements as long as no political capital has to be risked to prove it?

It took several phone calls just to get an appointment to see Clayton in March. When the month was over he did not call or write as he promised nor did he answer the messages Nash left - he hid behind the newspaper. Was this demonstration of bad manners a generation thing or was it arrogance? Smart politicians, even when they have to disappoint, at least have the good sense to do it courteously. Arrogance is a common affliction of the newly elected, and it is often fatal. We will move on to the next step, but we don't think this young politician will be moving very far if he doesn't learn some civility. Voters, particularly the 102

petitioners and their voting families and friends, can only keep his answer in mind when the 2002 elections come around.

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