

Friday, October 7 • \$7.50/\$8.50

DEL FUEGOS
and special guests **THE UNATTACHED**
THE DAWGS • **THE BREAKDOWN**

Wednesday, October 12 • \$7.50/\$8.50

THE RADIATORS
and special guests

18+

Thursday, October 13 • \$7.50/\$8.50

DEATH ANGEL
and special guests **RIGOR MORTIS**
BURNT OFFERINGS • **VALHALLA**Friday, October 14 • \$1.01 before 11:00 p.m./\$4.50
WFNX / Boston Rocks presents**HERETIX**
with special guests **THE BRISTOLS** • **CHILDHOOD**
DELUSIONS OF GRANDEUR • **BIG TRAIN**
TAX COLLECTORS • **GALAXY 500**
special guest M.C. WFNX's Bill AbbateSaturday, October 15 • \$6.50/\$7.50
"Flirtin' With Disaster"**MOLLY HATCHET**
and guests **MASS**Wednesday, October 19 • \$10.50/\$11.50
In Celebration Of Peter Tosh's Birthday**ANDREW TOSH**
and the **TOSH BAND**
and a video presentation of
"The Life of Peter Tosh"

CARD-CARRYING MEMBERS

BY SPURIOUS (WITH HARVEY SILVERGLATE)

Like many of you, I have always been suspicious of organizations that I didn't found and can't control. That's one reason I have always considered the League of Women Voters to be the Plague of Women Vultures, though in fact they are merely the Chamber of Commerce in Drag.

Like most undisciplined leftists in the student movement of the '60s and '70s, I questioned authority. And who could blame me — Nixon was twice elected president during my wonder years. I also hated Nazis, and have always had a natural suspicion of the "bourgeois freedoms," i.e., due process, the courts, and most lawyers. So when the American Civil Liberties Union (ACLU) had the nerve to defend the free-speech rights of people I don't agree with (specifically, the rights of Nazis to march in Skokie, Illinois), I allowed my membership to lapse.

As I saw it then, any group with limited resources that expended them defending everybody's free speech (instead of just the free speech of those folks I agree with) was squandering their money and on the wrong side.

Perhaps I have matured somewhat in this area, or perhaps the fact that I became a potential target of Reagan's reactionary Court each time I moderm in a fresh column has caused me to see more clearly my self-interest. Because I now understand that unless somebody stands up for the most offensive folks' rights, the chances of my rights being the next to go just get better and better.

You know that famous quotation by Anonymous: "First they came for _____ and then for _____ and I said nothing. And when they came for me, there was no one left to speak c.at." Well, from where I sit, that's a powerful truth. And it doesn't matter whether you fill in the blanks with Larry Flynt, Ollie North, or the Nazis in Skokie. That's why I've been outspoken in my defense of assholes like Larry Flynt, to the potential emotional distress of motherfuckers like Jerry Falwell. Because one day I may very well find myself up against the bastards in a courtroom somewhere, and brother, am I going to need all the help I can get.

Self-interest is a powerful motivator, but it doesn't always last. Attorney General Richard

senators that there is room on the Supreme Court for a man who holds that sexual activity with an underage bovine while smoking heroin is okay if (and this is a big if, I'll grant you) one indulges in these acts only in the privacy of one's own home. In his behalf, I will admit that the confirmation hearings would make for riveting TV drama.

If there is a short list, however, I'm sure you are near the top of it, along with Arthur Miller and, of course, Judge Wapner, if he is available.

Anyway, here is the \$20 minimum contribution I promised to send you to "unlapse" my membership in the Civil Liberties Union. I recognize that cash and postage stamps are irregular and that you would prefer a check, but given the status of my checking account, and the possibility that Bush and Quayle and the Neo-McCarthyites might win in November (shudder), I figure that the less of a paper trail there is the better.

Please send me my membership card ASAP. I promise you that the next time one of my yuppie friends shows me pictures of his toddler, I'll show him that I am a card-carrying member of the ACLU (even if Thornburgh was once an active member).

As always,
Spurious

PS: At this price, I ought to give ACLU membership cards out as presents next year for Independence Day.

* * *

By moderm that same day, I received the following reply from Silverglate.

Dear Spurious:

Actually, my argument that you should re-join the ACLU (or, to adopt your circumlocution, allow your membership to "unlapse") is even harder to accept than the one you pose.

You see, I am not really naive enough to believe that, if today you were to come to Ollie North's aid and help protect his rights under the Fifth Amendment not to be prosecuted with his own compelled testimony given to a congressional committee, North would someday help you out in

Friday, October 21 • \$6.50/\$7.50
Warner Bros. Recording Artists • "Fool in Love"

FARRENHEIT

and special guests
THE RAIN • PIECES

Wednesday, November 2 • \$8.50/\$9.50

KING DIAMOND

and special guests ARMORED SAINT
(Tickets from the cancelled 9/8 performance will be honored)

Thursday, November 3 • \$8.50/\$9.50

BURNING SPEAR

and special guests IBRAHIMA'S WORLD BEAT

Saturday, November 5 • \$7.50/\$8.50
"Takin' Care of Business" • "Ain't Seen Nothin' Yet"

BACHMAN-TURNER OVERDRIVE

THE CHANNEL

Boston's best live rock

25 NECCO ST. BOSTON 451-1905

handicapped son, and the ACLU was the only group fighting that good fight. He apparently abandoned his commitment to the ACLU to further his career. My commitment, I hope, is more profound.

As I now see it, the role of the US Constitution is to protect the people from their government and to protect the rights of the individual from the majority. Frankly, the state doesn't need my help right now: Reagan and Bush have done an excellent job protecting the government from its citizens.

That's where the ACLU comes in. When you can't protect your rights by yourself, it's there to help.

Unavoidably, all of its clients will not be to my liking. I don't much care for Fundamentalists or Oliver North. And I sure as hell wish that there weren't so many damn fascists around whose rights need defending (though if Bush has his way, these folks will be so integrated into the administration that they may not need ACLU help, at least not on a national level). But as long as they are around, I sure hope that the ACLU will be around to defend them.

The ACLU is going to need lots of resources and plenty of experience if George Bush wins. And I'd like it to have had plenty of practice when it comes time for it to defend my rights. I can see the handwriting on the wall, and I just can't imagine getting away with this whole Spurious thing with George "Pledge of Allegiance" Bush and the rest of the folks from the flag factory running amok. I am counting on the ACLU to be there, because Thornburgh and the Reagan Court sure as hell won't be.

Which is why I wrote the following letter to my friend and fellow *Phoenix* contributor Harvey Silverglate, who is also the former president of the Civil Liberties Union of Massachusetts (CLUM).

Dear Harvey:

I have been unable to get from my friends in the Dukakis campaign any confirmation about that "short list" of potential Supreme Court appointees.

I am convinced that it just doesn't exist yet, despite what you may have heard from Larry T. or Alan D. Frankly, if there were one, I doubt that either of them would be on it. Alan is so very visible, he has facial hair and all, and I am afraid that the Senate would have some trouble with that von Bulow murder appeal.

As for Larry, his views on privacy might seem extreme in this climate. A man's home is his castle, but I am sure that it would be hard to convince the

suit brought by the Reverend Falwell, Flynt would be on the front-lines when you get hit with an attempt to censor some of your more vituperative attacks against an out-of-control government.

In fact, there are really only two overriding arguments for protecting the freedom to express the ideas that you hate. One is that if you believe in the rule of law and the supremacy of the Constitution and its Bill of Rights, then you really have to support the First Amendment in all instances. The First Amendment states that there shall be "no law" imposing speech restrictions. It does not make exceptions of the bad guys. This, however, is the purist, somewhat legalistic argument. It's the kind of thing that motivates judges and lawyers, but it's hard for most citizens to see where the element of self-interest is.

The second argument is more pragmatic. Our legal system is predicated upon adherence to precedents. The Constitution itself forbids Congress from enacting a law that applies only to one specific person; such statutes, the proliferation of which under the reign of King George III were in part responsible for the Declaration of Independence, are known as "bills of attainder." And when courts decide a case, the principle guiding the decision becomes a guide for deciding a similar case that might come along at some later time. To put it in simpler terms, "What's sauce for the goose is sauce for the gander." This is one of the more effective rules in our society that keeps one group of people (today's majority) from really kicking the crap out of another group (today's minority).

Yet this principle is what we call "counter-intuitive." It doesn't come naturally. The principle of equal application of the law is one reason, of course, why at any given time so many people are unhappy with our legal system and, not so incidentally, with the ACLU.

Back in the McCarthy era, the right wingers were most unhappy with suspected leftists who claimed (with ACLU support) the protection of the privilege against self-incrimination, and there was even born a movement to repeal this privilege. (As Ed Meese said while he held the nation's top law-enforcement post in the Department of Justice, if you're innocent, why should you be afraid to answer questions?)

But now that Ollie North has invoked the privilege and is in fact using it (with ACLU support) to try to beat his Iran-contra criminal case, it's the leftists who are screaming about the injustice of it all. And Ollie, who surely would not have come to the aid of a beleaguered congressional witness before McCarthy's committee,

Continued on page 26

Card

Continued from page 12
now tells a breathless nation that he intends to take advantage of all of the constitutional rights that the guys "face in the mud" died for.

But the fact that most people invoke the Bill of Rights only for themselves and their friends, and not for those they dislike, is no reason for the more patriotic and committed constitutionalists among us to take a similarly expedient and hypocritical route. The fact is that Ollie North is able to plead his Fifth Amendment privilege in large part because during the McCarthy period the courts by and large did not destroy that privilege, despite heavy pressure from the witch-hunters. And Ollie's invocation of the privilege today will help preserve it for you and me if the future turns as nasty as presidential politics suggest it might.

Yes, my dear Spurious, support for the civil liberties of the fellows we love to hate has a practical side. When you're fighting for the other guy, you're also fighting for yourself. So even those who are more selfish and less patriotic should recognize the importance of fighting for individual liberty at every turn, even if they themselves are not committed in theory to the notion of a free society — free, that is, for the other guy.

Pick up a copy of Robert Bolt's play *A Man for All Seasons* (or, since you're a child of the video generation, catch the movie next time it comes around). Find that famous passage where Sir Thomas More tries to explain to William Roper why he refuses to jail his enemies before they move against him. They have not yet committed a crime, says More, and the law forbids such an arrest. Roper excoriates More, accusing him of being naive enough to even "give the Devil benefit of law." The interchange then goes like this:

*More: What would you do?
Cut a great road through the
law to get after the Devil?*

*Roper: I'd cut down every
law in England to do that!*

*More: Oh? And when the
last law was down, and the
Devil turned round on you
— where would you hide,
Roper, the laws all being
flat? This country's planted
thick with laws from coast to
coast — man's laws, not
God's — and if you cut them
down — and you're just the
man to do it — d'you really
think you could stand up-
right in the winds that would
blow then? Yes, I'd give the
Devil benefit of law, for my
own safety's sake.*

So, Spurious my friend, you're doing yourself a favor by re-joining the ACLU. You're not

doing it for Ollie North, nor for Larry Flynt, nor for the Nazis, nor the Communists. You're doing it for yourself and, incidentally, for me. The ways things are going, judging from the liberty-bashing so rampant in the presidential election, we may be needing a few constitutional trees to hide behind when the cold winds of authoritarianism begin to blow in earnest.

With conviction,
Harvey

PS: The cash is fine, and we don't even mind stamps, but next time please don't send change. I've repeatedly told your cheapskate editor to give you a raise. For God's sake, please add your voice to my chorus. □

Bush

Continued from page 6
notably the Pledge of Allegiance and the American Civil Liberties Union — that have given rise to much sound and fury but signify nothing. The attempt to locate the Bush campaign's ideological core inevitably calls to mind Gertrude Stein's assessment of Oakland, California: there's no *there* there. Search past the hollow rhetoric, the slick ads, and the ultra-professional campaign handlers, and you find almost nothing. Nothing, that is, except echoes of Richard Nixon in 1968.

Twenty years ago, one of Nixon's central campaign themes was law and order. That was unusual, as law enforcement almost never looms as a major issue in presidential campaigns — partly because it's primarily a local concern, but mostly because it's tough to find a presidential candidate who favors violent crime in the streets. Now Bush has seized on the law-and-order theme with a gusto unmatched in two decades, blasting away at prison furloughs and cheerleading for the death penalty and posing for pretty pictures with the Boston police — because, like Nixon, he had to find some visceral issue to adorn an otherwise emotionless, idea-less campaign.

Mostly, however, the Bush campaign has been marked by a concerted effort to recast, almost completely, the candidate's own image. It's been a tricky business: most presidential campaigns simply manufacture the appropriate persona for their candidate and then market it to the public, but Bush's people couldn't get down to that task until they had first done away with the all-too-familiar Wimpy George Bush. They could not be content simply molding public perceptions; they had to change those perceptions, quickly and radically. In accomplishing that task, they faced precisely the same challenge Richard Nixon's