

## CAMPAIGN ARGUMENT AND THE LIBERAL PUBLIC SPHERE: A CASE STUDY OF THE PROCESS OF DEVELOPING MESSAGES IN A CONGRESSIONAL CAMPAIGN

by Robert C. Rowland

*One of the most important issues facing argumentation theory is the status of the public sphere. Most critics have used theory to "peer into" the public sphere. This essay takes a different approach, using a case study of a campaign as a method of reasoning about the public sphere. Using "liberal public sphere theory," it tests the quality of public deliberation about immigration and terrorism during the 2004 campaign of Congressman Dennis Moore. Despite flaws in campaign talk and media coverage of the issues, the liberal public sphere still functioned to inform the public. Key words: public sphere, deliberation, debate, liberal democracy, public participation.*

An enormous literature on the status of the public sphere exists. Often drawing on the work of Jürgen Habermas (Calhoun, 1992; Habermas, 1989), rhetorical and argumentation scholars have developed several theories of the public sphere and analyzed any number of campaigns or public controversies (Calhoun, 1993; Eby & Sobnosky, 1995; Finnegan & Kang, 2004; Fraser, 1992, 1992, 1992; Griffin, 1996; Gring-Pemble, 1998; Klampf, 1997; Phillips, 1996; Triadafilopoulos, 1999; Warner, 2002; Weal, 1985; Willard, 1989).<sup>1</sup> Almost without exception, these theoretical and descriptive analyses have been conducted from the perspective of the critic of argument looking at public controversy. The argumentation critic has played the role of expert peering into the public sphere in order to draw conclusions. An alternative approach is available, however, in which the argumentation critic uses his or her experience in an actual public controversy as an entry point for testing the public sphere. Rather than peer into the public sphere, the critic uses practical experience with a controversy to draw inferences about the public sphere. In this essay, I employ this alternative approach, as a participant observer during the past eight years in the political campaigns of Congressman Dennis Moore of Kansas.

During these campaigns, I have played two contrasting roles. On one hand, I have been a practical rhetorician, helping the Moore campaign create messages that are both sensible in a policy sense and strategic in a persuasive sense. As a citizen activist much like Andersen (1994) describes, I have relied on my training in argumentation, debate, and rhetorical theory. On the other hand, I have been a rhetorical critic, gathering messages, considering the rhetorical situation in which the messages were presented, drawing conclusions about which messages were effective and why, and assessing the degree to which campaign communications gave the public sensible reasons for voting. A dialectical dance between the roles of citizen activist and rhetorical critic should facilitate conclusions about the effectiveness of the public sphere in Dennis Moore's campaigns in Kansas' third congressional district.

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<sup>1</sup>A complete review of this literature is beyond the scope of this essay. I have cited only representative essays here.

## LIBERAL PUBLIC SPHERE THEORY

My analysis is guided by liberal public sphere theory (Rowland, 2003, 2005). Drawing upon John Stuart Mill and especially James Madison, I have argued that an effectively functioning public sphere both provides the grounds for sensible decisions and legitimizes the choices made. An effective public sphere is essential for democracy; without it, the public has no means of making informed choices about issues or among candidates for public office.

Before explaining how liberal public sphere theory guided my analysis of the Moore campaign, it is appropriate to justify this theoretical perspective. Such justification is especially important given the enormous influence of Habermas and others, writing from a broadly critical perspective on public sphere theory within argumentation studies. There are two primary justifications for taking a liberal approach to the public sphere. First, while it is common to hear academics cite liberalism as a failed political theory, in the larger political world a broadly liberal perspective is dominant.<sup>2</sup> By *liberal* I do not mean the political perspective associated with the contemporary Democratic Party, but a broader perspective on democratic institutions in the context of limited government, in which separation of powers and other legal restrictions protect individual rights. This broadly liberal perspective has been dominant in American politics for more than 200 years and encompasses both the contemporary conservative and liberal movements. Moreover, with the end of the Soviet Union and the decline of authoritarian governments more generally, this broadly liberal perspective has been ascendant across the planet. As Orlando Patterson (1999) writes, "liberalism reigns supreme as the leading and, one might even say, overwhelming doctrine in the West . . . Its central ideas seem to inform nearly all political and economic discourse." (p. 54)

The second justification for a liberal theory of the public sphere is that democratic decision making in the United States, especially as manifested in political campaigns, is built on liberal assumptions. Without the broadly liberal political theory that I have described, an effective public sphere could not exist. Public deliberation and decision making are not possible in nonliberal societies because those societies lack the superstructure that enables public debate and protects participants. The very critique of liberalism that is so common in academic discourse could not occur without the protections provided by democratic institutions tied to liberalism. Relatedly, concerns about expert domination of the public sphere (notably by Goodnight, 1982) assume that the ultimate basis of societal decision making should be the views of the public. This is an implicitly liberal assumption.

From the perspective of liberal theory, there are four primary actors in the public sphere: the public, representatives of the public (in this case, Dennis Moore and his campaign staff), the media, and relevant experts. While academics adhering to nonliberal precepts often adopt an atomistic perspective on the public sphere, breaking it up into smaller entities of publics and counterpublics (see Hauser, 1999; Negt & Kluge, 1993; Warner, 2002), liberal theorists have a different perspective. In their view, the public sphere is not merely a metaphor, but the real place where debate, deliberation, and decision making occur. This place encompasses the public square, the presentation of ideas in the press and electronic media, and all other contexts in which citizens talk to other citizens about issues of the day.

<sup>2</sup>A typical example is Robert Lee (1998), who observes the "inadequacies of liberal democracy" (p. 492) and contends that the "liberal critique of contemporary public address is undemocratic and politically debilitating in its pursuit of universal truth" (p. 301).

Each of these four actors must fulfill its responsibilities if the public sphere is to function effectively. Representatives must provide sufficient information to facilitate public deliberation and decision making. The public must pay adequate attention to the issues and take the time to sort through competing ideas. Of course, it is not reasonable to expect every citizen to search out material on all of the important issues of the day. In this context, the media play two crucial roles: providing information to the public and testing claims made by representatives of the public. Finally, where issues relate to specialized knowledge, relevant experts play a crucial role in informing both the media and representatives of the public. In a properly functioning public sphere, experts do not usurp the public's decisions but, rather, provide information and, often, competing viewpoints that the media and representatives convey to the public.

The liberal public sphere implicitly has two goals. These goals are obvious in the writings of James Madison, who, as the primary author of both the Constitution and the Bill of Rights, is the most important American theorist of democracy. As Lance Banning (1995) has argued, "it is Madison on whom we unavoidably depend to comprehend [the Constitution's] intellectual foundations" (p. 2). At one level, the liberal public sphere was designed simply to facilitate public decision making. Political and other campaigns provided a vehicle for informing the public so that they could choose a policy or a candidate. At another level, Madison and other proponents of the liberal perspective, including Jefferson, Lincoln, and John Stuart Mill, also believed that the give and take of debate in the public sphere offered the best hope of choosing policies that were not simply popular, but likely to be effective. In *The Federalist Number 41*, Madison (1788/1999) argued: "A bad cause seldom fails to betray itself" (p. 231). Similarly, Mill's (1859/1963) formative analysis of the power of public deliberation and debate in *On Liberty* can be seen as defending democratic decision making as both right and efficacious.

One of the advantages of liberal public sphere theory is that the responsibilities of its four principal actors also provide criteria for evaluating the public sphere's efficacy. Effectiveness can be assessed by asking four questions:

1. Does the talk of representatives expose the public to all major views on topics?
2. Do the media report issues in a way that is both understandable and informative?
3. Does the public, or at least a sizeable subgroup, take the time to acquaint itself with the issues in enough detail to make an informed choice?
4. Are representatives of the public and media coverage informed by appropriate expert knowledge?

Liberal public sphere theory is based on a realistic, not idealistic, view of democratic decision making. It does not presume that there ever has been a public sphere in which all four actors fulfilled their roles with a sense of civic virtue. Madison was well aware of the public's weaknesses and especially concerned about the dangers of partisanship. Because he recognized the limitations of all actors in a democracy, he designed a system in which competition and conflict among politicians, and even branches of government, would protect the ends of democracy. Thus, liberal public sphere theory provides a principled, realistic approach for testing the functioning of the public sphere. In the case study that follows, my answer to the four questions posed above is a highly qualified "yes."

## WORKING WITH DENNIS MOORE

Dennis Moore is a moderate Democrat in a largely Republican district in eastern Kansas that is dominated by suburbs of Kansas City. Before he first was elected in 1998, the district had voted for a Republican candidate for Congress in every election since 1960. In 1998, Moore, a former prosecutor from the most populous county in the district, defeated Vince Snowberger, a Christian conservative who was completing his first term in Congress. In three subsequent elections, Moore has defeated two other conservatives and one moderate. He is the first Democrat to represent the district for three or more terms.<sup>1</sup> Nonetheless, Moore faces significant obstacles in every election because he represents a district that ideologically favors the other party. For example, internal campaign polls in 2004 (personal communication, November, 2004) indicated that 51% of voters who turned out on election day were Republicans, 35% were Democrats, and 13% were independents. Despite this, Moore won the election with over 54% of the vote (Cooper, 2004, November 3).

I began working with Dennis Moore in his first campaign for Congress. After attending a group discussion of "hot button" issues, I participated in and then managed a series of meetings to help him identify sensible positions on domestic and foreign policy issues. For each meeting, I prepared a briefing paper, included short readings, and participated in discussion. Out of these sessions came policy positions that Moore felt comfortable advocating and briefing materials for use later in the campaign.

I have played numerous other roles as well. I wrote the first draft of the announcement speech for his first campaign and have drafted, edited, or commented on many other speeches, press releases, and so forth. I have assisted with debate preparation in every campaign, drafting materials, doing research, reviewing and suggesting revisions of the briefing book, and practice debating (once I played Moore's opponent). I also have worked with campaign consultants, reviewing advertising scripts, observing focus groups as they watched rough cut ads, and participating in conference calls about campaign strategy and polling. I also have had full access to the campaign and Congressional staffs, as well as the candidate himself. Over the course of eight years, I have spent literally hundreds of hours in meetings of various kinds, discussing issues and message strategies with Congressman Moore.

Although I have participated actively in all four of his campaigns and, occasionally, have worked with his Congressional staff on communication issues, I don't want to overstate my influence. Like one other adviser, I always have worked as an unpaid volunteer and Dennis' friend, I have never worked full time. Since winning election, Dennis Moore has had a bright and engaged Congressional staff. Thus, my research and drafting work has been more limited than it was during the first campaign. Further, unlike the stereotypical novice candidate who is essentially his advisors' puppet, Dennis Moore always has been highly engaged, principled in his advocacy of positions, and not shy about ignoring the advice of advisers and consultants. For example, although I wrote the first draft of his original announcement speech, not much of my original language survived the editing process. Still, I have been and remain a highly engaged adviser, a role that positions me to gauge how effectively Moore's campaigns have performed the functions of the liberal public sphere.

<sup>1</sup>Editor's note: In 2006, subsequent to this essay's preparation, Dennis Moore won a fifth term, defeating Republican Chuck Abern, 64.6% to 33.6% (Kansas, 2006).

*The 2001 Campaign*

The Republican nominee in 2004 was Kris Kobach, a right wing law professor and former counsel to Attorney General John Ashcroft. Kobach touted his credentials as a supporter of the war on terror, an opponent of abortion, taxes, and big government, and a future ally of President Bush. Of these positions, the most threatening to Moore was the war on terror. While he had voted for the war in Iraq, supported the Patriot Act, and taken other positions broadly supporting the Bush agenda, Moore could not claim, as Kobach could, that he had been in the front lines of that fight. Nor could he claim the President's support, a salient factor in a district in which Republicans outnumber Democrats by roughly three to two. The changed political environment after 9/11, the fact that 2004 was a Presidential election year, which would raise turnout, and Kobach's association with Ashcroft all posed a significant threat to the three-term Congressman.

A complete study of the 2004 campaign would require a book-length analysis. The Moore campaign spent roughly \$2 million, which paid for many campaign events, newsletters, web-based materials, commercials, and other forms of communication. Kobach's campaign generated similar activities, and special interest organizations also participated. In addition, the campaign was covered widely in print and electronic media. For present purposes, however, the campaign can be condensed to one key issue in order to test the functioning of the liberal public sphere. This issue was the use of immigration regulation in the war on terror.

*NSEERS and the Liberal Public Sphere*

One of the most significant aspects of Kobach's campaign strategy was an oft-repeated claim that he already had made a difference in the war on terror through NSEERS (National Security Exit and Entry Registration System), a program to register visitors entering the United States from (largely Arab and other Islamic) countries believed to have ties to terrorist groups. Between 2002 and late 2003, 177,000 people were registered (Hudson, 2003). Kobach consistently touted this program as having "led to the apprehension of eleven suspected terrorists" (7/6/04 Johnson County Chamber debate, 2004). This claim was featured in numerous campaign materials and tied to the broader theme that immigration regulation should be a key weapon in the war against terrorism. One memorable television commercial, for instance, depicted a group of men chanting apparently anti American messages in Arabic to make the point.

As the campaign progressed, I became concerned that his experience in the Department of Justice would be Kobach's trump card. So I volunteered to research the policy literature on NSEERS. I began with the report of the 9/11 Commission (National Commission on Terrorist Attacks Upon the United States [National Commission], 2004) and associated documents. I then conducted a simple search of news sources and public documents. The information I discovered was troubling. While the Bush administration widely claimed that 11 people "suspected of having ties to terrorism" (Hudson, 2003) had been picked up, none of the 11 had "been charged with terrorism related crimes" (McCaffrey, 2003). Registering 177,000 to arrest 11, but not convict any, didn't seem terribly effective. This judgment was echoed by the 9/11 Commission, which called immigration policies, including NSEERS, "largely ineffective" (quoted in Janofsky, 2004). Even some in the Bush administration came to a similar conclusion. Asa Hutchinson, an undersecretary in the Department of Homeland

Security, said that the program "didn't yield sufficient leads' to justify the money being spent" (quoted in McCaffrey, 2003).

There were other problems. Of the 11 individuals with "ties related to terrorism" (or, as Kobach and his supporters sometimes put it, the "11 terrorists"), only 6 were NSEERS call-in registrants. Moreover, according to the staff report of the 9/11 Commission, "it is not clear from the information we have received whether the registration process led to their arrest" (Staff, National Commission on Terrorist Attacks Upon the United States [Staff], 2001, pp. 159-160). In addition, the program may have been counterproductive. Understandably, countries whose citizens were subjected to NSEERS requirements were unhappy. Since the United States needed the cooperation of these same countries in the war on terror, officials in both the State Department and the FBI feared that NSEERS actually might harm our ability to gather intelligence (Staff, 2004, p. 159). David Martin (2003), former General Counsel of the Immigration and Naturalization Service, similarly expressed concern about the program's effect on domestic intelligence gathering within immigrant communities in the United States, concluding that the program was "counterproductive" (p. 4).

In sum, the policy literature suggested that NSEERS had been wildly ineffective and perhaps counterproductive. It had worked so poorly that the Bush administration scrapped the program after only eighteen months. It seemed to me that this material provided a hammer with which the Moore campaign could pound Kobach, both on policy grounds and as proof that he had exaggerated his record wildly. I was wrong.

When I took the research material and a bullet pointed summary to campaign staff and the Washington consultants, and offered to draft other material, they politely thanked me but indicated that, although some of it might be useful for debates, the material could not be used in the wider campaign. Two reasons were given. First, they believed that the problems with NSEERS were too complex for the general public. Very few people would understand the 9/11 Commission's analysis and still fewer would care about backlash in immigrant communities or Islamic countries. When I suggested that the research be disseminated to the media, they countered that policy disputes that seemed important to academics would be perceived as overly complex for ordinary newspaper readers. When I argued that backlash posed a real threat to the United States in the war on terror, they agreed but said that it was not relevant in a campaign. They feared that few people could follow such a complex argument and that, in making it, Moore might appear weak by seeming to care about public opinion in countries that supported terrorism.

Second, the consultants explained that, even had NSEERS been a major failure, drawing attention to an issue so closely identified with the Bush administration was not strategic. Again, the apparent expert consensus that the program had failed was not relevant. Given public perceptions that Bush was tough on terror and that Kobach had worked with Bush, it was unwise even to raise the issue. Consequently, none of my materials even made it into the briefing book that was prepared before the campaign debates.

What of media coverage? Despite the centrality of the war on terror to Kobach's campaign, there was almost no analysis of his claims. The leading newspaper in the region, *The Kansas City Star*, published one substantial article (Stearns & Cooper, 2004) that described NSEERS, reported that no terrorists had been charged, and offered Kobach an opportunity to defend the program. But the article focused on the question whether the program was based on racial profiling, which seemed obvious. That the program may have harmed the war on terror went unexplored. Nor was there any significant discussion in the electronic media.

Yet, Moore ultimately scored a solid victory over Kobach. Three factors played key roles in this result. First, a majority of voters thought highly of Dennis Moore as a moderate, hard-working, and bipartisan figure in Congress. He was endorsed by *The Kansas City Star* ("Moore has earned," 2001) and other opinion leaders and connected personally with many voters. Internal polling data showed that almost 60% of voters had a favorable impression of Moore (personal communication, November, 2004). Second, the Moore campaign succeeded in portraying Kobach's views as extreme. Post-election polling of actual voters found that 40-46% of voters who recalled a pro Moore television or print advertisement, or who received a personal visit, had a negative impression of Kobach. This poll also found that 43% of liberal-to-moderate Republicans (slightly over 10% of the electorate and a crucial group for Moore) had a negative impression of Kobach (personal communication, November, 2004). Overall, 44% of voters felt that Kobach was "too extreme" (personal communication, November 2004).

One key factor in painting Kobach as outside the mainstream was a series of articles and commercials arguing that Kobach had ties to extremist groups, including white supremacist organizations (Cooper, 2004, October 25). In an October 6, 2001, press release, for example, the Moore campaign noted that Kobach was associated with an anti-immigration group, FAIR, which the *Wall Street Journal* had labeled a "white supremacist outfit." This press release also noted that Kobach had accepted a campaign contribution from Gun Owners of America, an organization whose executive director was linked to the Ku Klux Klan and similar groups (personal communication, October 6, 2001). In this way, the larger accusation of extremism was condensed into a simple anecdote.

Third, campaign tactics played a crucial role. Late in the campaign, Kobach went dark (ran no TV ads) because he didn't have the resources. In contrast, the Moore campaign, which had purchased its last several weeks of television time in late summer, 2004, ran several advertisements, including a humorous piece designed to leave voters with a positive impression of Moore as a gracious person who loved his grandkids. While academics may decry sound bites and image-based politics, the effectiveness of well-designed media advertising is certain. Internal polls found that almost 80% of voters recalled seeing pro Moore or anti-Kobach television advertising and that more than half of voters found the advertising either somewhat or very useful (personal communication, November, 2001).

In addition, as the pressure of the campaign built, Kobach's attacks became increasingly personal. In one televised debate, he called Moore "a desperate man who will say anything to get elected." Later, he accused Moore of "utterly lying" (*JCCC-KCPT debate, 2001*). Given positive attitudes toward Moore, these comments could only seem desperate.

## CONCLUSION

My experience with the NSEERS issue is consistent with my other experiences with Congressman Moore. While he consistently takes moderate, principled positions on issues, complex policy positions must be boiled down to an anecdote or story to make them appealing. Understandably, since the 2004 election he has focused on issues such as drug prices for seniors and support for veterans and troops in Iraq. These issues are easily explained and illustrated with personal anecdotes. Everyone can understand them and appreciate their importance to the people involved. Positions that are difficult to boil down in this fashion inevitably receive short shrift. In a political environment in which voters were

more concerned about road repair than global warming (personal communication, November 2004), emphasis on easily comprehensible issues is inevitable.

What does this case study tell us about the liberal public sphere? The answer is decidedly mixed. On one hand, the NSEERS example reveals an inadequate public sphere. Kobach wildly exaggerated the program's successes while Moore largely ignored it, focusing instead on issues where Kobach was more vulnerable to charges of extremism. Media coverage was scant, especially in the electronic media on which voters rely most for information. Even the lone, very good newspaper story ignored key issues, especially the danger that NSEERS had compromised the war on terror by discouraging cooperation with the United States in intelligence gathering. Clearly, the debate was not informed by relevant expert knowledge. Finally, the public showed little appetite for information-seeking about issues that, from an academic perspective, at least, weren't terribly complex. Ultimately, the simplistic linkage of Kobach to white supremacist organizations did much more damage than his genuinely extreme policy position.

On the other hand, the public sphere worked as Madison envisioned. The campaign was not an academic debate but, rather, a broad contest between a moderate Democrat and a very conservative Republican, in which perceptions of the candidates' ideologies and personalities were dominant. As suggested by internal polling data, most voters ultimately reached a decision by asking which candidate better represented their community. On this score, Moore and Kobach both provided ample information on which to make a knowledgeable choice. The media reported in great detail on the ideological divide between the two candidates and on their personal characters. On certain issues, such as Kobach's acceptance of campaign contributions from extremist groups, the media cited relevant experts. Finally, internal polling data demonstrate that the public paid close attention to the candidates' advertising. In these ways, the public sphere worked quite well.

One reservation to this judgment is that the election so easily could have turned out differently. Although the public had a chance to evaluate the two candidates' ideologies and personalities, this would not have been the case if the campaign had gone just a bit differently. Had Kobach been a more skilled candidate, he might have avoided personal attacks and displays of anger. Had he been a better fundraiser, he might have had the resources to present his message in the closing days of the campaign. Had he tunneled down a handful of campaign contributions, the Moore campaign would not have been able to condense the argument that he was an extremist into a convincing sound bite. In fact, Kobach's political views put him on the far right wing of an increasingly conservative Republican party. Even so, absent the campaign contributions from extremist organizations, the Moore campaign would have had great difficulty convincing the public that Kobach's views were outside the mainstream. Hence, although the liberal public sphere worked, it easily could have failed.

Moreover, although the liberal public sphere was broadly functional, the campaign certainly did not manifest Madison's (1791/1999) hope of creating "one paramount Empire of reason." Neither the media nor the candidates addressed many of the most important issues facing the country, such as global warming. And the public showed no appetite for complex issues. Representatives of the public are constrained by the public's alienation from politics and lack of basic knowledge. The media focus on personality and the horse race because these are what readers and viewers care about. Further, in an effort to represent conflict and fairly contrast perspectives, the media tend to present experts in pairs, pro and con. This happens even when there may be an expert consensus, such as on global warming

or the theory of evolution. In such cases, efforts to present the issue fairly produce exactly the opposite result, suggesting disagreement when, in fact, authorities largely agree.

On less divisive issues, relevant experts are considered occasionally at best. Even the lone detailed news story about one of the central issues of the campaign (NSEERS) did not report the full range of expert opposition to the program. One conclusion is that fears of expert domination of the public sphere (Fisher, 1984; Goodnight, 1982) seem unfounded. Experts are rarely cited, and pairing of competing experts muters their influence. In fact, debate evidently would serve the goals of the liberal public sphere much better were it more informed by relevant experts.

In Madison's view, its competitive structure was the driving force that made the public sphere work. While the power of what Mill called the free marketplace of ideas is still evident, a number of forces threaten to undermine the liberal public sphere. Candidates are constrained by public apathy and lack of knowledge. While polls often find that the public desires more information about the issues, their political behavior belies this desire. Rather than seeking information, much of the public is largely alienated from issues of public controversy and woefully unaware of the complexities of these issues. The public is most likely to be roused out of its alienation by a powerful narrative anecdote that grabs its attention. Absent such an anecdote, little can be done to focus public attention, an especially serious problem when issues are complex or pose only long term, as opposed to immediate, risks. In this environment, the media understandably tend to focus on the competitive aspect of political campaigns, not on the substance of issues and differences among candidates. Still, Mill's free marketplace of ideas, which lies at the core of Madison's competitive "Empire of reason," remains so powerful that, over time, the liberal public sphere still tends to ensure that the public is represented and the best policy is chosen. Perhaps the most fundamental question facing the public sphere theorist, and also American politics, is whether, at a time when the United States is threatened by severe long term problems such as global warming and the budget deficit, the liberal public sphere can function well enough, and quickly enough, to protect our democracy.

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