

OFFICIAL TRANSCRIPT PROCEEDINGS BEFORE

THE SUPREME COURT OF THE UNITED STATES

DKT/CASE NO. 82-975

TITLE MEMBERS OF THE CITY COUNCIL OF THE CITY OF
LOS ANGELES, ET AL., Appellants v. TAXPAYERS FOR
PLACE VINCENT, ETC., ET AL.
Washington, D. C.

DATE October 12, 1983

PAGES 1 thru 52



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1 IN THE SUPREME COURT OF THE UNITED STATES

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3 MEMBERS OF THE CITY COUNCIL OF :

4 THE CITY OF LOS ANGELES, ET AL., :

5 Appellants :

6 v. : No. 82-975

7 TAXPAYERS FOR VINCENT, ETC., ET AL. :

8 - - - - -x

9 Washington, D.C.

10 Wednesday, October 12, 1983

11 The above-entitled matter came on for oral

12 argument before the Supreme Court of the United States

13 at 12:59 p.m.

14 APPEARANCES:

15 ANTHONY SAUL ALPERIN, ESQ., Deputy City Attorney, Los

16 Angeles, California; on behalf of the Appellants.

17 WAYNE S. CANTERBURY, ESQ., San Francisco, California;

18 on behalf of the Appellees.

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1 P R O C E E D I N G S

2 CHIEF JUSTICE BURGER: We will hear arguments
3 next in The City Council of Los Angeles v. Taxpayers for
4 Vincent.

5 Mr. Alperin, you may proceed whenever you are
6 ready.

7 ORAL ARGUMENT OF ANTHONY SAUL ALPERIN, ESQ.,
8 ON BEHALF OF THE APPELLANTS

9 MR. ALPERIN: Mr. Chief Justice, and may it
10 please the Court:

11 This case presents the important
12 constitutional issue whether the City of Los Angeles may
13 consistent with the First Amendment prohibit the
14 attachment of signs to items of public and utility
15 property which are located on and along the city streets
16 and sidewalks. The City submits that the Constitution
17 permits this regulation.

18 Municipal Code Section 28.04 is the city
19 ordinance at hand. It prohibits the attachment of signs
20 without regard to their content to enumerated items of
21 public and utility property located along the streets.

22 Among those items of property on which signs
23 may not be posted are utility poles and their
24 appurtenances and in particular with regard to this case
25 the cross bars which help support those utility poles,

1 traffic and street signs, street lights --

2 QUESTION: What exactly are the cross bars,
3 Mr. Alperin?

4 MR. ALPERIN: The cross bars are a bar or
5 cable which attaches the upright wooden utility pole to
6 another pole on the other side of the sidewalk, and that
7 pole is then attached from the top of the pole on the
8 other side of the sidewalk to the top of the wooden
9 utility pole with a bar and it helps support the pole in
10 an upright position.

11 QUESTION: Is any of this in private property,
12 Mr. Alperin?

13 MR. ALPERIN: Some of it is owned by private
14 utility companies, and what is owned by private utility
15 companies --

16 QUESTION: You say some of it. Much of it?

17 MR. ALPERIN: Without knowing exactly how many
18 of the utility poles are owned by private utility
19 companies and how much by the City, they are owned
20 either by the City or by the utility companies. Those
21 poles which are owned by the City are leased to the
22 private utilities for their wires. When the private
23 utilities own the utility poles the City leases space
24 for its wires. Basically these are power wires that the
25 City owns and communication transmission wires,

1 telephone wires which the private utilities own. So
2 they are jointly used.

3 They are located, most of them at least, at
4 the edge of the sidewalk next to the roadway.

5 QUESTION: You do not think there is for First
6 Amendment purposes any difference between a prohibition
7 against hanging signs from privately owned wires and
8 publicly owned?

9 MR. ALPERIN: Not with regard to these utility
10 poles. The City is regulating the attachment of signs
11 on these utility poles and on their appurtenances for
12 public policy reasons, for traffic safety reasons, for
13 reasons of safety to workers who need to climb the poles
14 in order to repair wires and other equipment at the top
15 of the poles and for the purpose of eliminating to the
16 extent that is possible visual clutter which is directly
17 caused by signs that proliferate on these utility poles,
18 on the cross bars, on city street lighting systems and
19 on numerous others of these items of property most of
20 which are public property which are located on and along
21 the streets and the sidewalks.

22 QUESTION: In the particular election that was
23 involved here how many candidates were there for all the
24 public offices on that election date? Have you any
25 idea? Does the record show anything about that?

1 MR. ALPERIN: The record does not show exactly
2 how many there were. There were a number of candidates
3 for this office, at least two, Mr. Vincent and I believe
4 another nonincumbent who was elected to the City Council
5 in that district.

6 There are 15 City Council districts, and in
7 half of the years half of the members run. In some of
8 the years we also have a number of city-wide offices
9 which run and there are, of course, always several
10 candidates for various of these offices. So there are a
11 number of candidates.

12 Signs, of course, are posted not only by
13 candidates and those who support them but also by others
14 who have both political and nonpolitical messages that
15 they want displayed. We have those who espouse
16 viewpoints, positions on public issues and of course we
17 have those who put up signs for commercial purposes,
18 those who want to invite people to their disco or their
19 dance or to tell them where they can find the latest
20 built condominium for sale and those who have garage
21 sales and those who have merely lost their pets and want
22 them returned if someone finds them.

23 So we see attached to all of these objects
24 many different kinds of signs not only political signs.
25 In fact the record indicates that probably the vast

1 majority of the signs that are attached are nonpolitical
2 commercial signs.

3 . QUESTION: Mr. Alperin, following through on
4 Justice Rehnquist's question, at pages 136 and 137 of
5 the Appendix are those photographs of cross bars?

6 MR. ALPERIN: Yes, they are.

7 QUESTION: How do they affect the safety of
8 the workers involved? Those cross bars are there in any
9 event are they not? The worker is not going to get cut
10 of --

11 MR. ALPERIN: These signs attached to these
12 cross bars will generally not affect the safety of the
13 workers. However, if you look at the picture on page 136
14 you will see that the sign is located very, very close
15 to the upright pole, and it is certainly possible that
16 if the sign is attached that close to the pole that a
17 worker climbing the pole might hit his foot on the sign
18 and lose balance.

19 But generally speaking signs on these cross
20 bars do not cause a problem for the workers who climb
21 the pole. They cause other problems.

22 They may very well regardless of their size
23 hide a traffic hazard and certainly they not only add to
24 the visual clutter but as the district court found they
25 encourage others to post signs in other unsightly places

1 and in that way add to the proliferation. One of the
2 problems which the City faces especially a city like Los
3 Angeles which is so large, the third largest city in the
4 nation with regard to population, one of the largest
5 with regard to its size -- There are 465 square miles
6 approximately of the city and over 64,000 miles of
7 streets and roadways along which all of these signs are
8 located.

9 These are a great number of signs, a great
10 number of objects on which signs can be posted and on
11 which signs are posted. You have all of these objects
12 with signs on them. You have a lot of visual clutter.

13 QUESTION: What if the people interested in
14 Proposition 10 -- I take it that is what appears in 136
15 is it not?

16 MR. ALPERIN: That is correct.

17 QUESTION: The referendum. What if the people
18 interested in that and wanting to put up their signs
19 came along and saw the signs on 137 for Mr. Marcus who
20 is running for something so they tear down Mr. Marcus'
21 sign and put up Proposition 10, is there any ordinance
22 of the City of Los Angeles or statute of the State of
23 California that makes that an unlawful act?

24 MR. ALPERIN: It is not clear whether that is
25 an unlawful act. By destroying someone else's sign they

1 may very well be committing a misdemeanor, a destruction
2 of someone -- malicious mischief, destruction of
3 someone else's property.

4 The proposition could be made, however, that
5 when a sign has been attached illegally to an object of
6 public property or utility property on which it has been
7 prohibited that it is treated as abandoned property.

8 QUESTION: It acquires no right.

9 MR. ALPERIN: We do not believe that someone
10 who puts up a sign acquires any rights. In fact, we
11 believe that when they put up that sign illegally they
12 lose their rights to the sign.

13 QUESTION: It would be a great law school exam
14 on personal property, would it not?

15 MR. ALPERIN: I am sorry, Mr. Rehnquist, I did
16 not --

17 QUESTION: That would be a great law school
18 exam question in a personal property class.

19 (Laughter)

20 MR. ALPERIN: Yes, sir. It certainly would.

21 QUESTION: Does this ordinance include a
22 prohibition against the individual homeowner if it was a
23 tree or shrub on property from erecting a pro or con
24 Item 10 sign on his property on his tree or shrub?

25 MR. ALPERIN: The City has generally

1 interpreted this ordinance to apply to signs which are
2 either on City property or on a City parkway. I do not
3 believe that the City has ever attempted to --

4 QUESTION: There is no exception as I read
5 28.04.

6 MR. ALPERIN: On its face it would apply to
7 any tree. It has not to my knowledge been construed by
8 the courts. As I say just from my general knowledge we
9 do not believe that the City has interpreted it that
10 way.

11 However, the City certainly has a public
12 policy interest in protecting all trees and shrubs in
13 the City without regard to whether or not they are
14 privately owned or publicly owned because trees and
15 shrubs are a public resource. Having trees and shrubs
16 adds to the beauty of the community. It adds to the
17 vitality of the community.

18 QUESTION: You mean if I have a tree in my
19 yard that tree is a public resource?

20 MR. ALPERIN: It is not public property, but
21 certainly having that tree adds to the vitality and to
22 the beauty of that community. We are not arguing that
23 the City has a right to remove signs that you put up on
24 your own tree, and the City has not interpreted its
25 ordinance to permit it to do that.

1 On its face there is no exception. The
2 ordinance just says any tree, any shrub.

3 QUESTION: So even Mr. Marcus running for
4 office could not put a sign up on his own home lawn
5 "Please vote for me"?

6 MR. ALPERIN: Arguably that is the case, but
7 the City would certainly not seek to enforce its
8 ordinance in that case. It would not interpret its
9 ordinance as applying in that case unless it is a piece
10 of property which is on the public right of way which is
11 adjacent to the street.

12 There the City certainly has a right because
13 the City has an easement and indeed in many cases has
14 planted those trees. But if we are talking about a tree
15 otherwise in his yard or in his backyard, somewhere else
16 on his proerty we just would not interpret the ordinance
17 as being applicable.

18 QUESTION: Mr. Alperin, how is this ordinance
19 enforced? Just by City personnel pulling down the signs
20 is that right?

21 MR. ALPERIN: It is generally enforced by City
22 personnel pulling down these signs. It has also been
23 enforced criminally and could be enforced criminally.

24 QUESTION: So that conceivably in Justice
25 Brennan's example a person could be charged with a crime

1 for putting a sign up on a tree on his own lawn?

2 MR. ALPERIN: Theoretically that may be
3 possible unless you read the ordinance as not applying.
4 It would not reasonably apply to the tree in his
5 backyard or otherwise in his front yard.

6 QUESTION: It would not reasonably but
7 literally it does.

8 MR. ALPERIN: Yes, we would have to concede
9 that literally --

10 QUESTION: Unless the City construed to the
11 contrary, but no California court has construed the
12 ordinance. Is that right?

13 MR. ALPERIN: To our knowledge this ordinance
14 has been construed in one unreported case -- not
15 construed by the constitutionality, has been tested in
16 one unreported case of a superior court appellate
17 department decision.

18 It is an unreported opinion, and in that case
19 that court ruled that the ordinance might be
20 unconstitutional, send it back down the municipal court
21 for an evidentiary hearing as to the facts which might
22 support a valid public purpose. The City lost a motion
23 in the municipal court and did not appeal that.

24 But no, it has not actually been construed and
25 certainly to our knowledge has not been construed with

1 regard to the question of whether or not a private tree
2 on private property is subject to the ordinance. We do
3 not believe that that would be a reasonable
4 interpretation.

5 QUESTION: This suit was a facial attack on
6 the ordinance?

7 MR. ALPERIN: That is right. This suit is
8 concerned with objects which are located on or adjacent
9 to the public streets. The litigation did not deal
10 either at the district court level or the level of the
11 Ninth Circuit with questions of trees and shrubs that
12 might be located on someone's own private property and
13 so that question was just never litigated in this case.

14 QUESTION: Well, I would expect it would be if
15 it is a facial attack.

16 MR. ALPERIN: That is certainly correct, but
17 what was litigated and what all of the attention was
18 placed on was the question of whether or not these
19 objects including trees and shrubs which are located on
20 and along the streets are a public forum. The City
21 contends that they are not a public forum even though
22 they are located on and along the street.

23 A public forum is a place which is either
24 specifically designated by a government as being a
25 public forum or which by tradition has become a public

1 forum. The streets and the sidewalks themselves are a
2 traditional public forum.

3 They are a place which traditionally has been
4 used among other things for communication of public
5 issues. They have been legitimately used in that
6 fashion for hundreds of years.

7 In fact, they have probably been used for even
8 longer than that. However, these particular objects of
9 public property although located in the streets were
10 erected for quite different reasons.

11 They were erected either so that the City
12 could string its utility wires along the streets in a
13 convenient place or with regard to the lighting system
14 so that the streets could be lit for safety purposes or
15 with regard to posts and poles that are erected for the
16 purpose of displaying the City's own traffic and street
17 information, information about where the City streets
18 are, what street someone may be driving on, how fast
19 that person can drive, where that person can park or not
20 park. They were not erected for the purpose of giving
21 to private individuals the right to put up any signs
22 that they wanted.

23 So they were not designated by the government
24 as a public forum, and indeed although they have been
25 used in the City of Los Angeles they have not been used

1 legally or legitimately. The City's ordinance prohibits
2 their use.

3 The City contends that an item of government
4 property cannot by tradition become a public forum
5 unless it is legitimately used as a public forum. Here
6 these objects have never been legitimately used as a
7 public forum.

8 They obviously have been used because the
9 signs have been posted and the signs have been removed,
10 but they have been used illegally. Illegal use
11 certainly cannot result in the creation of a public
12 forum especially where the City has strong public policy
13 interests which are served by its ordinance.

14 Here the City has public policy interests
15 which are directly served by this ordinance and they are
16 interests which have been recognized by this Court over
17 and over again as being substantial, legitimate, even
18 compelling government interests. Certainly traffic
19 safety is a substantial government interest.

20 Certainly aesthetics is a substantial, very
21 important, very legitimate government interest. It
22 relates --

23 QUESTION: Mr. Alperin, may I ask a question
24 following up on Justice Brennan's inquiry about signs on
25 private property? I notice in the complaint they allege

1 that they have been advised by the police officer I
2 guess whoever's duty it was to enforce that they will
3 sometimes verify that the sign has been posted without
4 the consent of the owner, agent or occupant and then
5 make a physical arrest which implies -- This, of course,
6 is in the complaint -- that sometimes the ordinance is
7 enforced against posting on private property.

8 MR. ALPERIN: There is another City ordinance
9 which is another section of the Municipal Code, Section
10 28.03, which prohibits the attachment of signs to
11 buildings and to any private property without the
12 consent of the owner.

13 QUESTION: I see.

14 MR. ALPERIN: In further answer to Mr.
15 Brennan's question and your question following up on
16 that with regard to the trees, certainly because of the
17 existence of that other section we could construe the
18 reference to trees in Section 28.04 to relate only to
19 trees on public property because we have another section
20 that relates to attachment of signs to private property
21 and that certainly would include trees on private
22 property which would be a reasonable interpretation of
23 both ordinances together.

24 QUESTION: Mr. Alperin, if you look at page 16
25 of the Joint Appendix there you have I believe Exhibit B

1 which you filed as one of your exhibits to your answer
2 in the district court, and as I read it it is a
3 statement which says the policy of the Los Angeles
4 Police Department in enforcing violations and it
5 describes Section 28.03 prohibits the painting or
6 posting of any handbill or sign on private property
7 without the consent of the owner, agent or occupant.
8 Section 28.04 prohibits the painting or posting of any
9 handbill or sign on utility poles, street signs, curbs
10 or other public property.

11 MR. ALPERIN: That is correct.

12 QUESTION: Now was that summarizing the way
13 the ordinance is enforced?

14 MR. ALPERIN: Yes, that is true with the only
15 exception that indeed some of the utility poles although
16 used by the public are private property because they
17 belong to privately owned utilities. However, in a
18 general sense Section 28.03 relates to private property
19 and permits signs on private property assuming that the
20 owner of that property or someone in control of that
21 property consents to the attachment of a sign on that
22 property in Section 28.04.

23 QUESTION: But the utility may not consent to
24 signs on its poles.

25 MR. ALPERIN: That is correct. The utility

1 may not consent --

2 QUESTION: Well, it does not say that in the
3 ordinance.

4 MR. ALPERIN: The utility -- It is not a part
5 of this record. Public utilities in California, private
6 utilities in California are governed by rules and
7 regulations of the Public Utilities Commission of the
8 state and the Public Utilities Commission prohibits the
9 attachment of anything to the upright poles for safety
10 purposes. That regulation is not in any way part of
11 this record.

12 QUESTION: Well, we are talking about the
13 legality of these particular prohibitions, and you say
14 that these two, one of the other of these forbids signs
15 on public utility poles, utility poles even if the
16 utility gave its consent. Is that right?

17 MR. ALPERIN: That is correct. Section 28.04
18 prohibits the attachment of signs on any utility pole --

19 QUESTION: And some other section of the law
20 or some other regulation prohibits the utility from
21 giving its consent at all. That is what you suggest.

22 MR. ALPERIN: A state agency regulation
23 prohibits them from giving its consent at all but so
24 does Section 28.04. It prohibits the attachment of
25 signs to utility poles because the attachment of those

1 signs causes safety hazards and adds to visual clutter.

2 Certainly the government may regulate private
3 property. --

4 QUESTION: The kind of so-called public
5 property that you are talking about in 28.04 includes
6 utility poles.

7 MR. ALPERIN: It includes -- The public
8 property includes the publicly owned utility properties,
9 but the section also prohibits attachment of signs to
10 the utility poles that are owned by privately owned
11 utility companies.

12 Becasue the items of property that are
13 regulated by Section 28.04 are not part of a public
14 forum this Court needs to look to see whether or not the
15 regulation is reasonable in light of the circumstances
16 that the City faces and whether or not it leaves open
17 ample channels or avenues of communication. Indeed, the
18 ordinance meets both prongs of those tests.

19 It is certainly reasonable because it directly
20 relates to the achievement of important and significant
21 government interests. If poles cause -- If signs cause
22 a safety problem or if signs result in clutter which
23 mars the visual environment then certainly the most
24 logical, most direct and really the only effective way
25 of eliminating those problems is by prohibiting the

1 attachment of those signs which cause the problem.

2 This ordinance does that. This ordinance also
3 leaves open several ample avenues of communication. It
4 leaves open several traditional uses of the streets and
5 sidewalks, giving public speeches, holding parades,
6 distribution of handbills, door-to-door distribution and
7 it also permits signs to be posted on private property
8 and it permits signs to be held, carried by people in
9 the streets.

10 It does not prohibit any of those things. All
11 it does is prohibit the attachment of signs to those
12 items of property which are enumerated in the
13 ordinance.

14 In addition to that, another section of the
15 Municipal Code, Section 62.132, which is found in an
16 appendix to the Appellee's brief on page A-2 in that
17 appendix permits street banners to be attached to the
18 tops of the lighting standards that are found in the
19 streets. This does permit one use of the public
20 property located in the street for expressive purposes
21 under circumstances where the City has determined that
22 problems of traffic safety and visual clutter do not
23 exist.

24 The City would like to reserve the five
25 minutes remaining for rebuttal.

1 QUESTION: Mr. Alperin, is the sidewalk a
2 public forum in your view?

3 MR. ALPERIN: The sidewalk is indeed a public
4 forum. It is a place where people gather to get from
5 one place to another and also where they gather to
6 discuss public issues.

7 QUESTION: But if they gather and block
8 traffic --

9 MR. ALPERIN: If they gather and block traffic
10 then the City could certainly enforce an ordinance which
11 would be a reasonable time, place and manner
12 restriction.

13 QUESTION: So it is not the place that was
14 established as a public forum for communication was it?

15 MR. ALPERIN: One of the purposes of sidewalks
16 --

17 QUESTION: Is the purpose to transport people
18 and things from one place to another?

19 MR. ALPERIN: That is one of its purposes.

20 QUESTION: Is it not the primary purpose?

21 MR. ALPERIN: It may even be the primary
22 purpose, but one of its purposes just like the street
23 certainly is for people as long as they do not block the
24 use of the sidewalk by people who want to get from one
25 place to another a place of discussion. That does not

1 mean, however, that the concrete, the actual physical
2 concrete is a place where people can make drawings or
3 tape on their signs.

4 It means that the place where people stand in
5 which they stand is the public forum rather than the
6 physical property itself.

7 CHIEF JUSTICE BURGER: Mr. Canterbury.

8 ORAL ARGUMENT OF WAYNE S. CANTERBURY, ESQ.,

9 ON BEHALF OF THE APPELLEES

10 MR. CANTERBURY: Mr. Chief Justice, and may it
11 please the Court:

12 Section 28.04 as it is enforced by the Los
13 Angeles Police Department constitutes an absolute ban on
14 all temporary signs on all public property. As such it
15 is a prior restraint on an important form of political
16 expression. That form is the temporary campaign sign
17 that has been with us for centuries.

18 QUESTION: Do you agree that we should read
19 the ordinance as applying only to public property?

20 MR. CANTERBURY: The portion of the ordinance
21 that we challenged on appeal was only Section 28.04. We
22 abandoned a challenge to 28.03, and we believe that the
23 City is entitled to prohibit the posting on private
24 property unless the campaign officials or election
25 committee has the permission of private property owners

1 to post the signs.

2 The one exception --

3 QUESTION: And you do not think we should read
4 28.04 as covering privately owned trees and shrubs?

5 MR. CANTERBURY: I do not, Your Honor. It
6 does not say that, and although the City has stretched
7 this ordinance to include many means I do not believe
8 that up until today it has included that mean.

9 QUESTION: It is just 28.04 that is involved
10 here.

11 MR. CANTERBURY: That is right. That is
12 correct, Your Honor.

13 QUESTION: So you are saying that the City may
14 not close down the public property to these signs.

15 MR. CANTERBURY: That is correct, Your Honor.
16 It may regulate the place --

17 QUESTION: I do not quite understand, Mr.
18 Canterbury. Certainly on its face 28.04 is not limited
19 to installations on public property is it? It says no
20 person shall post or otherwise affix any handbill or
21 sign going down there upon any tree, shrub. Does that
22 not include trees or shrubs on private property?

23 MR. CANTERBURY: It is really unclear from the
24 record, and I do not know how it is enforced. I think
25 that part of the problem here --

1 QUESTION: How do I read it just looking at
2 the face of it?

3 MR. CANTERBURY: I would agree, Your Honor.
4 That reading does lend that interpretation of prohibition
5 on that type of property. Frankly we --

6 QUESTION: But this is a facial attack is it
7 not?

8 MR. CANTERBURY: It is a facial attack, but
9 our complaint makes it clear that we are also attacking
10 it as it is interpreted by --

11 QUESTION: As applied?

12 MR. CANTERBURY: As applied.

13 QUESTION: I take it the thrust of your
14 argument is not overbreadth but the fact that even if it
15 were limited strictly to public property it is invalid.

16 MR. CANTERBURY: That is correct, Your Honor.

17 QUESTION: That the public interest just is
18 not sufficient.

19 MR. CANTERBURY: That is correct.

20 QUESTION: Even if it were limited strictly to
21 public property which you think it is. At least that is
22 what you said a moment ago.

23 MR. CANTERBURY: Frankly, I do think that as
24 enforced and from the record that we have before us that
25 the issue here in my mind is whether it can ban all

1 signs on public property.

2 QUESTION: In any event that is the way you
3 want -- That is your submission as the way we should
4 decide this case is it not?

5 MR. CANTERBURY: Yes, as interpreted and as
6 enforced by the police department. I think part of the
7 confusion stems from the police department's
8 interpretation of the section, and that is Exhibit B to
9 the complaint that was read earlier that the police
10 department has its own idea in Los Angeles what this
11 ordinance means.

12 The police department believes that it
13 prohibits all signs on all public property and
14 apparently as well some trees and other types of objects
15 off of public property and on private property.

16 QUESTION: I suppose on its face it does not
17 cover all public property, does it, such as parks and
18 other areas?

19 MR. CANTERBURY: That is correct, Your Honor.
20 I think that is one of the deficiencies in a sense in the
21 ordinance, that is, that it is underinclusive.

22 Los Angeles argues that the purpose of this
23 ordinance is to protect the City's environment. If that
24 were the case one would suspect that objects that were --

25 QUESTION: Well, I thought it argued it had

1 safety goals as well.

2 MR. CANTERBURY: That is true, Your Honor. In
3 fact I think that a reading of the Code leads one to
4 suspect that that is the sole purpose that was in the
5 mind of the legislature when it passed that ordinance
6 because the objects that are listed are fire hydrants,
7 traffic directional signals and the like, objects that
8 no one is entitled to post political signs on.

9 QUESTION: What would you say about an
10 ordinance that required a person to get a license before
11 they put up any signs and the deposit of cash or a bond
12 equivalent to \$1 for every sign they put up to provide
13 the cost of taking them down.

14 MR. CANTERBURY: Mr. Chief Justice, I think
15 that would be an impermissible restraint on the exercise
16 of this type of political expression. I believe that
17 some monitoring and perhaps even a reasonable permit
18 system might in some situations be permissible. A
19 dollar a sign would be awfully expensive to conduct --

20 QUESTION: Well, suppose we make it ten cents
21 a sign then. Is it the amount that you are concerned
22 with?

23 MR. CANTERBURY: It is the amount and it is
24 the fact that the candidates running for nation-wide
25 office or even state-wide office would have to go into

1 each town, determine what the particular permit
2 requirements were, learn those, apply them and post
3 their signs after they posted their bonds.

4 QUESTION: Who is supposed to bear the expense
5 of taking them down?

6 MR. CANTERBURY: The candidates should bear
7 that expense.

8 QUESTION: Well, would that not be a
9 reasonable way to make the candidate bear the expense,
10 ten cents a sign to remove?

11 MR. CANTERBURY: I suggest it would not, Your
12 Honor, because there is no --

13 QUESTION: All right. Reduce it to one cent a
14 sign.

15 MR. CANTERBURY: The principle I think, Your
16 Honor, is that the candidate or the persons responsible
17 for posting the signs should be made to take the signs
18 down after the election and if they do not then a
19 penalty may be imposed at that time.

20 QUESTION: Then proceed against them
21 criminally?

22 MR. CANTERBURY: At that time that would be
23 appropriate.

24 QUESTION: Mr. Canterbury, supposing in the
25 Chief Justice's hypothesis that the cities had a

1 criminal statute and they just cannot get convictions
2 under it. It is hard to locate the candidates after the
3 elections so they decide to go with the Chief Justice's
4 suggestion and they can prove in court that this one
5 cent or ten cents that they require is actually the cost
6 to the city of having people come around after the
7 election and take down candidates' sign that the
8 candidates themselves forget about and do not take
9 down.

10 Do you still say the city cannot do that?

11 MR. CANTERBURY: I believe that that would
12 bear some scrutiny, Your Honor, for this reason that
13 under that situation posited you would essentially have
14 law abiding candidates who took down their signs after
15 the election paying for the misfeasance of those who do
16 not. I do think that an assessment might be appropriate
17 in some cases, a reasonable assessment, for the
18 administration of the program itself, the sign program.

19 If there is a permit or some monitoring to
20 take place presumably that will be of some cost to the
21 city.

22 QUESTION: Well, would you put as part of the
23 administration cost the cost to the city of taking the
24 signs down?

25 MR. CANTERBURY: I would prefer that it not

1 be. Again, for the reason I mentioned before I do not
2 think that would be appropriate. In Baldwin v. Redwood
3 City, a 1976 case decided by the Ninth Circuit, the
4 Ninth Circuit did comment that reasonable fees and
5 assessments might be permissible if the city can show
6 that they reasonably relate to the administration of the
7 sign program.

8 QUESTION: Mr. Canterbury, may I ask a
9 question about the nature of the right that you claim
10 exists? Assume there were no ordinance at all here
11 first of all and you wanted to put up the sign that is
12 shown on Exhibit V on page 136 that says "Yes on
13 Proposition 10" and say someone opposed to Proposition
14 10 came along and just removed the sign because they
15 were opposed to it and substituted a "no" on Proposition
16 10. Would you have any right to complain about that?

17 MR. CANTERBURY: I could not complain to the
18 City about that.

19 QUESTION: Could you complain to him?

20 MR. CANTERBURY: Yes.

21 QUESTION: He preserved your sign. He did not
22 damage it. He folded it up neatly and put it in a
23 plastic case so it did not hurt it.

24 MR. CANTERBURY: Well, he has destroyed it for
25 our purposes, Your Honor.

1 QUESTION: He has assumed the same right that
2 you -- Is it the first one that gets there has a right
3 to stay there forever? How long do you have the right
4 to keep that sign up?

5 MR. CANTERBURY: You have a right to keep the
6 sign up until the election has passed and the sign has
7 served the purpose.

8 QUESTION: The first one getting there in
9 effect acquires an easement in the premises?

10 MR. CANTERBURY: I would not go so far as to
11 use the term "easement" but I do believe that for the
12 same reason that --

13 QUESTION: Well, supposing the person who got
14 their first wanted to permanently advertise the sale of
15 his home or something like that or permanent garage
16 sale, he put a sign up there and said I want to leave it
17 there until I sell everything in the house.

18 MR. CANTERBURY: Of course, that would be a
19 form of commercial speech which would not be --

20 QUESTION: Is that not protected, too?

21 MR. CANTERBURY: It may be protected but not
22 to the same degree that political speech is.

23 QUESTION: This ordinance does not
24 discriminate between the two.

25 MR. CANTERBURY: This ordinance does not. It

1 might well, but it does not.

2 QUESTION: In other words, you think that
3 there is a right -- Supposing early in a primary say now
4 if a democratic candidate wanted to put a sign up there
5 and leave it up there for ten months, would he have the
6 right to keep it there for the entire period of the
7 election?

8 MR. CANTEPBURY: I think the general rule
9 would be that he would have a right to -- I think that
10 the candidate must make that decision ahead of time,
11 yes.

12 QUESTION: The first one to get there has a
13 constitutional right to keep it there?

14 MR. CANTERBURY: He has a constitutional right
15 to use the property, yes. I think he has a private
16 right not to have his property destroyed.

17 QUESTION: Supposing the utility company which
18 owned the pole said we do not want the sign there.
19 Could it have taken it down? Say there is no ordinance
20 at all just all property law concepts involved.

21 MR. CANTERBURY: In that situation I think
22 not, Your Honor. I believe that public utilities are
23 able to erect poles for the public benefit under the
24 public charter and they are for our purposes public
25 utility poles.

1 Los Angeles apparently takes the same
2 position.

3 QUESTION: Do you think that our cases would
4 support the notion that a public utility is subject to
5 the same obligation that you contend a city is by way of
6 allowing signs to be posted on its property?

7 MR. CANTERBURY: Your Honor, I think that
8 Marsh v. Alabama does support that proposition
9 especially if it is found in any particular town that
10 the utility poles are universally owned.

11 QUESTION: Well, there is a lot of water that
12 has flowed under the damns since Marsh v. Alabama so far
13 as our decisions are concerned.

14 MR. CANTERBURY: In the shopping center cases
15 that is true, Your Honor, but I believe that the
16 foundational underpinnings of Marsh would apply in the
17 situation --

18 QUESTION: Well, if you are right why could
19 the candidate after he is elected looking forward to his
20 next election not just change his sign that he had up
21 during the campaign and say John Jones is doing a good
22 job by the city council and just leave it up all the
23 time just so that the people will keep his name in their
24 minds?

25 MR. CANTERBURY: Well, I think that he could;

1 however, he risks --

2 QUESTION: I know but could the city take it
3 down consistent with your views?

4 MR. CANTERBURY: No, Your Honor, the city
5 could not unless that sign became tattered and worn or
6 became a threat.

7 QUESTION: No, he keeps it fresh because he
8 wants the public to respect him so he keeps the sign
9 fresh.

10 MR. CANTERBURY: I have to answer that I
11 believe that he would be entitled to do that.

12 QUESTION: So by getting there first he can
13 permanently occupy that particular place on the cross
14 bar?

15 MR. CANTERBURY: No, Your Honor, perhaps that
16 is the answer to this question. I only argue that
17 temporary political signs should be given access to
18 public property.

19 Once a sign is placed for so long as to be
20 characterized as permanent, that I believe is a
21 different matter because that is --

22 QUESTION: How long would that be? How long
23 would it be to be characterized as permanent?

24 MR. CANTERBURY: I cannot give an arbitrary
25 time period.

1 QUESTION: Well, if someone wants to get
2 reelected for the rest of his life and he wants --

3 MR. CANTERBURY: It is almost assured, Your
4 Honor, that if he keeps the signs up he will never be
5 elected. Our point here is that political signs are to
6 a great degree self-regulated.

7 Candidates post elections to win elections --
8 post signs to win elections, not to lose them. The
9 candidate who has that in mind in a limited campaign
10 budget as most candidates do will put his sign up during
11 the times that will do him the most good and that is the
12 weeks before the election.

13 QUESTION: Could the signs be illuminated
14 without violating any constitutional right?

15 MR. CANTERBURY: We do not contend that we
16 would have any right to illuminate the signs if the
17 illumination would involve running wires up the poles.
18 Again, that would look more like a permanent sign but
19 more importantly would very likely interfere with the
20 primary use of the utility pole.

21 QUESTION: I am thinking, for example, of the
22 type of signs that you sometimes see on highways that
23 are illuminated when light hits them, have reflector
24 lights so that people can read them at night as well as
25 in the daytime. I am just wondering whether there are

1 any limitations on the type of signs that could be put
2 up.

3 You say there is self-regulation. I think
4 there is a good deal to that, but apart from that you
5 have some eccentric candidate who could put any type of
6 sign up I take it under your argument.

7 MR. CANTERBURY: Well, Your Honor, again I
8 think that the answer lies in whether the sign
9 constitutes any hazard to the public, interferes with
10 traffic and the like. It cannot I contend be pulled
11 down because the city does not find it attractive.

12 QUESTION: I think the Court of Appeals
13 suggested some limitation in size. Would you accept
14 that?

15 MR. CANTERBURY: Yes, I would, Your Honor.

16 QUESTION: While we are talking about the
17 courts' decisions, there has been a good deal of
18 discussion as to whether this ordinance covers private
19 property. Did I misread the decisions below? Both of
20 them have treated the ordinance 28.04 as relating only
21 to public property.

22 MR. CANTERBURY: That has been the assumption
23 in this case from the very start.

24 QUESTION: The opinions express this also.

25 MR. CANTERBURY: Yes, Your Honor.

1 QUESTION: The first paragraph of Judge
2 Nelson's opinion as to 28.04 relating to public property
3 and on page 18A paragraph 18 of the trial court's
4 findings of fact one of the other means available was
5 stated to be the posting of signs on private property.
6 I think you have already agreed that the case was tried
7 on the basis that this ordinance was limited to public
8 property.

9 MR. CANTEPBURY: I believe that is the case.

10 QUESTION: Yet in your brief, Mr. Canterbury,
11 you rely on the policy statement of the police
12 department. You quoted. The quote is, "Los Angeles
13 Municipal Code prohibits the unauthorized painting or
14 posting of any handbill of sign upon public or private
15 property." You rely on that apparently.

16 MR. CANTERBURY: Your Honor, the reason that
17 that was quote was to illustrate that the police
18 department considers 28.04 to ban all signs on public
19 property. That was the reason for our --

20 QUESTION: That might be but it says more than
21 that, posting of any handbill or sign upon public or
22 private property.

23 MR. CANTERBURY: Your Honor, that is the case
24 and the ordinance might be more offensive than I thought
25 it to be until today.

1 QUESTION: I take it the only thing you are
2 concerned about at all in the ordinance is the
3 restriction on the use of power lines and specifically
4 the cross arms.

5 MR. CANTERBURY: Your Honor, that is the type
6 of property that my clients have traditionally posted
7 these signs on, and when they undertook this --

8 QUESTION: But I thought you agreed or said
9 anyway that you agreed that no one had a right to post
10 any kind of a sign on a fire hydrant and some of the
11 other items listed here.

12 MR. CANTERBURY: I do agree, Your Honor, but
13 the complaint alleges that my client posts signs over
14 the cross bar in the way that is depicted at page 137 --

15 QUESTION: How about the utility poles
16 themselves?

17 MR. CANTERBURY: No, Your Honor, we do not
18 contend --

19 QUESTION: We do not do that but others do.

20 MR. CANTERBURY: Others do.

21 QUESTION: It sounds dirty.

22 MR. CANTERBURY: An ordinance prohibiting that
23 --

24 QUESTION: The candidates who do not want to
25 get elected.

1 MR. CANTERBURY: That is right.

2 In fact, Your Honor, the record shows that
3 most of the signs posted in that way are not signs at
4 all. All they are are 8 x 11 flyers that are glued or
5 tacked or stapled onto the vertical shaft of the pole
6 itself.

7 Our signs by contrast were actually designed
8 by Mr. Daily of COGS, one of the Plaintiffs in this
9 case, as an alternative to that kind of an abusive
10 posting, and the sign as depicted at page 137 of the
11 record shows how the sign can be placed on the public
12 property --

13 QUESTION: But your submission here is I take
14 it that that prohibition of signs or posters on utility
15 poles is also unconstitutional.

16 MR. CANTERBURY: No, Your Honor. Our argument
17 here is that --

18 QUESTION: You mean if the ordinance just
19 related to utility poles you would not be here?

20 MR. CANTERBURY: We --

21 QUESTION: You would think that ordinance was
22 constitutional?

23 MR. CANTERBURY: In fact, I think --

24 QUESTION: Which it probably would be.

25 MR. CANTERBURY: Yes. The reason is this.

1 The district court found that signs posted on the
2 vertical shaft of the pole itself created a danger to
3 repairmen because in climbing the pole they may slip on
4 a sign posted on that pole and again the reason that our
5 signs are posted on the cross arms is to avoid that
6 problem.

7 We asked in Interrogatory number 11 which is
8 part of the record in this case whether signs of the
9 type posted by my client created what are described as
10 the overhead problems by the police department and city
11 maintenance folks, and they admitted in that answer that
12 in fact our signs do not constitute that type of a
13 hazard.

14 QUESTION: So I take it you would be satisfied
15 then if the Court agreed with you that the ordinance
16 would be applied to the cross bars but was perfectly
17 constitutional as applied to any other public property?

18 MR. CANTERBURY: No, I think that again would
19 be too broad. Of course, the Court will if it decides
20 to affirm the Ninth Circuit's decision in this case will
21 go back and Los Angeles will have an opportunity to
22 follow the guidelines set down by the Ninth Circuit and
23 regulate signs according to size or placement.

24 I believe that signs can be severely limited
25 and aesthetically sensitive --

1 QUESTION: But you can make them so small that
2 nobody could read them.

3 MR. CANTERBURY: Well, that would be -- We
4 have a right to post --

5 QUESTION: No, but as soon as they become
6 large enough to read from any distance -- You cannot
7 have it both ways.

8 MR. CANTERBURY: Again, the question is one of
9 reasonableness. The size -- We should be able to post
10 signs of sufficient size so that the name of the
11 candidate and the office he is running for which is the
12 theme of these campaign signs can be clearly read.

13 QUESTION: I asked your friend who was not
14 sure, but I will ask you. In any election in recent
15 times that you are aware of what was the maximum number
16 of candidates who were appealing to the voters in Los
17 Angeles?

18 MR. CANTERBURY: I have no idea, Your Honor.

19 QUESTION: Ten candidates? A hundred
20 candidates?

21 MR. CANTERBURY: I simply do not know. There
22 are many elections, local elections in Los Angeles and
23 other cities that --

24 QUESTION: Do you have written ballots or
25 voting machines out there?

1 MR. CANTERBURY: We have voting machines.
2 QUESTION: You are from San Francisco any
3 way?
4 MR. CANTERBURY: Yes, I am, Your Honor.
5 Incidentally San Francisco allows signs on
6 public utility poles and --
7 QUESTION: Are you not taking a risk, a San
8 Francisco lawyer going to litigate in Los Angeles?
9 (Laughter)
10 MR. CANTERBURY: Well, the district court
11 apparently came to that conclusion.
12 QUESTION: Yes, you lost. But another Los
13 Angeles person bailed you out.
14 QUESTION: No one seriously questions that if
15 a city wants to permit these things there is no barrier
16 to their permitting them. The only question before the
17 Court is whether there is a constitutional right of a
18 candidate or even of a commercial enterprise to post
19 signs on public property.
20 MR. CANTERBURY: Yes, Your Honor.
21 I am not sure that I understand the question,
22 however.
23 QUESTION: Well, if you can do it, so can
24 everybody.
25 MR. CANTERBURY: Oh, absolutely. Anyone

1 running for public office.

2 QUESTION: Your position is that that clutter,
3 that impact on the environment is something the city has
4 no right to control?

5 MR. CANTERBURY: First of all, I would not
6 characterize it myself as clutter, but assuming that
7 that is the way we wish to characterize it --

8 QUESTION: I am just looking at the picture
9 that you put in the record.

10 MR. CANTERBURY: Yes, Your Honor. Actually
11 those pictures in large part were put in by Los
12 Angeles. In going back to the record the picture
13 depicted at page 137 I think illustrates our point very
14 vividly.

15 Depicted in the foreground is a temporary
16 political sign. I do not think that the photographer
17 intended to illustrate this point, but in the background
18 there is a virtual montage of permanent signs that are
19 much more offensive and much more a clutter than the
20 temporary political sign in the foreground.

21 These signs, billboards, laundromat signs,
22 fast food signs are located not -- They are not attached
23 to public property but they all are placed over public
24 property and certainly within public view.

25 QUESTION: Of course, the City's power to

1 regulate the right of a person or property owner to put
2 a sign on his own property may be a good deal more
3 limited than the City's right to regulate the right of
4 others to put signs on property owned by the City. Do
5 you not agree with that?

6 MR. CANTERBURY: It is our position that the
7 opposite is true that Los Angeles may very well be able
8 to pass a comprehensive plan to address the visual
9 pollution problem in Los Angeles and take into
10 consideration the visual impact of signs on private
11 property and public property. It has not done so and
12 nothing in this case suggests it has.

13 QUESTION: You are saying the City is freer to
14 or has more latitude in telling me if I own a Tastee
15 Freeze along the street that I cannot put up a sign on
16 the building that says Tastee Freeze. You say that very
17 likely it can do that, but that it cannot tell someone
18 from 50 miles away that he cannot put a sign up on a
19 city owned utility pole.

20 MR. CANTERBURY: That is our position, Your
21 Honor.

22 QUESTION: Could the City of Los Angeles
23 prevent you from putting one of these signs in the
24 public square?

25 MR. CANTERBURY: In the public square?

1 QUESTION: Yes.

2 MR. CANTERBURY: It would depend on the public
3 square. If the public square were not a park or an
4 aesthetically sensitive --

5 QUESTION: Do you not know what a public
6 square is?

7 MR. CANTERBURY: I am trying to conjure one in
8 Los Angeles.

9 (Laughter)

10 QUESTION: You are trying not to answer the
11 question. You pick what you think is a public square in
12 Los Angeles.

13 MR. CANTERBURY: Your Honor --

14 QUESTION: My question is can you bar public
15 signs in that square that you pick?

16 MR. CANTERBURY: The answer depends on whether
17 that square or park is aesthetically so sensitive that
18 its character would be destroyed by the placement of
19 signs on or around it. If the character would not be
20 impaired then I think that we have the right to post a
21 sign on or near that public square.

22 QUESTION: You use two quite different tests.
23 You first said would it be destroyed and secondly you
24 said would it be impaired. Which is the test you
25 recommend?

1 MR. CANTERBURY: If the character is
2 substantially impaired.

3 QUESTION: Substantially impaired.

4 QUESTION: That is a third one.

5 MR. CANTERBURY: I had more time to think
6 about that, Your Honor.

7 QUESTION: How about the public square in
8 front of the court house?

9 MR. CANTERBURY: I think that would be
10 permissible, Your Honor.

11 QUESTION: What?

12 MR. CANTERBURY: That would be permissible. I
13 do not think a sign could be posted. --

14 QUESTION: You can put up a sign in the public
15 square of the court house of every candidate who is
16 running for office assuming you have that much room?

17 MR. CANTERBURY: I do not believe any sign can
18 be placed on the court house or on the steps even for a
19 period of 24 or 48 hours, but if there are public
20 utility poles that line the street in front of the court
21 house and for the same reason that this Court decided in
22 Grace that persons can walk around the court house --

23 QUESTION: I am saying that could they pass a
24 law saying no signs in the public square in front of the
25 court house without the City's permission? Is that a

1 constitutional ordinance?

2 MR. CANTERBURY: I suspect it would not be,
3 Your Honor, because I do not believe that signs would
4 substantially impair the character of the place.

5 QUESTION: You mean you can put up any sign in
6 front of the court house you want to put up?

7 MR. CANTERBURY: Not any sign, no. The thrust
8 of our argument is that reasonable regulation is quite
9 appropriate.

10 QUESTION: So the aesthetic values of the city
11 are to be determined by each individual?

12 MR. CANTERBURY: No, Your Honor. Again, I
13 believe that reasonable regulations are appropriate.

14 QUESTION: The city has a hearing and they
15 decided that multiple signs of multiple colors involving
16 multiple problems would destroy the aesthetic value of
17 not of the whole city at least of the court house lawn
18 that that would be unconstitutional.

19 MR. CANTERBURY: I do not take that position
20 absolutely, Your Honor. If the city had made such
21 findings it may very well be within its right to do
22 that.

23 There is no evidence of such findings in this
24 case.

25 QUESTION: Let us go back to the priority

1 matter that Justice White mentioned earlier. Suppose
2 one enterprising candidate with considerable cash goes
3 out very early with a crew of people and he covers every
4 pole of every utility all of the places that are
5 involved here, all the cross wires, all the space with
6 his own name "vote for". There is no room for anybody
7 else.

8 MR. CANTERBURY: I believe the city can
9 regulate against that type of abuse.

10 QUESTION: Now the city deals with this when
11 it happens. How do they deal with it when it happens?
12 You mean they have to draw an ordinance in advance that
13 recites standards that would enable the police to deal
14 with that particular problem?

15 MR. CANTERBURY: I think it should, yes. In
16 San Francisco, for example, the ordinance reads that
17 only one sign for any one candidate can be posted on a
18 public utility pole. That is the answer I believe to
19 that question.

20 QUESTION: Mr. Canterbury, I take it you
21 really are not defending the judgment of the Court of
22 Appeals except insofar as it applies to the places you
23 want to put signs on.

24 MR. CANTERBURY: I hope I am defending the --

25 QUESTION: Did they declare this statute

1 unconstitutional on its face?

2 MR. CANTERBURY: Yes, they did.

3 QUESTION: I thought you were suggesting it is
4 only unconstitutional as applied to these cross bars.

5 MR. CANTERBURY: No, Your Honor. I take both
6 positions, that it is unconstitutional as an overbroad
7 restraint because it prohibits the placement of signs on
8 the objects listed which include the wires --

9 QUESTION: That is not overbreadth. You can
10 object to that directly. Are you saying it is
11 unconstitutional on its face because it also regulates
12 some other property or what?

13 MR. CANTERBURY: No, Your Honor. Our basic
14 position is that as interpreted by Los Angeles --

15 QUESTION: I thought you agreed -- Do you
16 think the Court of Appeals would not allow the ordinance
17 if it applied only to the utility poles would it? You
18 say I thought that a utility pole ordinance would be
19 quite constitutional.

20 MR. CANTERBURY: No, again the distinction is
21 whether the sign is allowed to be placed on the cross
22 bar out of harm's way or whether the ordinance prohibits
23 the posting of signs on the pole itself. If the
24 ordinance did --

25 QUESTION: You do not think any of your

1 submission today is inconsistent with the Court of
2 Appeals?

3 MR. CANTERBURY: I do not believe it is, Your
4 Honor, no.

5 QUESTION: Okay.

6 MR. CANTERBURY: If it is I do not see it.

7 CHIEF JUSTICE BURGER: Very well.

8 Do you have anything further, Mr. Alperin?

9 ORAL ARGUMENT OF ANTHONY SAUL ALPERIN, ESQ.,
10 ON BEHALF OF THE APPELLANTS -- REBUTTAL

11 MR. ALPERIN: Mr. Chief Justice, and may it
12 please the Court:

13 We do have some comments in rebuttal. First
14 of all, with regard to the Chief Justice's question of
15 the number of candidates although I do not know the
16 precise number even a guess on the number of candidates
17 who ran at the time Mr. Vincent ran we can tell the
18 Court that it has been our experience that normally for
19 all of the offices we do have several dozen candidates.
20 I do remember back --

21 QUESTION: How many?

22 MR. ALPERIN: Several dozen.

23 QUESTION: Several dozen.

24 MR. ALPERIN: It may be anywhere from 18 up to
25 a larger number. In 1969 for the first time candidates

1 ran for seven districts of a community college board.

2 There were more than 100 candidates who ran
3 for those positions so that there can very well be quite
4 a large number of candidates running in city elections.
5 We also need to understand that in the even numbered
6 years candidates are running for county office, state
7 legislative office, state-wide office, congressional
8 office and for president and vice president.

9 We know that in a city as large as Los Angeles
10 there quite a number of legislative districts. There
11 are quite a number of candidates who are running. This
12 is not just a phenomenon that creeps up every time we
13 have a city election.

14 It also is a phenomenon that we have every
15 time we have a state-wide or national election, and it
16 is a phenomenon that we have all of the time because not
17 only do we have candidates we have people with other
18 views and we have people with commercial messages.
19 Indeed, these signs are not self-regulating as we know
20 because there are indeed so many of them.

21 Indeed because there are so many of them and
22 because the city is so large and spread out and there
23 are so many roadways and objects on which these signs
24 can be attached there is really no way in which the city
25 can reasonably and effectively regulate any other way.

1 If we found that there are -- Let's say that the City
2 was to say that you could have one sign on every three
3 poles.

4 The City does not believe that is reasonable
5 for one reason at least because what if the City finds
6 three signs on one pole. How in the world is the City
7 going to know which sign was there first and, therefore,
8 which two signs the City could remove?

9 Is the City required to hold a hearing as to
10 thousands of poles where it finds more than one sign on
11 those poles in order to determine which sign was
12 entitled to be there? Certainly that cannot be the
13 case.

14 Certainly any other regulation would be
15 unreasonable, unworkable, unpoliceable, would impose
16 terrific and expensive administrative burdens on the
17 City. The Court should well recognize that in this area
18 the City of Los Angeles is not like the City of San
19 Francisco that the City of Los Angeles believes that it
20 needs different regulations because of conditions that
21 are specific to the City of Los Angeles which is
22 certainly much larger and much more populous and much
23 different from the City of San Francisco that the City
24 of Los Angeles ought to be entitled to pick those means
25 which it believes will best solve its problems.

1 As long as the City is not limiting speech so
2 that there are no alternative channels of communication
3 and so long as it is not saying to one candidate I will
4 let you put up your signs and to another candidate I
5 will not let you put up your sign, if it is not doing
6 that then the City ought to be entitled to enforce, to
7 enact and keep and enforce this regulation especially
8 because those objects which the City prohibits signs on
9 are not a public forum.

10 This Court ought to reverse the decision of
11 the Ninth Circuit which found the ordinance
12 unconstitutional on its face and granted summary
13 judgment on the constitutional issue to the Plaintiffs.
14 For the reasons that we cited in our briefs and the
15 arguments today, the City submits that its ordinance is
16 unconstitutional and urges this Court to reverse the
17 decision of the Ninth Circuit.

18 Thank you.

19 CHIEF JUSTICE BURGER: Thank you, gentlemen.

20 The case is submitted.

21 (Whereupon, at 2:00 p.m., the case in the
22 above-entitled matter was submitted.)

23

24

25

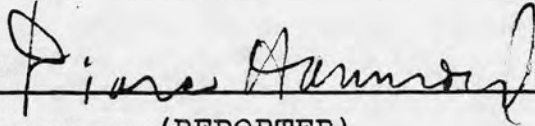
CERTIFICATION

Alderson Reporting Company, Inc., hereby certifies that the attached pages represent an accurate transcription of electronic sound recording of the oral argument before the Supreme Court of the United States in the Matter of:

MEMBERS-OF THE CITY COUNCIL OF THE CITY OF LOS ANGELES, ET AL.,
APPELLANTS V. TAXPAYERS FOR VINCENT, ETC., ET AL. # 82-975

and that these attached pages constitute the original transcript of the proceedings for the records of the court.

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