

MINUTES

MONTANA SENATE  
52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Dick Pinsoneault, on March 27, 1991, at 10:05 a.m.

ROLL CALL

**Members Present:**

Dick Pinsoneault, Chairman (D)  
Bill Yellowtail, Vice Chairman (D)  
Robert Brown (R)  
Bruce Crippen (R)  
Steve Doherty (D)  
Lorents Grosfield (R)  
Mike Halligan (D)  
John Harp (R)  
Joseph Mazurek (D)  
David Rye (R)  
Paul Svrcek (D)  
Thomas Towe (D)

**Members Excused:** none

**Staff Present:** Valencia Lane (Legislative Council).

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Announcements/Discussion:** Chairman Pinsoneault asked Committee members to get any amendments to Valencia Lane by Thursday, March 28, 1991, for executive action on Monday and Tuesday, April 1 and 2, 1991.

HEARING ON HOUSE BILL 942

Presentation and Opening Statement by Sponsor:

Representative Gary Beck, District 48, said the bill was drafted for use by the military, but can also be of value to low income people. He explained that such a form would have been useful during the period of Operation Desert Shield/Storm when people were being called to serve.

Representative Beck explained that this was taken from the Uniform Statutory Power of Attorney (1988), and creates a short-form power of attorney, as specified in Section 1 of the bill. He said the short form was adopted from Minnesota law, and was successfully used by the Minnesota National Guard during Operation Desert Shield (Exhibits #1 and #2).

Representative Beck further explained that the bill requires review of the form. He read a letter from Captain William F. Bollinger, Judge Advocate General Officer, Camp Ripley, Minnesota, who said this is a quick and efficient way to have a power of attorney at no cost to the state. Representative Beck commented that anyone can print this form.

Proponents' Testimony:

Brigadier General Charles R. Adams, 163rd Armored Brigade of Montana, advised the Committee that he was inundated with requests from soldiers for legal assistance during Operation Desert Storm/Shield. He said that although Montana was not activated, the Middle East War stimulated people to get their legal affairs in order, but there were problems with response time. General Adams said this form allows for more timely assistance, and doesn't cost people money.

Opponents' Testimony:

There were no opponents of HB 942.

Questions From Committee Members:

Chairman Pinsoneault asked if this form is to be used only in the event of mobilization, and if it would be limited to use by military personnel. General Adams replied the form can be used any time, and is not limited to military personnel.

Chairman Pinsoneault commented that soldiers should initial alongside each check they make to validate it. General Adams said JAG officers would explain use of the form to soldiers, and that it is standard procedure to initial where marks are made on forms.

Chairman Pinsoneault asked if there were any objection to altering the form to accommodate initials. General Adams replied he had no objection, as long as the remainder of the form is not altered.

Senator Towe asked why the current power of attorney is not adequate. General Adams replied that the current form takes too long to complete, and doesn't allow people to be selective.

Senator Towe asked if current statute is not broad enough to cover the proposed form. General Adams replied that the proposed short-form would speed-up the process.

Senator Towe asked if this form isn't legal under present law. General Adams replied he is a tactician, and not a lawyer.

Senator Towe asked if this bill were suggesting that a standard power of attorney would not do, as it does not survive death. Representative Beck replied he was not up on the legalities

of this issue. He introduced Captain C.J. Lassila, attorney, Army Reserve National Guard, who is also employed by the State Auditor.

Senator Towe asked if HB 942 is intended to expand a normal power of attorney. Captain Lassila replied it is not.

Senator Towe asked if this form isn't already legal. Captain Lassila replied it is being put into statutory form to allow readiness, i.e., already accepted under state law for use by military and the general populace.

Senator Mazurek asked how the process of mobilization is viewed, and who is going to explain the breadth of authority in a power of attorney to these people. Captain Lassila replied this would be done via centralized briefings, and that there are several JAG officers available to provide assistance. She said the proposed short-form power of attorney is more specific.

Senator Mazurek commented that the form doesn't provide the ability to limit power of attorney to specific areas. He asked if the Department of Military Affairs would object to limiting use of the form to military personnel in the event of mobilization. Captain Lassila replied that would meet the Department's goal. She said they frequently find that people don't want to use a general power of attorney.

Chairman Pinsonneault asked if use of the short-form power of attorney could be limited only to active-duty personnel. Captain Lassila replied that goes outside the scope of reservists, and that there is an on-going need for this document.

Chairman Pinsonneault asked if it could be limited to reservists. Captain Lassila replied the form would still have a significant amount of usefulness.

Closing by Sponsor:

Representative Beck commented that reservists must have their legal affairs in order, and said the State form is quite broad. He told the Committee he believes the short-form is simple and easy to understand, and that initialing marks is a good idea. Representative Beck stated the bill will be a great asset to the legal preparedness of the Montana National Guard and Reserves, and thanked the Committee for the hearing.

HEARING ON HOUSE BILL 501

Presentation and Opening Statement by Sponsor:

Representative Ted Schye, District 18, said SB 327, sponsored by Senator Nobel, also deals with shoplifting, and is now in a Conference Committee. He explained that most of what is in SB 327 is addressed in HB 501.

**Proponents' Testimony:**

Charles Brookes, Montana Retail Association, stated his support of the bill, particularly the recovery portion. He encouraged the Committee to "fold the good parts of HB 501 and SB 327, if necessary". Mr. Brookes stated that second and third offenses were tightened up, and also allow evidence to be photographed and retained so the merchandise can be sold.

**Opponents' Testimony:**

There were no opponents of the bill.

**Questions From Committee Members:**

There were no questions from the Committee.

**Closing by Sponsor:**

Representative Schye commented that if SB 327 can accomplish the purpose outlined in HB 501, there is no need to pass HB 501. He did ask the Committee to pass HB 501 if SB 327 dies.

**HEARING ON HOUSE BILL 887****Presentation and Opening Statement by Sponsor:**

Representative Tim Whalen, District 93, told the Committee that when a suit is filed, there is a period of time between filing and when a case goes to trial called discovery. He explained that this time is to be used for depositions, interrogatories, and requests for production, and that HB 887 addresses the problem of not having time to prepare cases because of unnecessary discovery.

Representative Whalen advised the Committee that he believes insurance attorneys spend a lot of time on discovery as they then make more money. He read from page 1, line 20 (rule 26(b) (ii) and (iii)), and said, "It is incumbent upon the person asking for relief which judges rarely grant". Representative Whalen stated that these rules came into effect in the early 1960s. He said HB 887 puts the responsibility on the person seeking additional discovery, if it can be justified with the court. He further explained that it forces the courts to face this issue.

Representative Whalen stated he is frustrated with prolonging the length of trials, and said it not only confuses juries, but costs a lot of money. He told the committee he believes this bill is critical, and that he would like to see something come out of the Legislature to benefit people other than lawyers.

**Proponents' Testimony:**

Martha Carlson, Billings attorney, advised the Committee that she generally does commercial litigation and bankruptcy, but took the case of a man who had worked for a company with assets of \$10 billion. She explained that the man was dismissed from the company because he had observed employees signing unauthorized checks, and had reported it. Ms. Carlson further explained that the man had two jobs, a wife on disability, and children to support. She said the deposition in this case went on for eight days at a cost of \$1500, and was then filed away with reams of paper. Ms. Carlson advised the Committee that she ended up with two full file drawers on the case at a cost of \$20,000, and that the case was eventually settled.

Ms. Carlson told the Committee that it would be a very long time before she would, again, take such a case. She said this man lost four years' wages, and that it is becoming routine for big corporations to make it nearly impossible to get attorneys to commit.

Randy Score, Great Falls attorney, told the Committee he represents claimants in workers' compensation and personal injury cases. He explained that he had an experience similar to that of Ms. Carlson last year. Mr. Score advised the Committee he agreed to represent a straightforward case, from a liability and damage standpoint, as the result of an accident which occurred in 1987. He said the case was finally set for trial in January 1990, and that there were six sets of questions on day one.

Mr. Score said he believes that attorneys who don't get protective orders will be facing motions from defense attorneys for interference. He further stated that discovery has been used, in the last few years, for other purposes by defense lawyers, such as intentional intimidation of clients. Mr. Score commented that 500 pages of transcripts can create a tremendous workload for the plaintiff. He said the present scheme doesn't work, and discourages people with smaller claims from going to lawyers. Mr. Score told the Committee that HB 887 is a step in the right direction.

**Opponents' Testimony:**

John Alke, Montana Defense Trial Lawyers, said he believes the bill is unnecessary, and that it is beyond the capability of the Legislature to enact this legislation into law. He explained that, when a plaintiff files, he or she doesn't have to say anything. Mr. Alke stated that a plaintiff can enter any evidence at a trial, so the only way to get this information is through discovery.

Mr. Alke told the Committee that HB 887 is unnecessary to enact, as the issue is addressed by the Montana Rules of Civil Procedure. He stated that it is common to travel out-of-state for depositions, and submitted that the reason for HB 887 is to abuse

discovery. Mr. Alke further stated that 95 percent of disputes in discovery are resolved between the attorneys, as it is very expensive to settle these matters in the courts. He said Article VII, Section 2, of the Montana Constitution, allows the Supreme Court to be responsible for enacting Rules of Civil Procedure. Mr. Alke explained that the Rules of Civil Procedure are nearly the same in very state, and asked that the bill do not pass.

Allen Chronister, State Bar of Montana, said he believes HB 887 is not the way to go about curtailing discovery. He cited Coat v. Omholt (1983), U.S. Supreme Court, and said the Legislature can veto a rule, but cannot enact a rule. Mr. Chronister stated that this issue has been before the federal system since 1981, and that, to date, it is still under consideration. He further stated that a significant step such as this needs a lot of input and debate over a period of time.

Allen Chronister commented that an attorney should have been before the court to stop an eight-day deposition, as it takes up more court and attorney time, and costs more money. He further stated that most depositions are one to two or maybe three to four hours, and that he believes only about five percent are over eight hours. He stated that, in out-of-town cases, several depositions are scheduled for one day, usually beginning about 3 p.m. and finishing by 10 p.m. He said that, in multi-party cases, this bill would allow very little time to hear witnesses and to protect a client. Mr. Chronister added that ten sets of 50 interrogatories could be submitted, and still be in compliance with this bill.

Randy Cox, President, Montana Defense Trial Lawyers, stated his opposition to HB 887.

Jacqueline Terrell, American Insurance Association, said she opposed the bill as it would make defense costs greater, resulting in increased premiums. She urged the Committee to not pass the bill.

**Questions From Committee Members:**

Chairman Pineseault commented that he discussed this matter with Dean Burke (University of Montana Law School). He said it was a tough decision for him to decide to leave the Navy after 20 years, and that it was even tougher for him to make the decision to sell his law firm. He said he didn't believe a sole practitioner could keep up with the bigger law firms.

Senator Towe asked John Alke if he agreed with Chairman Pineseault and Representative Whalen. Mr. Alke replied this is a problem that needs to be addressed, but it represents a small minority of cases and should be the responsibility of the courts.

Senator Towe stated there is not just a small minority of these cases. John Alke replied the only cases he has which go beyond several months, are extremely complicated.

Senator Towe asked Allen Chronister if there is a need to address this issue. Mr. Chronister replied that he has heard, anecdotally, that people are being abused. He stated that he works on both the plaintiff and defense side, doing more work on the defense side, and that the problems are about even on each side.

Senator Towe told Mr. Chronister his point, that it is up to the authority of the Supreme Court to enact rules, is well-taken. He said that even if this were nothing more than an advisory request, it would prompt the Supreme Court to do something. Allen Chronister replied that he talked to Justice Trewiler on March 26, 1991, and was advised that the Court is on the verge of doing something in this area.

Senator Towe commented that he believes people with very legitimate claims would get their cases done at a greatly reduced amount.

Senator Mazurek asked if the Trial Layers supported HB 887 in the House. Representative Whalen replied they didn't, and said he did not ask them to support the bill.

#### Closing by Sponsor:

Representative Whalen said he appreciated Chairman Pinsonneault's comments, and cited a situation in Billings where he lost a case. He said the defendant's attorney stated that a two-week deposition was not unusual, and volunteered to provide copies of this statement to the Committee.

Representative Whalen further stated that he believes this is a fight between attorneys representing people, and those representing corporations such as insurance companies and banks. He said the technical problems reported to be in the bill are not there, and that this bill only asks to adopt the statutes of Civil Procedure (Title 25, Chapter 20). Representative Whalen stated he had no problem with sunset legislation, and that this issue is not being addressed by the Supreme Court or an advisory committee.

#### HEARING ON HOUSE BILL 776

#### Presentation and Opening Statement by Sponsor:

Representative Ernest Bergsagel, District 17, said there is no clear procedure on selling items in storage in lieu of default on rent. He said the bill requires that the owner of the items stored be notified 30 days in advance of the sale of those items. Representative Bergsagel further stated that the bill requires publication in a newspaper prior to such sale.

#### Proponents' Testimony:

There were no proponents of the bill.

**Opponents' Testimony:**

There were no opponents of HB 776.

**Questions From Committee Members:**

Senator Mazurek asked if the person entitled to the proceeds of sale is the owner, on page 2, subsection (4). Representative Bergsagel replied it is.

Senator Mazurek asked what happens if the owner of the items stored cannot be located. Representative Bergsagel replied the proceeds would then become the property of the state.

Senator Mazurek stated that 30 days is fairly short, and said there is a requirement now to hold items for five years. Representative Bergsagel replied that property is not the issue, but failure to pay for space rental. He stated that payments are generally due in 30 days, and that this is legislation tries to collect past due payment. He further stated that the bill allows for sale 30 days after the date on which certified notice is sent.

Senator Towe commented that the bill does not say this. Representative Bergsagel replied that the intent was that the owner of the rental units would have the authority to establish delinquent periods, and to collect on past due accounts, 40 days from default.

Senator Towe stated that certified notice doesn't work to get to the owner of storage contents, and that there is a need to ensure personal notice. Representative Bergsagel replied he would not object to an amendment to this effect.

**Closing by Sponsor:**

Representative Bergsagel made no closing comments.

**HEARING ON HOUSE BILL 417****Presentation and Opening Statement by Sponsor:**

Representative Jim Elliott, District 51, provided an amendment to the bill (Exhibit #1). He said HB 417 is referred to as the Montana Anti-Terrorist Act, and is designed to prohibit paramilitary groups from contributing to civil disorder. Representative Elliott referred to the Church of Jesus Christ of Aryan Nations near Hayden Lake, Idaho, and said there were several bombings in Coeur d'Alene, Idaho, in response to citizens trying to stop this kind of terrorist activity.

Representative Elliott advised the Committee that, as a result of this situation, Idaho passed an anti-terrorist act, and these activities then ceased. He read a letter from a detective of the

Kootenai County Sheriff's Department in Idaho, and said he has spoken with members of Montana law enforcement concerning this issue.

Representative Elliott further stated that there is a need in Montana for this act, to deal not only with the Aryan Nations, but also with the Ku Klux Klan, based in Sanders County. He said the bill would also apply to the Church Universal and Triumphant in Park County, as one of its leaders was recently arrested on a federal weapons charge in Spokane, Washington.

Representative Elliott advised the Committee that enactment of this bill would help to prevent more hate groups from entering Montana. He said the Montana Rifle and Pistol Association, the ACLU, the Sheriffs and Peace Officers, the Confederated Salish and Kootenai Tribes, and the Attorney General all looked at this bill. He further stated that the House did strike some language, and that he was okay with it.

#### Proponents' Testimony:

Clyde Byerly, Vice President, Montana Rifle and Pistol Association, said he represents about 300 law-abiding competitive shooters and sportsmen. He stated he believes the bill sends a clear message to terrorist groups that Montana cannot and should not be their training grounds (Exhibit #2). He further stated that he believes lawful people are protected in their use of firearms.

Richard Parks, sporting goods store owner in Gardiner, told the Committee he holds a federal firearms license, and that he is present because the Church Universal and Triumphant made illegal purchases of firearms that are legal to own. He explained that some of these weapons were semi-automatic rifles which are capable of fully-automatic status.

Mr. Parks showed the Committee a cartridge for a 300 magnum rifle, and a Browning 50 caliber machine-gun round, and said they are both legal. He provided articles showing that military tanks were purchased by the Church Universal and Triumphant to equip a 200-man militia company (Exhibit #3).

David Brusoff, Montana Human Rights Network, stated his support of HB 417 as a tool for law enforcement, and as a strong message for hate groups in Montana.

Randy Skorlein, Legislative Liaison, Montana Weapons Collectors, said he supported the bill as amended, and told the Committee he is a Montana Hunter Safety Instructor and a National Rifle Association (NRA) Safety Instructor.

John Connor, Office of the Attorney General, and Montana County Attorneys, stated that his office is responsible for training prosecutors. He said that 45-5-221, MCA, dealing with malicious intimidation and harassment (passed in 1989), would

dovetail with HB 417. Mr. Connor told the Committee he believes it is important for Montana to publicly recognize and address these issues.

Diane Sands, Montana Womens Lobby, said she is concerned about the growth of hate crimes and harassment, and supports HB 417. She stated that there are Arian Nation people in Sanders County, and that people there are very much afraid.

Scott Chrichton, ACLU, advised the Committee that he offered a suggestion to Representative Elliott on how to discourage hate groups, and not interfere with the First Amendment. He said the ACLU opposes racism, and that federal action is not enough. He stated HB 417 helps to bolster this effort, as existing state law excludes sexual orientation and "gays" are especially vulnerable to hate crimes from homophobic criminals. Mr. Chrichton asked the Committee to amend the bill (Exhibit #4), and urged them to favorably consider HB 417.

Tom Harrison, Montana Sheriffs and Peace Officers, stated his support of the bill.

Gary Marbut, Multi-Machine Sports, and Director, Western Montana Fish and Game Association, stated that many of his concerns were allayed by Representative Elliott, and that he supports the motive in this bill. He said his Association is concerned with hate groups and the impact they have on law-abiding gun owners. Mr. Marbut said he knows HB 417 has been carefully crafted, and believes there is the potential for the "good guys" to be protected.

Mr. Marbut advised the Committee that Missoula used an 1889 quarantine issue to ban firing of weapons within five miles of the City. He said the shooting sports gather for competition; that the National Guard is exempt; that home guard may be exempt; but unorganized militias are not protected. He further stated he is concerned about the issue of prior restraint, exercising constitutional rights before an exercise takes place or anyone is hurt.

Mr. Marbut told the Committee that Chief Justice Hughes said, "Some degree of abuse is inseparable from the use of anything". He also cited Chief Justice Berger in Nebraska v. Simmons, who spoke on tests before using prior restraint, and said it may be that this legislation is necessary for Montana (Exhibit #5).

Greg Wicks, Big Sky Tactical Shooting Club, said he was also representing himself, and that he was both NRA and Montana-certified for hunter safety and firearms instruction. He said the Club engages in competitive shooting, and does abhor racism, but feels there may be room for misuse in the bill. He explained that it could be used against a legitimate formation of a citizens militia, and said he supported the bill with the amendments.

**Opponents' Testimony:**

There were no opponents of the bill.

**Questions From Committee Members:**

Senator Svrcek asked Representative Elliott to respond to Gary Marbut's statement that the bill would not allow formation of a militia. Representative Elliott replied he did not believe it would, and suggested that Senator Svrcek asked the attorneys on the Committee. Representative Elliott referred to Article II of the Montana Constitution, and said he tried to ensure that no one's legal or constitutional rights were violated by this legislation.

Senator Svrcek asked if he wanted specific exemption of organized and unorganized militia in the bill. Representative Elliott replied he believes the issue is sufficiently addressed in the bill.

Chairman Pinsoneault stated that page 3, lines 15-16 gives broad exception, and that if a group's intent is not to engage in civil disorder, there is no problem. Gary Marbut stated he was concerned with the interpretation of civil disorder and public disturbance, as firearms are included. He said he believes this is open to interpretation, and that he would be more comfortable if the definition had the word "unlawful" in it. Mr. Marbut further stated that the Constitution says every able-bodied person in the State can be called to the militia.

Senator Towe stated that if it is under the auspices of the State, it is a governmental militia. Gary Marbut replied that he was concerned with not having "unorganized" militia in the bill.

Senator Doherty asked who proposed striking language in Section 3 of the bill. Representative Elliott replied it is covered in 45-4-221, MCA.

**Closing by Sponsor:**

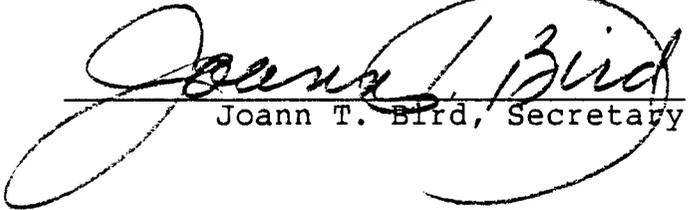
Representative Elliott stated that Gary Marbut is not speaking for the Montana Rifle and Pistol Association if the word "unorganized" is put in the bill, and that it would lead to groups calling themselves militias. He read from the statement of Dr. Thomas Berger, Great Falls, which was FAXed to the Committee this date (Exhibit #5).

ADJOURNMENT

Adjournment At: 12:15 p.m.



\_\_\_\_\_  
Senator Dick Pinsonneault, Chairman



\_\_\_\_\_  
Joann T. Bird, Secretary

DP/jtb

ROLL CALL

SENATE JUDICIARY COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date 27 Mar 91

NAME	PRESENT	ABSENT	EXCUSED
Sen. Pinsoneault	✓		
Sen. Yellowtail	✓		
Sen. Brown	✓		
Sen. Crippen	✓		
Sen. Doherty	✓		
Sen. Grosfield	✓		
Sen. Halligan	✓		
Sen. Harp	✓		
Sen. Mazurek	✓		
Sen. Rye	✓		
Sen. Svrcek	✓		
Sen. Towe	✓		

Each day attach to minutes.



MONTANA DEFENSE  
TRIAL LAWYERS, INC.

3-27-91  
HB  
887

36 S. LAST CHANCE GULCH, SUITE A □ HELENA, MT 59601 □ 406/443-1160 □ FAX 406/443-4614

March 25, 1991

Senator Dick Pinsoneault, Chairman  
Senate Judiciary Committee  
State Capitol Building  
Helena, MT 59620

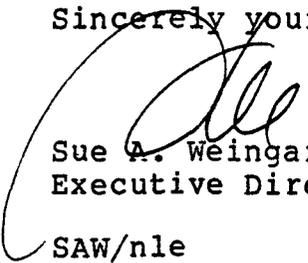
Dear Senator Pinsoneault:

Re: House Bill 887

I'm enclosing for your information comments prepared by our Association on House Bill 887 which is scheduled to be heard in the Senate Judiciary Committee on Wednesday, March 27. We will appear at the hearing and present testimony in opposition to the bill. This bill has not been supported by either the defense bar nor the plaintiff's bar and had no proponents when it was heard in the House Judiciary Committee. The bill passed second reading in the House on February 26 by a vote of 52 to 48.

If you would care to discuss this bill with either John Alke, lobbyist for MDTL, or myself, we will be available at your convenience.

Sincerely yours,

  
Sue A. Weingartner  
Executive Director

SAW/nle

cc: Randy Cox, President  
John Alke

Enclosure



5-21-71 2X, A 11588

# MONTANA DEFENSE TRIAL LAWYERS, INC.

36 S. LAST CHANCE GULCH, SUITE A □ HELENA, MT 59601 □ 406/443-1160 □ FAX 406/443-4614

## COMMENTS ON HOUSE BILL 887

This bill sets arbitrary limits on the discovery tools lawyers use to learn the facts in civil cases. The Montana Defense Trial Lawyers Association opposes this bill for four reasons:

1. Under Article VII, Section 2 of the Montana Constitution, the Montana Supreme Court has the power to deal with issues relating to the rules of procedure for civil cases, including the rules of discovery. Assuming, for the sake of argument, that there is a problem in this area, it is a matter that should be first addressed by the Montana Supreme Court, and not by the Legislature.

2. The limitations contained in this bill will create unnecessary time delays in complex cases. Under the bill, a judge will have to become involved anytime the limits are exceeded. This is certain to occur in complex cases, and will require an undue waste of time on the part of both the courts and the opposing attorneys. Limitations similar to those proposed in this bill have been debated in legal circles for years, but have not been widely accepted in other jurisdictions.

3. The arbitrary limits imposed by this bill are unnecessary. The proponents have presented no empirical evidence of discovery abuses. In addition, existing law provides adequate remedies for situations in which one side engages in excessive discovery. For example, Rule 26(b) of the Montana Rules of Civil Procedure presently provides:

The frequency or extent of use of ... discovery methods ... shall be limited by the court if it determines that:

(i) the discovery sought is unreasonably cumulative or duplicative, or is obtainable from some other source that is more convenient, less burdensome, or less expensive;

(ii) the party seeking discovery has had ample opportunity by discovery in the action to obtain the information sought; or

(iii) the discovery is unduly burdensome or expensive, taking into account the needs of the case, the amount in controversy, limitations on the parties' resources, and the importance of the issues at stake in the litigation.

4. Although this bill is being actively opposed by the Montana Defense Trial Lawyers Association, it should be noted that the Plaintiffs' Trial Lawyers Association has not taken a position in support of this bill.

Exhibits # 1 and 2 for HB 942 were not transmitted with the minutes.

EX 1  
HB 417  
27 Mar 91

PROPOSED AMENDMENT TO HB 417.

AMEND THE TITLE TO ADD:

"AND PROVIDING FOR CIVIL REMEDIES FOR SUCH ACTIVITIES"

AMEND THE BODY TO ADD:

NEW SECTION. Section 4. Civil action for deprivation of rights. Every person who subjects or causes to be subjected any person within the jurisdiction of the State of Montana to the deprivation of any rights, privileges, or immunities secured by the Constitution or laws of the State of Montana, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

NEW SECTION. Section 5. Conspiracy to interfere with civil rights. (1) Preventing officer from performing duties. If two or more persons in the jurisdiction of the State of Montana conspire to prevent by force, intimidation or threat, any person from accepting or holding any public or tribal office, trust, or place of confidence, or from discharging any duties thereof; or to induce by like means any officer of the State of Montana, local government, or of any Indian Tribe located therein, to leave any place where his duties as an officer are required to be performed, or to injure him in his person or property on account of his lawful discharge of the duties of his office, or while engaged in the lawful discharge thereof, or injure his property so as to molest, interrupt, hinder, or impede him in the discharge of his official duties; or

**Montana Rifle & Pistol  
Association**



**affiliated with  
National Rifle Association**

EX # 1  
HB 417  
27 Mar 91

Testimony of Clyde G. Eyerly

Subject: House Bill 417, An Act to prohibit activities designed to further civil disorder.

I wish to express support for the bill. I represent the Montana Rifle and Pistol Association, a membership organization of over 3000 law abiding competitive shooters and sportsmen.

With the recent spread of ethnic, racial and religious intolerance into the northwest United States, this bill is the State's attempt to prevent disorder that may be caused by individuals who may wish to limit the civil liberties of the citizens of the State. This State should not be a safe haven for paramilitary organizations who do not share our high regard for the principals of the Constitution. This bill sends a clear message to para-military groups which promote activities that infringe on the constitutional civil liberties of citizens of the State that these activities will not be tolerated in this State. This bill will prove effective in reinforcing the rule of law over the rule of force and violence. Paramilitary exercises that are conducted to train persons who are intent on causing injury to persons or property have no place in our State and should not be protected.

With the changes in wording proposed before this committee, our Association feels that the law abiding shooters and sportsmen will be sufficiently protected from any attempt to infringe on the lawful use of firearms for sporting and recreational purposes.

We urge your adoption of the bill in the interest of protecting our citizens from fringe groups that advocate violence as a means to their ends.

Exhibit #3  
3-27-91  
HB 417

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 27 day of March, 1991.

Name: Richard Parks

Address: Box 196  
Gardner Mt 59030

Telephone Number: 848-7314

Representing whom?  
Self

Appearing on which proposal?  
HB - 417

Do you: Support?  Amend?  Oppose?

Comments:  
\_\_\_\_\_  
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deral Magistrate James

quantity of assault rifles such as those seized from the alleged chief of security for the Church Universal and

receives them for people. Firearms such as those confiscated from Hamilton may be legally owned

at motel-petting and water towers. John E. Lamp, United States Attorney for the Eastern Judicial District of

lated to firearms dealers. The ban was imposed under authority of the Gun Control Act of 1968.

Livingston

# entertprises

Exhibit # 3  
3/27/91 HB 417

Vol. 78—No. 228, Livingston, Mont., Thursday, July 13, 1989—Thirty Five Cents (2 sections)

which four were confiscated in the in-ported. The Korean-made AK 100 were imported.

## CUT concedes existence of security force

### By Enterprise Staff

Although a spokeswoman for the Church Universal and Triumphant initially claimed the organization does not have a security force, she conceded Thursday that several church members act in this capacity.

Erin Prophet, a member of CUT's board of directors, said there are certain men who handle these duties for the church. She had said on Tuesday that the church does not have a security department.

Prophet was responding to the assertion of federal authorities who said Vernon D. Hamilton, arrested on federal weapons charges, headed up CUT's security division.

"We have people going around to see if people are intruding," Prophet now said of church members that patrol the property at night. She referred to them

as "watchmen."

Maintaining that most of the male church members on the ranch have helped in these duties, she said there are about 10 to 20 church members who are regularly called upon to handle problems.

Ms. Prophet said the church's security people are not armed, but there may be some cases where people have firearms in their vehicles.

The admission that people fulfilling a security role for the church comes after being confronted by statements from a Montana Highway Patrol officer and from a former Park County deputy who maintained that they have met church members who were acting as a security force.

Patrolman Dan Gutebier said he has always considered these church members to be security personnel, even if they do not have that title.

He said he was surprised to hear on Tuesday that the church does not have a security force.

"I don't know what else they would be called," Gutebier said.

The people who handle security for the church are pleasant and good to deal with, he said, adding that he has never seen them armed. Gutebier has been a patrolman in this area since before the church's move here.

The existence of a security force was also confirmed by Les Peterson, a former Park County deputy.

Peterson was a resident deputy in Gardiner for two years and said any time he responded to a call from the church, it was always the same CUT members who would meet him to bring him to the site of the incident.

On one occasion while responding to an incident on church property, church security personnel used their radios to

communicate with Peterson and alert him to the vehicle they wanted him to detain.

"That kind of shocked me," Peterson said of hearing the church member's voice over his radio.

While on routine patrol late at night along Stevens Creek Road, the gravel road along the west side of the Yellowstone River between Gardiner and Corwin Springs, Peterson said he would see vehicles that would come up to determine who he was.

He came to recognize the vehicles driven by the church members that acted as security officers.

Peterson also characterized the church security force as good to work with and not panicked by the problems they reported to the sheriff's department.

He never saw the church security personnel carry firearms.

release no other information at the case.

Ms. Prophet initially denied Hamilton, a staff member, had any security duties at church, she confirmed that he did act as her guard.

Trowbridge said, was of a select group of two dozen CUT members who have duty of protecting the family.

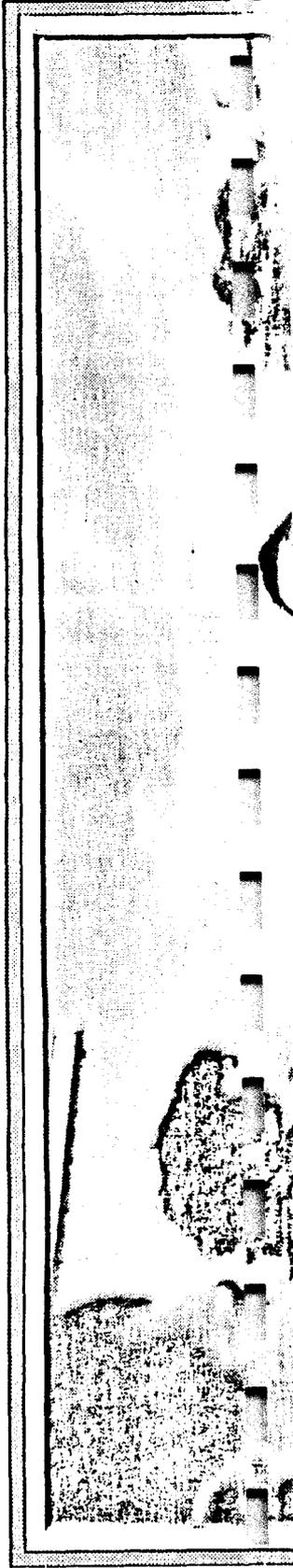
Hamilton) was involved even when I was rowbridge said. "He was would guard Elizabeth and

idea was to protect in particular. They are already of being under attack," idge said CUT members that the weapons are necessary of threats from sur-

roups. people there are afraid of so-called survivalists," ge said. "Those are the they see coming out the and coming after their food and weapons."

Prophet denied that the church's attack from extremists saying the organization is about a nuclear attack

issians. idge said he and his wife, CUT in 1983, two years after were fired from the CUT. Trowbridge said the an- were fired in 1981 "be-



# CUT documents show church's long history of arms purchases

By AL KNAUBEN  
Enterprise Staff Writer

The Church Universal and Triumphant apparently has been buying firearms since at least 1973, according to a document seized by federal agents during the July 1989 arrest of Vernon D. Hamilton, a long-time CUT member and allegedly the organization's chief of security in Hamilton and CUT Vice President Ed Francis have since pleaded guilty to a felony charge of conspiring to buy firearms using false names.

That document — along with hundreds of others — were obtained by The Enterprise under a Freedom of Information request filed with the Justice Department in Washington, D.C. last November.

The August 1973 confidential memo from former CUT member Martin Lassiter was directed to Elizabeth Chre Triquet and members of the church's "cabinet," although there is nothing to confirm CUT leadership ever received it.

Former CUT security chief Ken Finklin said Friday that Lassiter was a high-level church official before running about of the organization and being sent to Taiwan to start a CUT chapter.

In the memo, Lassiter said he wanted to provide for all possible threats against the church from invading bands of individuals driven by hunger and fear to take any measures necessary to secure food and protection to "a systematic search and destroy mission launched against us by reptilian armies."

"My study of history and destruction of temples and the saints warns me that we, too, can be destroyed if we are not prepared spiritually and militarily," Lassiter warned CUT's hierarchy.

CUT spokesman Murray Shehman — breaking CUT's silence with The Enterprise because of the significance of Lassiter's memo and other documents provided by the Justice Department — said Friday any weapons listed in Lassiter's memo would have been privately owned.

"Lassiter wrote the memo because it came to the attention of some on the church's board that he and a group of other people were privately buying weapons," Shehman said. "Lassiter had previously stated his intent to buy some weapons and the board said he had to act privately. The church would not, could not be involved in any way. No church funds were ever provided."

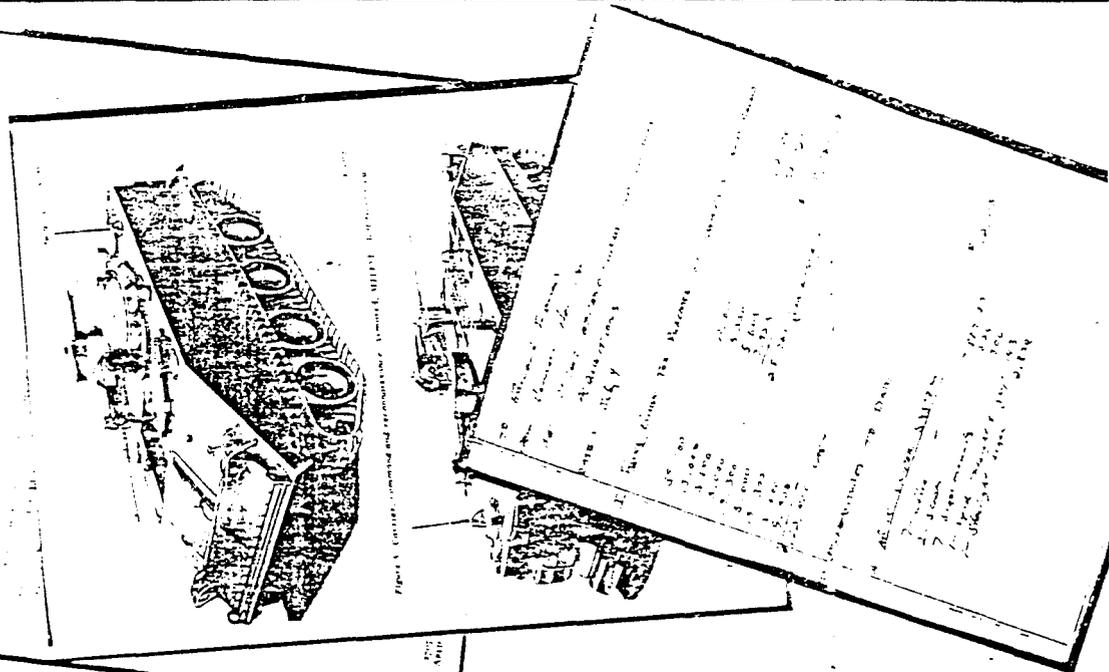
Shehman does not know if Lassiter ever purchased any of the weapons, and said CUT does not make it its business to monitor the private affairs of its members. "We have previously stated that members are allowed to exercise their constitutional right to own legal firearms," Shehman said.

Lassiter's memo cautioned CUT's leadership that its stockpiles of food, equipment and guns are known by "those that would try to take them," which makes CUT a tempting target.

Following Hamilton's arrest in Spokane, Wash., in July, Prophet spoke to Park County residents who gathered in Cowan Springs to say CUT was not involved in Hamilton's actions. Hamilton and Francis eventually admitted they conspired to buy about \$150,000 worth of assault rifles and ammunition in a scheme to arm 200 men.

Francis has said his personal funds were involved. Prophet's claim the church was not involved in the action of private individuals did not convince many area residents that CUT was not stockpiling firearms. Local

See "Weapons," Page 6



Church Universal and Triumphant member Vernon Hamilton had numerous documents that were seized by federal agents relating to his conspiracy to buy firearms under a false name, three of which are shown above. The documents, including Hamilton's involvement in the purchase of numerous weapons around the country and had no interest in tanks and armored personnel carriers.

# Hamilton documents detail arms scheme

2/13/87

# CUT denies it's stockpiling arms

## But former member renews charges of delivering weapons

By Enterprise Staff  
and The Associated Press

A spokeswoman for the Church Universal and Triumphant denies increasing allegations that the organization has been stockpiling firearms.

Former CUT member Donald Trowbridge has renewed his allegations that he drove arms from Idaho to Montana for the church in the early 1970s.

But Erin Prophet, 23, a member of CUT's board of directors and the daughter of church spiritual leader Elizabeth Clare Prophet, said Trowbridge has "a bone to pick with us" and is irresponsible for making allegations that the church was acquiring firearms as far back as 1974.

"It has never been substantiated," she said of Trowbridge's claims that he drove a truck in 1974 from a farm near Coeur d'Alene, Idaho, to CUT-owned land near the Bitterroot Mountains in Montana.

"I have no knowledge of that; I don't believe it," she said of Trowbridge's allegations.

Donald Trowbridge, a 13-year CUT staff member who was fired in 1981, said part of a shipment he drove to Montana included weapons and ammunition.

"There were some regular rifles, several military-type rifles, ammunition and lots of ammo boxes," Trowbridge said from his home in California.

He said CUT leaders referred frequently to the weapons during meetings with other members, but that they were always very careful about who they allowed to see them.

Ms. Prophet said Trowbridge has been an outspoken critic and has been making these allegations for years since leaving the church in 1980.

John Wald, a church member and former staff member who lives in migrant, dismissed Trowbridge's allegations as untrue.

"I wouldn't believe anything he said," Wald said. "He's a sour apple."

A man that federal authorities identified as the head of security for CUT, Vernon Hamilton, 42, Corwin Springs, was arrested Friday in Spokane and charged with legal purchase of a semiautomatic assault weapon.

Hamilton is scheduled to appear

before federal Magistrate James Hovis in Spokane on Monday at 10 a.m.

When Hamilton was arrested, investigators also seized seven .50-caliber assault rifles, several other military weapons, 120,000 rounds of ammunition and \$26,000 in cash and gold.

Ms. Prophet said the church would not hire a lawyer for Hamilton.

Hamilton's lawyer, Carl J. Oreskovich of Spokane, said his client will plead not guilty.

Oreskovich said he was retained by Hamilton's family and had not been in contact with CUT officials. He would release no other information about the case.

Although Ms. Prophet initially denied that Hamilton, a staff member for 15 years, had any security duties for the church, she confirmed Thursday that he did act as her mother's guard.

Hamilton, Trowbridge said, was a member of a select group of two to three dozen CUT members who shared the duty of protecting the Prophet family.

"He (Hamilton) was involved with security even when I was there," Trowbridge said. "He was one who would guard Elizabeth and her family."

"The idea was to protect Elizabeth in particular. They are always wary of being under attack."

Trowbridge said CUT members are told that the weapons are necessary because of threats from survivalist groups.

"The people there are afraid of the other so-called survivalists," Trowbridge said. "Those are the people they see coming out the woodwork and coming after their caches of food and weapons."

Ms. Prophet denied that the church fears attack from extremist groups, saying the organization is concerned about a nuclear attack by the Russians.

Trowbridge said he and his wife, Aime, left CUT in 1983, two years after they were fired from the CUT staff. Ms. Trowbridge said she and her husband were fired in 1981 "because our vibrations were bad."

They remained CUT members until 1983, she said, and don't consider themselves enemies of the church. "We're not that involved. We don't go out and grandstand against them."

# CUT man faces weapons charge

## Federal investigation may be sought in county over incident

By AL KNAUBER  
and STEPHEN MATLOW  
Enterprise Staff Writers

A federal investigation may be sought by Park County officials after learning that a man allegedly identified as the chief of security for the Church Universal and Triumphant is facing federal firearms charges.

Vernon D. Hamilton, 42, P.O. Box A, Corwin Springs, was arrested Friday in Spokane by agents for the Bureau of Alcohol, Tobacco and Firearms. He is facing four charges of using a false name to purchase firearms. Each charge carries a fine of up to \$250,000 and five years in prison.

Agents seized about \$100,000 in firearms, ammunition and spare parts, \$10,000 in cash and about \$7,000 in gold Kruggerands in the incident, said Mike Kelly, resident agent-in-charge at the ATF's Spokane office.

While CUT vice president Ed Francis was unavailable for comment on the incident, Erin Prophet, daughter of church spiritual leader Elizabeth Clare Prophet and member of the church's board of directors, issued a denial Tuesday of CUT involvement in Hamilton's actions.

"The board of directors of the church did not authorize the purchase of any weapons and that I'm in total stock over the stories about Vernon Hamilton," she said.

"I know for a fact that any money that he may have had did not come from the church."

She denied that he is the chief of security for the church and that the church has a security department. She said Hamilton works with the road maintenance personnel and is with their construction department.

Ms. Prophet said Hamilton has been a member of the church for about 15 years, but she is unaware of his involvement with any other organizations that might have financed the purchase of these weapons and ammunition.

"We don't believe in guns, we don't believe in violence," she said, adding "We are not an extremist group."

Documents allegedly found in Hamilton's possession indicated he had already spent about \$130,000 on military firearms and ammunition and had plans to spend an additional \$150,000.

Park County Attorney Nels Swandal said he intends to meet next week with Sheriff Charley Johnson to discuss the matter.

"We may ask that federal authorities conduct some type of investigation into what's going on," Swandal said, adding that he and the sheriff will also meet with Francis to inquire about the allegations facing Hamilton and the church's possible involvement.

Although it is not illegal to store weapons and ammunition, Swandal said he has received telephone calls from county residents who are nervous about the possibility that the church has a large quantity of such weapons on its property near Gardiner.

Commissioner Carlo Clerf said he is concerned by the arrest of Hamilton.

"To me it appears they are talking out of both sides of their mouths again," Clerf said of the church's position on wanting to be a good neighbor and the apparent preparations for "an armed camp."

"It gives the appearance they are not really a church, but a para military survivalist group," he said, asking, "What else have they got, anti tank guns?"

He favors more scrutiny of the church's activities by local and state officials.

Commissioner Larry Lovely said he also is concerned that someone who may be acting for the church was arrested in connection with military weapons and ammunition.

"I think CUT has got to provide information and comment on what's going on, if anything," Lovely said. "They've got a lot of questions to answer."

Lovely said the church's credibility has been "seriously damaged" if Hamilton was acting on their behalf.

Commissioner Jim Hunt said the incident alarms him and said a federal investigation of the church may be needed if Hamilton was purchasing the weapons on behalf of the organization.

See "CUT man," page 11

## Arrest draws wide variety of weapons

By Enterprise Staff

Following the July 7 arrest of Vernon D. Hamilton, 42, Box A, Corwin Springs in Spokane, agents for the Bureau of Alcohol, Tobacco and Firearms with the Treasury Department seized a variety of military weapons, parts and ammunition.

Allegedly taken from Hamilton's vehicle were one Barrett, a .50-caliber semi-automatic rifle; two Daewoo, an AR 100, 5.62-caliber assault rifle; two Steyr, SSG 69 rifles; one Callaghan semi rifle; two pistols and 200 rounds of .50-caliber ammunition.

Agents then went to a storage building that was allegedly used by Hamilton and discovered six Barrett, .50-caliber semi-automatic rifles; two Steyr, SSG 69, assault rifles; and one Valmet assault rifle. Also found were 120,000 rounds of military ammunition, tracer and armor piercing in a variety of calibers including 7.62-caliber, 5.62-caliber, .223-caliber and .50-caliber.

Documents allegedly found on Hamilton indicated he had spent \$130,000 on military weapons, parts and ammunition and had plans to spend an additional \$150,000.

## tallemate delays hiring f Livingston coaches

JIM MANN  
Enterprise Staff Writer

begin Aug. 11, and coaches need to be assured of employment so they can begin planning their seasons.

March 27, 1991

ZULLO  
HB 417  
27 Mar 91

Mr. Chairman, Members of the Committee:

For the record, my name is Scott Crichton, executive Director of the ACLU of Montana. I am here to go on record today supporting HB 417.

Representative Elliott contacted our office last year to discuss the problems faced in his part of the state with hate groups and his legislative response to the situation. I told him that we were sympathetic to his position and that we would want to see the language proposed to make sure that it did not pose any major first amendment issues relating to free speech and assembly. We also offered suggestions on how we might still accomplish his goal of discouraging hate groups in Montana without having to infringe on fundamental rights to speak and assemble.

We suggested that we could send the same message to white supremacist groups by adopting the Martin Luther King holiday; by devising enhancements to existing laws; by creating a division within the Justice Department to enforce existing law; or by assigning a deputy attorney to enforce existing laws.

I want to make clear that the ACLU also abhors racism. What concerns us most is that the way to counter racism is through a remedy of more speech, not by less liberty. The national ACLU was in the forefront of lobbying efforts that resulted, last year, in Congressional passage of the Hate Crimes Statistics Act, a law requiring the federal Attorney General's office to gather data on crimes perpetrated against individuals because of their race, religion, or sexual orientation.

Action on the federal level, however, is not enough. This effort of Representative Elliott, and other bills before this legislature, should help to bolster the Congressional effort to reduce the incidence of hate crimes- which have a devastating impact on the communities where they occur, as well as an emotionally scarring effect on their victims.

Legislation, to be effective, must cover all four categories of the most common forms of hate crimes: crimes based on race, religion, ethnic origin or sexual orientation. Some existing state laws address only the first three categories and exclude sexual orientation. That is unacceptable. Homophobia is a fixture on the agenda of white supremacists, and young thugs who prey on gays often mimic the lynch mob behaviors associated with racist violence. There are specific intersections of anti gay bias with white supremacist beliefs throughout racist propaganda.

Gays are not only threatened by public acceptance of gay-bashing, they are especially vulnerable to hate crimes because they lack the civil rights protection specifically afforded people of color. And as long as gay men and lesbian women lack legal protection, homophobic criminals will feel free to continue perpetrating their violent acts.

The exhibit # 5 submitted by Gary Marbut for HB 417 was not transmitted with the minutes.

TESTIMONY IN SUPPORT OF HB 417  
by Dr. Thomas Berger

Exhibit 5  
HB 417  
3/27/91

MY NAME IS DR. THOMAS BERGER. I AM SPEAKING TODAY AS A MEMBER OF THE EXECUTIVE COMMITTEE OF THE PACIFIC NORTHWEST REGIONAL ADVISORY BOARD OF THE ANTI-DEFAMATION LEAGUE OF B'NAI B'RITH. ON BEHALF OF ADL, I APPRECIATE THIS OPPORTUNITY TO TESTIFY IN FAVOR OF HB 417, DEALING WITH PARAMILITARY TRAINING IN THE STATE OF MONTANA.

THROUGHOUT ITS 78 YEAR HISTORY, THE ADL HAS MONITORED AND EXPOSED EXTREMISM. THIS HAS BEEN AN IMPORTANT TOOL IN CARRYING OUT OUR MANDATE TO STRENGTHEN AMERICAN DEMOCRACY COUNTER PREJUDICE AND BIGOTRY, DEFEND THE RIGHTS AND ENSURE THE SECURITY OF JEWS AND ALL OTHER MINORITIES.

IN OCTOBER 1980, THE ADL PRODUCED A REPORT WHICH DOCUMENTED THE PROLIFERATION OF PARAMILITARY TRAINING CENTERS OPERATED BY THE KU KLUX KLAN AND OTHER RACIST GROUPS. TRAINING AT THESE CENTERS INCLUDED THE USE OF COLT AR-15 ASSAULT RIFLES WITH SPECIAL GRENADE LAUNCH ATTACHMENTS AND OTHER FIREARMS, DEMOLITION, AND SEARCH AND DESTROY TECHNIQUES. THIS "COMBAT" TRAINING WAS COMBINED WITH INDOCTRINATION IN RACIAL AND RELIGIOUS HATRED AND BIGOTRY AND TOTALITARIANISM IN PREPARATION FOR ANTICIPATED CIVIL STRIFE, THE RATIONALE BEING THE VISION OF A "COMING RACE WAR."

SOME OF THESE ACTIVITIES HAVE BEEN INNOCUOUSLY LABELED BY THEIR SPONSORS AS "DEFENSE" OR "SURVIVAL" TRAINING COURSES. REGARDLESS OF THE LABEL APPLIED, IT IS CLEAR THAT ARMED RACISTS, PATHOLOGICAL ENEMIES OF BLACKS, JEWS, IMMIGRANTS AND OTHER MINORITY GROUPS, ARE ENGAGED IN PARAMILITARY TRAINING FOR GUERRILLA WARFARE AGAINST THEIR PURPORTED ENEMIES.

IN 1968, CONGRESS PASSED THE FEDERAL CIVIL OBEDIENCE ACT WHICH HAS BEEN FOUND TO BE CONSTITUTIONAL BY AT LEAST THREE U.S. CIRCUIT COURTS AND THE DISTRICT COURT OF THE DISTRICT OF COLUMBIA. HOWEVER, THE FEDERAL ACT PROVIDES ONLY FOR THE PROSECUTION OF PARAMILITARY TRAINING INSTRUCTORS, WHEREAS THE BILL BEFORE YOU ALSO COVERS THE PARTICIPANTS. IN ADDITION, THE FEDERAL LAW ONLY COVERS PARAMILITARY TRAINING TAKING PLACE ON AN INTER-STATE BASIS, WHEREAS MOST OF THESE INCIDENTS OCCUR INTRA-STATE. FINALLY, AND MOST IMPORTANTLY, THE FEDERAL LAW EMPOWERS ONLY FEDERAL LAW ENFORCEMENT AGENCIES, E.G., THE FBI, TO CONDUCT INVESTIGATIONS AND MAKE ARRESTS - IT DOES NOT EMPOWER LOCAL AND STATE LAW ENFORCEMENT AGENCIES TO DO THE SAME UNDER THE FEDERAL LAW. HB 417 WOULD AUTHORIZE STATE AND LOCAL LAW ENFORCEMENT AGENCIES, WHICH HAVE BOTH THE RESOURCES AND THE INCLINATION TO ENGAGE IN THIS TYPE OF INVESTIGATION.

IT SHOULD BE NOTED HERE THAT THE FEDERAL LAW SPECIFICALLY PROVIDES THAT THE CIVIL OBEDIENCE ACT OF 1968 WILL NOT "...OPERATE TO THE EXCLUSION OF STATE OR LOCAL LAWS ON THE SAME SUBJECT MATTER..."

TURNING TO THE LANGUAGE OF HB 417, ONE OF ITS KEY ADVANTAGES IS THAT IT IS LIKELY TO BE HELD CONSTITUTIONAL BY THE COURTS. WHEN ATTEMPTING TO REGULATE "SPEECH," WE MUST BE SENSITIVE TO ANY FIRST AMENDMENT PROBLEMS. AS SUCH, WE MUST BE SURE THAT, FIRST, ANY INFRINGEMENT OF RIGHTS GRANTED BY THE FIRST AMENDMENT IS MORE THAN COUNTERBALANCED BY A VALID GOVERNMENT INTEREST, AND SECONDLY, THAT THE STATUTE IS DRAWN AS NARROWLY AND AS PRECISELY AS POSSIBLE IN ORDER TO PROSCRIBE ONLY THOSE ACTIVITIES WHICH MAY BE CONSTITUTIONALLY PROSCRIBED.

MANY, IF NOT MOST, STATUTES WHICH ATTEMPT TO REGULATE "SPEECH" HAVE BEEN STRUCK DOWN BY THE COURTS AS UNCONSTITUTIONAL. ADL BELIEVES HB 417 HAS AVOIDED THIS PROBLEM, SINCE SECTION 3 IS BASED ON THE CIVIL OBEDIENCE ACT OF 1968 WHICH, AS ALREADY NOTED, HAS BEEN UPHELD BY THE COURTS.

ADL'S CONFIDENCE IN HB 417'S CONSTITUTIONALITY WAS RE-ENFORCED BY NEBRASKA ATTORNEY GENERAL ROBERT SPIRE WHO, IN MARCH 1986, ISSUED AN OFFICIAL OPINION TERMING THE NEBRASKA BILL CONSTITUTIONALLY VALID.

IN THE STATES WHICH HAVE ENACTED LEGISLATION SIMILAR TO HB 417, THERE HAS BEEN A DRAMATIC, AND DOCUMENTED DECLINE IN THE NUMBER OF REPORTED INCIDENTS OF HATE OR EXTREMIST GROUP PARAMILITARY TRAINING DESIGNED FOR DOMESTIC TERRORISM. A CLEAR EXAMPLE IS THE CASE OF THE CHRISTIAN PATRIOTS DEFENSE LEAGUE (CPDL), AN EXTREMIST SURVIVALIST GROUP BASED IN THE MID-WEST WHICH, SINCE 1979, HAS HELD "FREEDOM FESTIVALS" COMBINING CLASSES IN WEAPONS TRAINING WITH OTHERS PROMOTING BIGOTRY.

AT ITS 1981 GATHERING HELD NEAR CPDL HEADQUARTERS IN LOUISVILLE, ILLINOIS, MORE THAN ONE THOUSAND PERSONS ATTENDED SOME 55 CLASSES, RECEIVING INSTRUCTION IN, AMONG OTHER SUBJECTS, "GUNS AND RELOADING," "DEMOLITION AND CAMOUFLAGE," "ANTI-AIRCRAFT AND ANTI-TANK" AND "KNIFE FIGHTING." BY 1984, THE FESTIVAL HAD MOVED TO THE CPDL BASE IN LICKING, MISSOURI AND THE CONTRAST WITH PREVIOUS SUCH EVENTS WAS STRIKING. AS A RESULT OF MISSOURI'S ENACTMENT OF AN ANTI-PARAMILITARY TRAINING STATUTE IN 1983, NO SUCH WEAPONS TRAINING OCCURRED. IN HIS LETTER ANNOUNCING THE FESTIVAL,

CPDL DIRECTOR JOHN HARRELL WARNED INVITEES ABOUT THE NEW LAW AND TOLD THEM NOT TO BRING THEIR FIREARMS TO THE CAMP. ADL LEARNED THAT A NUMBER OF EXTREMISTS ACTUALLY STAYED AWAY FROM THE MEETING FOR THIS REASON. THE SAME OCCURRED THE NEXT TIME THE FESTIVAL TOOK PLACE DURING THE LABOR DAY WEEKEND OF 1986.

IN FLORIDA, ENFORCEMENT OF THAT STATE'S STATUTE RESULTED IN THE FIRST CONVICTIONS UNDER THE ACT AND, MOST SIGNIFICANTLY, PREVENTED A DANGEROUS SITUATION FROM ESCALATING INTO THE KIND OF VIOLENCE WHICH COULD EASILY HAVE LED TO LOSS OF INNOCENT LIFE.

IN APRIL 1985, FIVE MEMBERS OF THE UNITED KLANS OF AMERICA WERE ARRESTED BY THE ST. PETERSBURG POLICE DEPARTMENT AND THE PINELLAS COUNTY SHERIFF'S OFFICE AND CHARGED WITH PLANNING AND TRAINING FOR TERRORIST ACTS AGAINST MINORITIES. TWO INDIVIDUALS LATER PLEADED GUILTY AND TWO WERE CONVICTED BY A JURY FOR VIOLATING FLORIDA'S ANTI-PARAMILITARY TRAINING STATUTE. THE GOAL OF THE GROUP, ACCORDING TO A POLICE INFORMANT, WAS TO INCITE BLACKS TO RIOT SO THAT WHITES WOULD TURN TO THE KLAN FOR LEADERSHIP. IN ADDITION TO TRAINING WITH GUNS INTENDED TO BE USED AGAINST MINORITIES, MEMBERS OF THE GROUP WERE INSTRUCTED IN THE MAKING OF INCENDIARY DEVICES.

IN NORTH CAROLINA, WHICH ENACTED A BILL SIMILAR TO HB 417 IN 1981, THERE HAVE BEEN REPORTS OF A DRAMATIC DECLINE IN THE NUMBER OF PARAMILITARY TRAINING INCIDENTS. A VIOLATION OF A FEDERAL COURT ORDER NOT TO OPERATE AN ILLEGAL PARAMILITARY ORGANIZATION LED TO THE CONVICTION OF THE LEADER OF THE WHITE PATRIOT PARTY (WPP), AN ARMED RACIST GANG. A 1985 COURT

ORDER SETTling A CLASS ACTION CIVIL SUIT PROHIBITED WPP LEADER GLENN MILLER AND HIS ORGANIZATION FROM HARASSING BLACKS AND FROM VIOLATING THE STATE'S ANTI-PARAMILITARY TRAINING STATUTE.

DURING A JURY TRIAL HELD IN FEDERAL DISTRICT COURT IN RALEIGH IN 1986, WITNESSES REPORTED THAT MILLER'S GROUP STOCKPILED WEAPONS AND CONDUCTED MANEUVERS FOR AN EVENTUAL ATTEMPT TO OVERTHROW THE U.S. GOVERNMENT AND CREATE A RACIST STATE. MILLER WAS SENTENCED TO SIX MONTHS IN PRISON AND THREE YEARS PROBATION. ADL CALLED UPON NORTH CAROLINA'S ATTORNEY GENERAL TO INITIATE STATE PROSECUTION OF THE WHITE PATRIOT PARTY AND SEEK CRIMINAL PENALTIES AS PROVIDED FOR IN THE STATE LAW.

IN NEBRASKA, ENACTMENT OF THE MODEL LEGISLATION IN MARCH, 1986 FOLLOWED CLOSELY ON THE HEELS OF REPORTS OF MURDER AND TORTURE BY A HEAVILY ARMED CULT-LIKE GROUP WITH LINKS TO THE EXTREMIST PARAMILITARY ORGANIZATION KNOWN AS THE POSSE COMITATUS. LOCATED ON A FARM IN THE SOUTHEASTERN NEBRASKA COMMUNITY OF RULO, THE GROUP'S TWENTY OR SO MEMBERS ARE REPORTED TO HAVE SLAVISHLY CARRIED OUT THE ORDERS OF THEIR FANATICALLY ANTI-SEMITIC LEADER, MICHAEL RYAN, WHO HAD EXHORTED THEM TO PREPARE FOR ARMAGEDDON.

IN AUGUST 1985, THE NEBRASKA STATE PATROL UNEARTHED TWO MUTILATED BODIES INCLUDING THAT OF A FIVE-YEAR-OLD CHILD FOR WHOSE TORTURE AND MURDER RYAN AND HIS SON WERE SUBSEQUENTLY CONVICTED. EARLIER THAT SUMMER, WHEN LAW ENFORCEMENT OFFICIALS RAIDED THE COMPOUND, THEY COLLECTED MORE THAN 30 SEMI-AUTOMATIC AND ASSAULT RIFLES AND 13 FULLY AUTOMATIC PISTOLS AND RIFLES, INCLUDING MODIFIED AR-15s. THEY ALSO FOUND A SAWED-OFF TWELVE-

6

SEMI-AUTOMATIC AND ASSAULT RIFLES AND 13 FULLY AUTOMATIC PISTOLS AND RIFLES, INCLUDING MODIFIED AR-15s. THEY ALSO FOUND A SAWED-OFF TWELVE-GAUGE SHOTGUN, NUMEROUS PISTOLS, CAMOUFLAGED CLOTHING AND 150,000 ROUNDS OF AMMUNITION -- ENOUGH TO FILL TWO DELIVERY VANS. ALSO DISCOVERED WAS AN UNDERGROUND BUNKER AND POSSE COMITATUS LITERATURE PRAISING GORDON KAHL, A POSSE ACTIVIST WHO MURDERED TWO FEDERAL MARSHALS IN 1983.

NEBRASKA'S LEGISLATURE, WHICH HAD CONSIDERED THE PARAMILITARY BILL ON TWO PREVIOUS OCCASIONS WITHOUT PASSING IT, VOTED OVERWHELMINGLY FOR PASSAGE DURING THE TRIAL OF THE RULO DEFENDANTS.

CLOSER TO HOME, AS YOU KNOW, IN 1985 SEVERAL MEMBERS OF THE RIGHT-WING EXTREMIST GROUP, "THE ORDER," WERE CONVICTED OF FEDERAL RACKETEERING CHARGES AFTER DECLARING "WAR" AGAINST THE U.S. GOVERNMENT AND ENGAGING IN A NUMBER OF HIGHLY PUBLICIZED CONFRONTATIONS WITH FEDERAL AND STATE LAW ENFORCEMENT OFFICIALS. DISCOVERED DURING THE ARRESTS OF "THE ORDER" MEMBERS WERE LARGE QUANTITIES OF SOPHISTICATED WEAPONS, INCLUDING MACHINE GUNS AND GRENADES. THERE ARE INDICATIONS THAT A NUMBER OF THOSE CONVICTED DURING "THE ORDER" TRIAL WERE TRAINED AT PARAMILITARY TRAINING CENTERS, INCLUDING SEVERAL LOCATED IN IDAHO.

EVEN CLOSER TO HOME, LAST YEAR LAW ENFORCEMENT AUTHORITIES IN OUR STATE DISCOVERED EVIDENCE OF A PARAMILITARY TRAINING COMPOUND NEAR WHITEFISH, WHERE ILLEGAL EXPLOSIVES WERE MANUFACTURED AND FIREARMS TRAINING TOOK PLACE.

IT IS BECOMING INCREASINGLY APPARENT THAT EXTREMIST GROUPS AROUND THE U.S. ARE LINKED TO ONE ANOTHER BY VARIOUS MEANS, INCLUDING PARTICIPATING IN JOINT PARAMILITARY TRAINING ACTIVITIES, MEETINGS AND THROUGH A SIMPLE COMPUTERIZED BULLETIN BOARD.

PASSAGE OF HB417 WOULD HELP LESSEN THE THREAT POSED BY EXTREMIST GROUPS. IT WOULD ENHANCE THE ABILITY OF LAW ENFORCEMENT OFFICIALS TO KEEP A CLOSE CHECK ON SOME OF THE MORE DANGEROUS LOCAL ACTIVITIES OF THESE VIOLENCE-INCLINED GROUPS. PERHAPS MOST IMPORTANTLY, IT WOULD SEND A CLEAR SIGNAL TO THESE HATE GROUPS THAT THEIR SO-CALLED "DEFENSE" CENTERS ARE NOT WELCOME IN MONTANA.

THE ANTI-DEFAMATION LEAGUE OF B'NAI B'RITH BELIEVES THAT HB417 IS A MUCH NEEDED ADDITION TO THE TOOLS LAW ENFORCEMENT REQUIRES TO COUNTER THE POSSIBILITY OF DOMESTIC TERRORISM WITHIN OUR STATE. IT IS OUR HOPE THAT YOU WILL FAVORABLY REPORT HB417 OUT OF THIS COMMITTEE.

ON A PERSONAL NOTE, I WOULD LIKE TO CAUTION LEGISLATORS THAT OPPONENTS OF HB417 MAY CHOOSE TO ATTACK THIS BILL BY CLAIMING THAT IT WOULD BE AN INFRINGEMENT OF THE RIGHT TO KEEP AND BEAR ARMS. THIS ARGUMENT HAS NO MERIT WHATSOEVER. I HAVE BEEN, FOR MANY YEARS, A LIFE MEMBER OF THE NATIONAL RIFLE ASSOCIATION. I PERSONALLY OWN A NUMBER OF FIREARMS WHICH I USE OR HAVE USED FOR A WIDE VARIETY ACTIVITIES. THESE INCLUDE HUNTING, INFORMAL TARGET PRACTICE AND FORMAL COMPETITIVE PISTOL SHOOTING AS WELL AS HOME AND PERSONAL DEFENSE. NO ONE IS ANY MORE DEDICATED THAN I TO THE PRESERVATION OF OUR SECOND AMENDMENT RIGHTS. NOTHING IN HB417 WOULD INFRINGE UPON THESE CONSTITUTIONAL RIGHTS OR INTERFERE WITH ANY LEGITIMATE FIREARMS RELATED ACTIVITIES. THIS IS NOT AN ANTI-HUNTING BILL OR ANTI-GUN BILL IN ANY SENSE

OF THE WORD. IF IT WERE, I WOULD BE THE LAST PERSON TO SUPPORT IT. THIS BILL LIMITS THE USE OF FIREARMS ONLY INCIDENTALLY ALONG WITH INCENDIARY DEVICES, BOMBS AND OTHER WEAPONS. IT IS DIRECTED NOT AGAINST GUNS BUT AGAINST EXTREMIST RACISTS ORGANIZATIONS PLANNING TO USE VIOLENCE AGAINST THE GOVERNMENT OR MEMBERS OF SPECIFIC ETHNIC AND RACIAL GROUPS. HB417 WILL BE AN EFFECTIVE WAY TO LET SUCH GROUPS KNOW THAT THIS TYPE OF ACTIVITY WILL NOT BE TOLERATED IN MONTANA.

THANK YOU VERY MUCH.

A handwritten signature in cursive script, appearing to read "Thomas J. Berger".

Thomas J. Berger D.D.

DATE 3/27/91

COMMITTEE ON SENATE JUDICIARY

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
GARY S. MARBUT	MT SHOOTING SPORTS ASSN W. MT FISH & GAME ASSN	HB417		✓
Greg Wickes	Self / Big Sky Practical Shooting Club	HB417		✓
Richard Proles	Self	HB 417	✓	
John Connor	ATTY GEN'S OFFICE MT County Attys Assn	HB 417	✓	
Randy Skorkovin	Self	HB887	✓	
Clyde Byrley	MT Rifle & Pistol Assoc	HB417	✓	
Sue Neumann	MDTL	<del>HB887</del>		✓
Magueline N. Merrill	Am. Ins. Assoc.	HB 887		✓
Randy J. Cox	MDTL	HB 887		✓
John Alke	Mont. Defense Trust Ferguson	<del>HB 887</del>		✓
David Ransoff	MT. Human Rights Network	HB417	✓	
Scott Currett	ACLU	HB417	✓	
A. M. Ellwell	WCSN	HB417	✓	
C. J. Lassila	MT Army Fund	942		
Charles R. Brooks	MT Rifle Assoc	HB501	✓	
Tom Harrison	MT. Sheriffs + Peace Officers	H 417	✓	
Tom Kumbalal	FARMERS Ins Co	HB 887		✓
Diane Sardo	MT Women's Lobby	HB417	✓	

(Please leave prepared statement with Secretary)