

MINUTES OF THE JUDICIARY COMMITTEE
January 11, 1983

The meeting of the House Judiciary Committee was called to order by Chairman Dave Brown at 8:00 a.m. in Room 224A of the Capitol. All members were present. Brenda Desmond, Legislative Council, was also present.

HOUSE BILL 60

REP. SHONTZ, sponsor, stated this bill would require ministers who wish to be authorized to solemnize marriages to file a copy of their credentials with the Clerk of the District Court. A five dollar filing fee would be charged. This would provide the State and the people the knowledge of who is authorized to perform marriages.

ALTON HILLESLAND, from the Della Lutheran Church in Sidney, was a proponent of the bill. Testifying via telephone, HILLESLAND stated the present law is not specific as to who may perform marriages. HILLESLAND further stated he did not feel the bill discriminates towards any religious order.

There were no further proponents.

DOUG KELLY, Grace Gospel, was in opposition to the bill. EXHIBIT A. KELLY felt the bill was unconstitutional and also discriminatory. KELLY stated if the committee is concerned with the Jim Jones type of activity it should be noted that Mr. Jones had every license possible. He would probably have been the first one to pay the fee. KELLY strongly believes in the separation between the church and government.

EARL D. HARGIN, Florence Bible Church, was also against the bill. HARGIN stated the long term implications on the separation of church and state would be harmful. HARGIN felt the ministers are called by God. It would be a violation to try and dictate to their consciences.

STEVE VALENTINE, Missoula Community Chapel, was opposed to the bill. EXHIBIT B. He emphasized the requirement of separation of church and state.

MIKE MCGOVERN, Northside Chapel Foursquare Church, was against the bill. EXHIBIT C. MCGOVERN also submitted testimony from FRANK WESSELIUS, Shepherd of the Valley Church. EXHIBIT D.

DAVID DIEHL, East Helena Four Square, was in opposition to the bill. EXHIBIT E.

JULIE CRANE, Freedom Church, agreed with the previous testimony. She reminded the committee members of the oath they recently

took to uphold the Constitution. CRANE further stated a piece of paper is not going to make ministers servants of God. It would also be extra work for the clerks and an expense for the taxpayers.

BILL DUMPERT, Faith Gospel Baptist, was opposed to the bill. He stated that John Bunyan went to jail for thirteen years for refusing to be licensed. DUMPERT wondered what would happen if all the ministers refused to file; would they all be sent to jail?

GARY MILLER, Old Fashion Baptist, stated God performed the first marriage. He feels that God has given him the authority and the call to the ministry. He does not marry every couple that comes to him. MILLER is not against the \$5.00 fee but he is opposed to the licensing.

VICTOR R. ALVIN, East Helena Four Square Church, stated he felt the previous witnesses expressed their opinions with sincerity and that they are people of integrity. ALVIN hoped the committee would give a do not pass motion on the bill.

CALVIN HARVY, Faith Gospel Baptist Church, felt the bill would be a hinderance. Today there are more licensed people then there have ever been before. The Bible uses the term "marriage" 84 times. Marriage is a vow before God.

GLEN LINDSEY, Grace Gospel, was opposed to the bill. EXHIBIT F. LINDSEY wondered if there had been a public outcry for the bill since there was only one proponent.

CREED DAVIS, Grace Gospel Church, was also opposed to the bill. EXHIBIT G.

JIM RICE, Attorney, felt there was a legal objection to the bill concerning the freedom of religion as stated in the U.S. Constitution. The Supreme Court has ruled it is unconstitutional to license a church when the license constitutes a tax. From a practical standpoint, ministers should be allowed through their various denominations to practice freely.

There were no further opponents. EXHIBITS H through K were also given to the committee for consideration.

In closing, REP. SHONTZ felt there was a need for the bill. In response to the comment concerning the lack of public outcry for the bill, SHONTZ stated every individual has the right to ask for legislative action. The bill is based on model legislation from Minnesota. The state is currently involved in church functions now because it grants divorces. The state has the right to be involved in the process of marriage as a civil function.

REP. SHONTZ stated only one church does not believe in divorce, yet there was not a representative from that church present to testify.

REP. DAILY asked if the bill does not require the ministers to have certain credentials, what is its purpose. The sponsor replied a couple that chooses to be married will know that their marriage will be performed by a legally-authorized minister. REP. DAILY further asked if the \$5.00 fee would be a source of revenue that would possibly be increased in the years to come. The sponsor did not think so.

REP. JENSEN was concerned with what is considered a religion and what is not. RICE replied the IRS has a problem with that also. The Supreme Court has ruled unconstitutional the collecting of a fee from a church for using public grounds or for handing out literature.

REP. KEYSER inquired as to how many court cases Montana had last year involving the validity of marriages performed by unauthorized ministers. The sponsor did not know; he stated there are no provisions in Montana law on standards for ministers' credentials. The bill does not require particular credentials. It would provide to the public and the courts the information that an individual has the power to marry couples.

REP. EUDAILY asked if he filled out the license and paid the fee, could he become a minister. It was answered yes. The sponsor stated this is not a license bill in the sense it requires a minimum criteria. It would simply be a matter of record.

REP. ADDY asked if ministers should be required to meet some type of standards for marital counseling. It was replied no, but most ministers do premarital counseling.

The hearing on House Bill 60 ended.

HOUSE BILL 3

REP. CURTISS, sponsor, stated House Bill 3's purpose is to disapprove that part of the Supreme Court rule on disqualification and substitution of judges that allows each adverse party in a civil case two substitutions of a judge. EXHIBIT L.

MICHAEL KEEDY was a proponent of the bill. KEEDY stated the bill originated from the interim committee which Senate Joint Resolution 30 created. Its intent is to eliminate unnecessary waste and delay in the justice system. He stated he was in support of the

bill but did not think the bill went far enough. He proposed some amendments for the committee to consider. EXHIBIT M. KEEDY stated some attorneys search for judges that will give a better judgement in their favor; and thus disqualify judges until they find the right judge. The present law is too liberal and drains the system. In a civil matter the parties can go through four judges before receiving a judge with whom they are satisfied. In many cases, a substitute judge must be brought in from another part of the state, requiring the added cost of lodging, meals, and travel time.

KEEDY stated he is not against obtaining a new judge when a party truly feels he will not receive a fair hearing. KEEDY felt the bill should be amended to eliminate "in civil actions". EXHIBIT N is a letter to REP. CURTISS expressing KEEDY's views on the bill.

EXHIBITS O through T are Motions for Substitution of Judge that KEEDY has received since becoming a judge two weeks ago.

MARC RACICOT, County Attorneys, also felt the bill should go further. Disqualifying judges is a problem. The federal system does not allow peremptory disqualification of judges.

There were no further proponents.

J. C. WEINGARTNER, State Bar of Montana, was opposed to the bill. There was formerly a problem but changes in the statute have resolved it. The problem began during the Workmen's Compensation scandal in the 1970's. There was a great deal of money spend on this case. As soon as a new judge became familiar with the case, he would be disqualified for one reason or another.

However, as the law now states, as soon as the parties know who the judge will be, they have only ten days to disqualify him. A judge should only be disqualified for a sound reason. WEINGARTNER does not feel there is a problem with the present law. He felt that JUDGE KEEDY was disqualified from so many cases within his first two weeks as a judge because of his reputation as a legislator concerning sentencing. There are a number of criminal cases filed each year, yet the number of judges that are disqualified is small.

KARLA GRAY, Montana Trial Lawyers, was also against the bill. She thought the bill is trying to solve a problem that does not exist. Disqualifying for cause is much more time consuming than substitution of a judge through a peremptory challenge. Just because a judge is disqualified does not mean that the legal work on a case stops. Because attorneys work with the judges

daily, attorneys would prefer not to make public an affidavit accusing a judge of bias. EXHIBIT U.

There were no further opponents.

In closing, REP. CURTISS read to the committee comments from EXHIBIT V.

REP. KEYSER asked if attorneys are reluctant to file a disqualification for cause. GRAY replied attorneys would prefer not to do so. If there is a potential conflict, ordinarily an attorney would file a motion for substitution of judge, rather than a motion to disqualify that judge.

REP. JENSEN asked if JUDGE KEEDY felt he would be able to work with trial attorneys. KEEDY stated he has a responsibility to the people. He took the oath to serve the people.

REP. JENSEN asked if some judges resent peremptory challenges. GRAY replied she could not speak for all judges, but there might be some who do.

REP. JENSEN asked if this bill would leave unchanged the rule for disqualifying a Justice of the Peace in a criminal case. It was believed so by RACICOT. MARCEL TURCOTTE, Montana Magistrates Association, stated JP courts would not be affected.

REP. DAILY asked who makes the decision to disqualify a judge for cause. RACICOT replied the attorney files an affidavit alleging bias or prejudice. The Supreme Court then appoints a new judge to hear the case. KEEDY stated the judges usually remove themselves from a case when they are challenged for cause. The attorney is also obligated to file a Certificate of Good Faith. Once the affidavit and Certificate of Good Faith are filed it is the judge's duty to cease work on the case pending the disqualification proceedings.

REP. SPAETH stated the U.S. Senate Judiciary Committee is reviewing the possibility of enacting a peremptory challenge rule for federal courts. The American Bar Association has done a study on it. KEEDY was aware of the study but did not know what had been decided on it.

REP. HANNAH asked if the accused, upon being found guilty, could go to a Sentence Review Board if he felt he had been treated unfairly. It was replied yes.

The hearing on House Bill 3 ended.

HOUSE BILL 45

REP. WALDRON, sponsor, stated this bill would establish a filing fee for declaration of marriage without solemnization and allocate it in the same manner as a marriage license fee is allocated. Approximately one-half of the fee collected would go to the Battered Spouse Program. The balance of the fee goes to the Clerk of Courts' and judges' retirement fund.

Sponsor WALDRON gave the committee an amendment which would affect the title and insertion of Section 3. EXHIBIT W.

CELINDA LAKE, Women's Lobbyist Fund, was in favor of the bill. EXHIBIT X.

There were no further proponents.

There were no opponents.

In closing, REP. WALDRON stated that many of the recipients of the fee that goes towards the Battered Spouse Program are children that are victims of domestic violence.

Section 40-1-311, Declaration of marriage without solemnization was read to the committee.

REP. JENSEN was concerned with the \$30.00 filing fee, feeling it might be excessive. The sponsor replied it was a matter of opinion. He would still prefer that \$15.00 of the fee go towards the Battered Spouse Program.

There were no further questions. The hearing on House Bill 45 closed.

The Judiciary Committee went into Executive Session.

EXECUTIVE SESSION

REP. JENSEN moved the committee wait a full day after hearing a bill before taking action. REP. FARRIS seconded the motion.

REP. KEYSER felt the motion was out of line. The scheduling of bills, executive sessions, etc, are at the chairman's discretion.

CHAIRMAN BROWN ruled the motion out of order and added that since the committee hears so many bills it is necessary to take action on the bills as soon as possible. If there is a reasonable request to delay action on a particular bill, the chair will take that into consideration.

REP. EUDAILY further stated the testimony is fresh in the committee members' minds after hearing a bill. Legislators still have an opportunity to speak on the bill during second reading.

HOUSE BILL 60

REP. JAN BROWN moved DO NOT PASS. REP. SPAETH seconded the motion.

REP. FARRIS stated that marriage is not only a sacrament, but also a civil matter. Therefore, the legislature does have the right to say who can perform marriages and who cannot. REP. FARRIS moved to amend the bill by deleting references to "minister" and replacing the wording with "individual" or "he".

REP. KEYSER was against the bill. Since the bill does not require any particular credentials, it would harass a certain group.

REP. JENSEN felt the bill arose because of mail-order ministers, which is a concern of a number of ministers.

REP. HANNAH was against the amendment and the bill. Adoption of the amendment would not change the bill. The impact would be the same.

REP. SPAETH felt the only purpose of the bill was to collect the \$5.00 fee.

A roll call vote on the amendment was taken. REPRESENTATIVES D. BROWN, ADDY, J. BROWN, CURTISS, DARKO, FARRIS, JENSEN, and VELEBER voted in favor of the amendment. REPRESENTATIVES BERGENE, EUDAILY, HANNAH, KENNERLY, KEYSER, SEIFERT, and SPAETH voted against the amendment. The amendment passed 8 to 7.

REP. KEYSER moved the bill DO NOT PASS AS AMENDED. A roll call vote was taken. All members voted in favor of the motion. HOUSE BILL 60 left the committee as DO NOT PASS AS AMENDED.

HOUSE BILL 45

REP. J. BROWN moved DO PASS. REP. DARKO seconded the motion.

REP. JENSEN moved an amendment changing the \$30.00 fee to \$15.00. The motion was withdrawn.

REP. CURTISS moved the committee adopt REP. WALRDON's (the sponsor) amendment to the bill. The committee appointed the staff attorney to draw up the proper language for the amendment clarifying the underlined material "section 2" of the amendment. The amendment passed unanimously.

REP. JENSEN moved an amendment changing the \$30.00 fee to \$15.00. He felt the \$15.00 should go to the Battered Spouse Program. REP. JENSEN further stated there is no reason money from the fee should go to the Clerk of the District Court since their only function in this case is to witness signatures.

There was a roll call vote on the amendment. REPRESENTATIVES D. BROWN, J. BROWN, CURTISS, DARKO, EUDAILY, HANNAH, KENNERLY, KEYSER, and SEIFERT voted against the amendment. REPRESENTATIVES ADDY, BERGENE, FARRIS, JENSEN, SPAETH and VELEBER voted in favor of the amendment. The amendment failed nine to six.

REP. JENSEN moved the bill DO PASS AS AMENDED, seconded by REP. DARKO. All members were in favor of the motion DO PASS AS AMENDED.

REP. KEYSER moved the meeting adjourn.

The meeting adjourned at 11:30 a.m.



DAVE BROWN, Chairman



Maureen Richardson, Secretary

STANDING COMMITTEE REPORT

January 11, 19 83

MR. **SPEAKER**

We, your committee on **JUDICIARY**

having had under consideration **HOUSE** Bill No. **60**

First reading read **White**
Calder

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING MINISTERS OF ANY RELIGIOUS DENOMINATION WHO WISH TO BE AUTHORIZED TO SOLEMNIZE MARRIAGES TO FILE A COPY OF THEIR CREDENTIALS WITH THE CLERK OF THE DISTRICT COURT OF ANY COUNTY; PROVIDING FOR A \$5 FILING FEE; AND PROVIDING THAT ANY PERSON WHO UNDERTAKES TO SOLEMNIZE A MARRIAGE KNOWING THAT HE IS NOT AUTHORIZED TO DO SO IS GUILTY OF A MISDEMEANOR PUNISHABLE BY A FINE OF NOT LESS THAN \$500 OR MORE THAN \$1,000; AMENDING SECTION 25-1-201, MCA."

Respectfully report as follows: That **HOUSE** Bill No. **60**

BE AMENDED AS FOLLOWS:

1. TITLE, lines 4 and 5.

Following: "REQUIRING"

Strike: "MINISTERS OF ANY RELIGIOUS DENOMINATION"

Insert: "PERSONS"

2. Page 1, lines 16 and 17.

Following: "No"

Strike: "minister of any religious denomination"

Insert: "person"

3. Page 1, line 21.

Following: "the"

Strike: "minister's"


4. Page 1, line 21.

Following: "give"

Strike: "him"

Insert: "the person filing them"

XXXXXX
DO PASS


Dave Brown,

Chairman.

January 11, 1983

5. Page 1, lines 24 and 25.

Following: "executed"

Strike: "by a minister"

6. Page 3, line 13.

Following: "of"

Strike: "a minister"

Insert: "license of ordination"

AND AS AMENDED
DO NOT PASS

STANDING COMMITTEE REPORT

January 11,

1983

MR. **SPEAKER**

We, your committee on **JUDICIARY**

having had under consideration **HOUSE** Bill No. **45**

First reading held (**White**)
Date:

A BILL FOR AN ACT ENTITLED: "AN ACT TO ESTABLISH A FEE FOR
DECLARATION OF MARRIAGE WITHOUT SOLEMNIZATION, ALLOCATING IT
IN THE SAME MANNER AS A MARRIAGE LICENSE FEE; AMENDING SECTIONS
25-1-201 and 40-1-311, MCA."

Respectfully report as follows: That **HOUSE** Bill No. **45**

BE AMENDED AS FOLLOWS:

1. Title, line 7.

Following: "25-1-201"

Insert: "40-2-405,"

2. Page 4, line 3.

Following: line 3


Insert: "Section 3. Section 40-2-405, MCA is amended to read:

"40-2-405. Funding. (1) Revenue from the marriage license
fee and the fee collected for filing a declaration of marriage
without solemnization is the primary source of funding for the
battered spouses and domestic violence program. The disposition
of the marriage license fee is as established in 25-1-201.

(2) Twenty percent of the operational costs of a battered
spouses and domestic violence program must come from the local
community served by the program. The local contribution may
include in-kind contributions."

DO PASS

**AND AS AMENDED
DO PASS**


Dave Brown,

Chairman.

	Date: 1/11 No: HB 60 Amendment	Date: 1/11 No: HB 60 Do Not Pass as Amended	Date: 1/11 No: HB 45 Amendment	Date: No:	Date No:	Date: No:
BROWN, Dave	Yes	Yes	No			
ADDY, Kelly	Yes	Yes	Yes			
BERGENE, Toni	No	Yes	Yes			
BROWN, Jan	Yes	Yes	No			
CURTISS, Aubyn	Yes	Yes	No			
DAILY, Fritz	-	Yes	-			
DARKO, Paula	Yes	Yes	No			
EUDAILY, Ralph	No	Yes	No			
FARRIS, Carol	Yes	Yes	Yes			
HANNAH, Tom	No	Yes	No			
IVERSON, Dennis	-	Yes	-			
JENSEN, James	Yes	Yes	Yes			
KENNERLY, Roland	No	Yes	No			
KEYSER, Kerry	No	Yes	No			
RAMIREZ, Jack	-	Yes	-			
SCHYE, Ted	-	Yes	-			
SEIFERT, Carl	No	Yes	No			
SPAETH, Gary	No	Yes	Yes			
VELEBER, Dennis	Yes	Yes	Yes			
8 - 7			19 - 0			6 - 9

Grace Gospel
A New Testament Church
Box 5627
Helena, Mt. 59604

Doug Kelley - Sr. Pastor
Brad Williams - Pastor



HB 60
Exhibit A
1/11/83

January 10, 1983

Representative Dave Brown, Chairman
House Judicial Committee
House of Representatives
Capitol Station
Helena, Montana 59620

Dear Chairman Brown and Members of the Judicial Committee:

As a pastor and lawyer, I find proposed House Bill 60 to be unconstitutional on its face and burdensome to my personal religious convictions. As the committee is well aware the First Amendment to the United States Constitution states:

Congress shall make no law respecting
an establishment of religion, or prohibiting
the free exercise thereof.

This section is repeated in the 1972 Constitution, Part 2, Section 5, states:

The state shall make no law respecting
an establishment of religion or prohibiting
the free exercise thereof.

It is my legal opinion that if House Bill 60 is passed that the state has violated both of the above constitutional prohibitions.

I am personally acquainted with many men of God who do not have any credentials to deposit with the Clerk of the District Court.

I wonder if Jesus Christ himself had any credentials in which to deposit with the Clerk of the District Court. I seriously doubt that he had such papers.

Making such a requirement has caused the state to define a minister as being one who has credentials rather than one ordained by God.

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... "And He gave some, apostles; and some, prophets; and some, evangelists; and some, pastors and teachers. . . " Eph 4:11

Chairman Dave Brown  
January 10, 1983  
Page 2

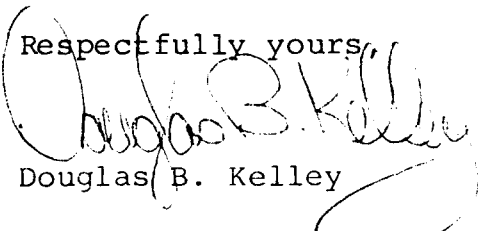
Section 40-1-301 of the Montana Codes Annotated permits solemnization of marriages by judges, various public officials and tribal judges, as well as Christian ministers. House Bill 60 does not restrict these other parties and is therefore denying ministers the equal protection of law.

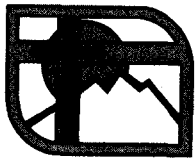
It should also be noted that 40-1-403 of the Montana Codes Annotated states explicitly that "common law marriages are not invalidated by this chapter." It seems illogical to permit common law marriages between consenting adults while punishing a minister for his effort to sanction a marriage merely because he fails to file a credential which he may or may not have.

Finally, it should be noted that the marriage license presently requires a place for two witnesses to sign, as well as the party solemnizing the marriage vows. This is sufficient. To do more as suggested by House Bill 60 is to restrict the free exercise of my religious convictions and to pierce the veil of church and state.

I strongly urge you to defeat this legislation as unneeded, unconstitutional and unacceptable.

Respectfully yours,

  
Douglas B. Kelley



# Missoula Community Chapel

140 South 4th West, Missoula, Montana 59801 • Phone (406) 721-7804 • Stephen R. Valentine, Pastor

Exhibit B  
HB 60  
4/11/83

January 10, 1983

House of Representatives  
State Capitol  
State of Montana  
Helena, Montana 59601

Gentlemen:

House Bill 60 is a bill requiring pastors to register their license with their district court if they choose to solemnize any marriage in the State of Montana. Failure to do so would result in a misdemeanor with a fine of \$500 to \$1000.

I am strongly opposed to this bill based on a Biblical conviction that the state has no control or authority in matters of the church. According to Ephesians 4:8,11,12:

- vs. 8 Wherefore he saith, When he ascended up on high, he led captivity captive, and gave gifts unto men.
- vs. 11 And he gave some, apostles; and some, prophets; and some, evangelists; and some, pastors and teachers;
- vs. 12 For the perfecting of the saints, for the work of the ministry, for the edifying of the body of Christ;

God gave gifts unto men for the perfecting of the saints, for the work of the ministry and for the edifying of the Body of Christ. These offices are the Lord's ordained government within the church. Offices of civil government such as senators, representatives, governors, etc., are not accountable for the souls of the people of the church. In fact, civil government does not place itself under the authority of the Lord Jesus Christ. Since the state is not under the authority of Jesus, for me to receive, recognize or accept State approval of any ministry of the church, including marriages, would be removing the headship of the church from the Lord Jesus Christ. State approval means state control. Governmental approval or registration is in truth, governmental control. Governmental control strongly implies and asserts governmental authority and I choose to keep the Lord Jesus Christ in His sovereign

House of Representatives  
January 10, 1983  
Page 2

position of headship over the church and all of the ministries of the church.

I am praying that you will drop this Bill and allow the church to continue to function in the liberty and under the authority of Jesus Christ. Thank you for your serious consideration of this letter.

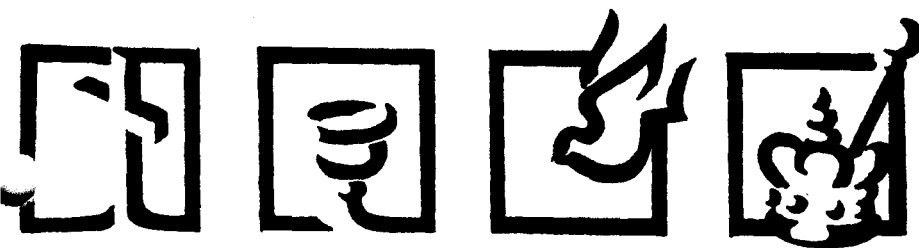
Sincerely,

A handwritten signature in cursive script, reading "Stephen R. Valentine". The signature is written in dark ink and is positioned below the word "Sincerely,".

Stephen R. Valentine  
Pastor

SRV/cmv





## NORTHSIDE CHAPEL FOURSQUARE CHURCH

601 North Fourth West  
Missoula, Montana 59801  
(406) ~~542-0256~~ 721-6884

January 10, 1983

Exhibit C  
HB 60  
1/11/83

House of Representatives  
State Capitol  
Helena, MT 59601

Subject: House Bill 60

Gentlemen:

It appears a never ending battle that the legislators of the State of Montana are determined to govern the operations and ministries of the church.

At this time, you are considering the registering (controlling) of ordained ministers and priests in Montana who will perform marriages. What will the state be seeking to control tomorrow in the church?

I am deeply concerned with any state control or registering of any religious group or person, not only for Biblical reasons but constitutional, as well. I am sternly opposed to this proposed bill, for it puts a wholly Biblical ordinance or sacrament under the registering auspices of a secular state. Further, it prohibits the "free" exercise of religion protected under first amendment privilege by charging fees, punishable by fines and, in other ways, hampering the free exercise of religion in this state.

The State of Montana should be advised that it is to its benefit not to pass this bill. State involvement in the church affairs for licensing, registering, or in any other way, controlling ministry unique to religious organizations is particularly intolerable.

Your dismissal of this bill will further enhance freedom in Montana and assure the favor of religious men and women throughout our great state.

Sincerely,

Michael A. McGovern  
Pastor

/ld

"And of His fulness have all we received, and grace for grace" John 1:16



# Shepherd of the Valley Church

PASTOR: Franklin Wesseliuss  
PHONE: (406) 273-2358

ELDERS: Donald Bergoust  
Donald Nyquist  
Elwood Olson  
Lee VonKuster

ISHIAH: 40:11

BOX 277

LOLO, MONTANA 59847

Exhibit D

HB 60

1/11/83

January 10, 1983

RE: House Bill #60 (Clergymen registration)

Montana State Legislators  
Helena, Montana

Dear Sirs,

I and my congregation wish to share with you our DISAPPROVAL of House Bill #60. We oppose restrictions placed upon servants of God by the state - or the necessity of state approval for the fulfillment of their functions. Such controls and requirements of the state can only lead to the loss of religious freedom - in some degree. Thus, constitutional guarantees are eroded.

Most sincerely,

Rev. Frank Wesseliuss, Pastor  
Box 277  
Lolo, Montana

Exhibit E  
HB 60  
1/11/83

January 11, 1983

Mr. Dave Brown  
House Judiciary Committee  
State Capitol  
Helena, MT 59620

Dear Chairman Brown:

I would like to add my voice in opposition to House Bill 60. This bill threatens the very foundations on which our country was built - the freedom of religion.

Freedom of religion has always been a cornerstone on which this country rested. I believe only God has the authority to raise up and recognize ministers.

For several years, I have been a recognized leader in the East Helena Foursquare Church (formerly Emmanuel Covenant Fellowship). Previously I was recognized as an elder, and am presently serving as associate pastor. At no time did I receive any papers in evidence of this recognition. I do not anticipate receiving papers in the near future.

Until the prospect of this bill arose, I have been free to pursue the direction of my calling in the way I felt led. During that time I have solemnized three marriages and one funeral. The three couples are still married and one person is still dead.

On the surface, this legislation may not seem that offensive, but we feel that it is a foot in a door that should remain closed. Therefore, I urge you to reject this unnecessary legislation.

Sincerely yours,



David Diehl

Grace Gospel  
A New Testament Church

Glenn Lindsey  
~~Jim O'Connor~~ Pastor  
278-3773 279-3208

Box 478  
Valier, Mt. 59486



Exhibit F  
1/11/83 HB60

January 11, 1983

Mr. Dave Brown  
House Judiciary Committee  
Capitol Building  
Helena, MT 59620

Dear Chairman Brown:

I would like to submit the following statement in regards to House Bill 60. I have included a brief resume and my reasons for opposing this bill.

Pastor Glenn Lindsey  
Grace Gospel Church  
Valier, Montana

Education: M.A. Education/Counseling, 1975 Cal Poly S.L.O. Calif.  
B.A. History Cal Poly, S.L.O. Calif., 1974

Employment History:

|                     |         |
|---------------------|---------|
| State of Montana    | 1978-81 |
| U.S. Civil Service  | 1975-76 |
| State of California | 1974-75 |
| U.S. Air Force      | 1966-69 |

The Word of God establishes as fact that God created men and women (Matthew 19:4-6). This passage of God's Word indicates that the purpose God had in mind for men and women was that they be joined together in the marriage relationship to be of one flesh through the divine authority and direction of His Word. Since this seems to be the case, there would appear to be no greater sanctioning authority necessary or needed to authorize or validate the act of holy wedlock.

H.B. 60 therefore would appear to be superfluous and totally lacking in any logical protection or service to the people of the great State of Montana and should be scrapped as a waste of legislators' and taxpayers' time, finances and energies.

If this bill were to be passed, I, for one, would like to state that having been called as a minister of God, I could not in good conscience be persuaded to change my convictions simply because the preferences of this governing body were to shift with the seasons of social or political change.

Sincerely yours,

*Glenn R. Lindsey*  
Glenn R. Lindsey

# Grace Gospel Church

SUNBURST CHRISTIAN ACADEMY - SUNBURST BIBLE INSTITUTE  
P. O. BOX 325 • SUNBURST, MONTANA 59482 • (406) 937-7385

Exhibit G  
HB 60  
4/11/83

January 10, 1983

Representative Dave Brown  
House Judicial Committee  
State Capitol  
Helena, Montana 59620

Dear Sir:

My name is Creed Davis. I reside at Box 174, Sunburst, Montana 59482. My present occupation is a minister of the Gospel with oversight of a number of churches in the State of Montana.

I am distressed by the implications I see in House Bill 60. It represents a gross intrusion by the state into the inherent right of the church and its function. I pray that you will give consideration through the testimony offered considering this bill.

Nebuchadnezzar, King of Babylon, was represented as the head of the golden image in Daniel's vision. He attempted to impose state control over the citizens of his country, including Daniel, Shadrach, Meshach and Abed-nego. The Bible informs us that God gave Nebuchadnezzar a beast's heart for a period of time until he came to the conclusion that the Most High ruleth in the kingdom of men and that His "dominion is an everlasting dominion and His kingdom is from generation to generation." (Dan. 4) Nebuchadnezzar came to the God-given knowledge that "the heavens do ruleth." (Dan. 4:26b)

The Old Testament declares that there is no name above the name of God. Isaiah 42:8 states, "I am the Lord: that is my name; and my glory will I not give to another, neither my praise to carved images." In the New Testament, Acts 4:12 states, "Neither is there salvation in any other; for there is no other name under heaven given among men, whereby we must be saved." Psalms 138:2 says that God "...hast magnified thy word above all thy name." We see that the word of God is absolute.

Since the giving of God's word, God's declared enemy, the devil, has tried to deceive men by eradicating, defacing, mutilating and compromising the Word of God, but the image of God to His creatures has remained intact.

In Acts 4:10-20, when the Apostle Peter and the Apostle John were ordered by the Sanhedrin to speak no longer in the name of Jesus, they established a principle that is a guideline for every consecrated Christian: "Whether it is right in the sight of God to hearken to you more than unto God, judge ye. For we cannot but speak the things which we have been and heard."

God has clearly spoken to my heart through John 15:16, "Ye have not chosen me, but I have chosen you, and ordained you..." In Hebrews 5:4 we are told that "no man taketh this honor unto himself, but he that is called of God, as was Aaron." Gentlemen, this my commission from God.

I am not a politician and I am clumsy with the political phraseology with which you gentlemen are familiar, but I am a minister not by choice but by the calling of God. I understand the laws and principles of God and I am comfortable with them. I have a clear mandate from God to propagate His message to the world.

Lest you form the opinion that I am some kind of "kook" please consider some of my background. I am 63 years old. I served honorably for 3-1/2 years with the United States Air Force in World War II. I retired in 1975 from the United States Justice Department with 31 years creditable service, much of which was spent in Montana.

I have been a teacher and pastor of the Gospel for the past 35 years. I was a civilian member of the Chaplain's Corp in Puerto Rico in 1953-56 and was active in ministry on all the bases on the island. I have been instrumental in founding and establishing quite a number of churches including the first English speaking church in Puerto Rico.

I have been active in the ministry all these years and still a full time member of the United States Immigration Service with no conflict of interest ever indicated.

I have ministered and pastored in Kansas, California, Florida, Puerto Rico, Texas, Hawaii, Virgin Island and Montana. I have ministered in many foreign lands, including Canada, Mexico, New Zealand, Japan, Fiji Islands, Samoa, England, India, Afghanistan, Pakistan, Philippine Islands, Hong Kong and Taiwan.

I have performed many weddings in various places without the benefit of formal ordination or licensing. Never have I been challenged or required to submit evidence of ordination or licensing in any of the places that I have ministered. I was ordained in 1975 for the purpose of assisting my son-in-law in a prison ministry in California. However, this was a privilege which I sought and not a right granted for the performance of my ministry.

I am now and desire to remain a law-abiding citizen of my country, on the national, state and local levels, but since my commitment to God, Who's kingdom ruleth all, I will never submit to any law which restricts my God-given commission.

I will continue to perform marriages as needed in the performance of my ministerial duties. Should House Bill 60 become law I will continue to perform such marriages without the benefit of "state" approval and without application for such approval.

If this makes me a criminal, gentlemen, judge ye.

Sincerely,

A handwritten signature in cursive script, appearing to read "Creed Davis".

Creed Davis

2 miles north  
of Choteau on  
Highway 89

Faith   
Center

R.R. 2 Box 126  
Choteau MT  
59422

January 8, 1983

Exhibit H

HB 60

1/11/83

Chairman Dave Brown  
House Judicial Committee  
State Capitol  
Helena, MT 59620

Dear Sir:

I have recently heard of House Bill 60 which would require ministers of the Gospel to submit their credentials to the Clerk of the District Court. As a minister ordained by God Almighty, I am unalterably opposed to this bill.

During the past few years God has used me and several other men and women to establish a non-denominational church of approximately 100 people in Choteau, Montana. I am not now, nor do I intend to be in the future, licensed or "papered" by any man, government or organization.

As a minister ordained by God I have had the proud and happy privilege of solemnizing two different marriages. This law would have made me a common criminal for merely practicing my calling.

I am not a criminal, but a God fearing, tax paying, ordained by God preacher. Don't make me a criminal. Reject this bill. It serves no useful purpose.

Yours in Christ,

*John J. Brown*



WITNESS STATEMENT

NAME Creed Davis BILL No. HB-60  
ADDRESS Box 172 DATE JAN. 11, 1983  
WHOM DO YOU REPRESENT GRACE GOSPEL CHURCHES  
SUPPORT \_\_\_\_\_ OPPOSE X AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

## Comments:

*This appears to me to be a violation of "separation  
of Church & State."*

*I believe that the Kingdom of God rules over  
the Kingdom of man and that a true minister is  
called of God, not man, to the ministry and, consequently,  
man has no authority or control over Church  
functions or its ministers.*

*I am in opposition to this proposed legislation  
and believe it should be scrapped as unconstitutional,  
and detrimental to the welfare of the Church of  
the living God.*

WITNESS STATEMENT

NAME Steve Valentine BILL No. 60  
ADDRESS 2410 56<sup>th</sup> DATE 1-11-83  
WHOM DO YOU REPRESENT Missouri Community Chapel  
SUPPORT \_\_\_\_\_ OPPOSE X AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

## Comments:

I am opposed to this bill on the basis of my belief that the affairs of the church belong under the Headship of Jesus Christ, not the authority of the state. I have enclosed a letter to further explain my conviction in this area.

WITNESS STATEMENT

NAME EARL D. HARGIS BILL No. HB 60  
ADDRESS N.W. 5340 TEEPEE DR., FLORENCE, MT. DATE 1/11/83  
WHOM DO YOU REPRESENT FLORENCE BIBLE CHURCH  
SUPPORT \_\_\_\_\_ OPPOSE X AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

*While the bill sounds innocent enough, the long-term implications bear serious threats of violation of church-state separation principles.*

*Ministers are called of God and approved by Him to operate according to the dictates of the conscience under God; they do not need to be approved by men. The right to license is the right to allow to exist. Please oppose and disapprove this bill.*



*The Big Sky Country*

**MONTANA STATE HOUSE OF REPRESENTATIVES**

Rep. Aubyn A. Curtiss  
House District No. 20  
Box 216  
Fortune, Montana 59918

Committees:  
Natural Resources,  
Judiciary,  
Legislative Administration,  
~~Vice-Chairman, House Water Committee~~

Mr. Chairman, Members of the Committee  
For the record, I am Aubyn Curtiss, District 20 Representative

Mr. Chairman:

The primary goal of the Interim Subcommittee on the Judiciary was to improve our justice system by minimizing waste and delay in bringing cases to trial. The passage of HB 3 will help expedite civil litigation.

During discussions on judicial redistricting, judges told members of the Interim Subcommittee that operations of the District Courts could be improved by eliminating the use of peremptory challenges to disqualify judges. This provides for automatic removal of a district court judge upon filing of a written motion for a substitution. No reasons are required.

The authority to disqualify judges by this method is provided in a Supreme Court rule adopted in 1981.

According to Article VII, Section 2(3) of the Montana Constitution, this rule is subject to disapproval by the legislature in either of the two sessions following its promulgation.

Under the rule each adverse party is entitled to two substitutions of a judge in civil cases and one substitution in criminal cases.

The current rule also permits two additional methods for disqualifying judges. Any justice, judge or Justice of the Peace, may disqualify himself. A judge also is prohibited from acting in a proceeding if he is related to either party or has rendered the judgement, order, or decision being appealed. Judges or justices also may be disqualified for cause by filing 20 days before the original trial date, an affidavit affirming that the judge has a bias for, or against either of the parties.

Believing that the above provisions are more than adequate to accomodate attorneys, and seeking ways to hasten the administration of justice, the Interim Committee directed the drafting of HB 3 which proposes to limit peremptory challenges to one to each party in a civil case.

I urge your approval of House Bill 3.

1/11/83

Judge Keedy's suggested Amends:

TITLE

Page 1, line 7

Following "that"

Strike the balance of line 7 and line 8

Insert: "permits the designation of"

CAPs (distinct court judges by gender) challenges."

Page 1, line 12

Following "permanently"

Strike: the balance of line 12 and line 13

Insert: "permitting distinct court judges to be designated through permanent challenges;" and

"permanent challenges;" and

Page 1, line 18

Following "that"

~~Insert~~ Strike: "one"

Insert: "the removal of judges by"

Page 1, line 18

Following "challenge"

Strike: the balance of line 18 and line 19

Insert: "hinders and delays"

Page 1, line 25  
Following "challenges"  
Strike: "in civil cases"

Page 2, line 1  
Following "Rule"

~~Insert~~ Strike: the balance of line 1 and line 2 and 3.

Insert: "only."

Page 2, line 11

Following "allows"

Strike: the balance of line 11 and line 12.

Insert: "distinct judges to be designated through permanent challenges."



State of Montana Eleventh Judicial District

POST OFFICE BOX 839 KALISPELL, MONTANA 59901

Exhibit N  
HB 3  
1/11/83

MICHAEL H. KEEDY  
JUDGE OF THE DISTRICT COURT

ROBERT G. MEERKATZ  
COURT REPORTER

January 8, 1983

Ms. Aubyn A. Curtiss, Representative  
Montana House of Representatives  
Capitol Station  
Helena, Montana 59601

Re: House Bill 3

Dear Aubyn:

I'm writing to express my full-fledged support for HB 3-- and at the same time to suggest that it doesn't go far enough.

As a former member of the interim legislative subcommittee on the judiciary, which considered the problems associated with peremptory challenges, and now as a sitting judge, I can attest that the current Supreme Court rule on the substitution of judges is too liberal, subject to abuse, expensive to the State of Montana and a drain on the administration of justice.

Although I was sworn in as District Judge in Flathead County less than a week ago, no fewer than four (4) motions for substitution of judge have been filed in my court already. Three of these are peremptory challenges (i.e., alleging no cause at all); the fourth is allegedly for cause but does not recite "bias or prejudice. .against (the defendant) or in favor of (the prosecution)," as required by the rule, nor is it accompanied by a certificate of good faith--also required by the rule.

But the most obvious point is that criminal defendants here and across Montana lose no time in "forum-shopping" for a judge who they believe will treat them more favorably, either at the adjudication stage or at sentencing, than the judge to whom the case was assigned originally. This is done frequently--even routinely--and every time it happens, the costs of justice escalate, and the administration of justice suffers.

When a second, third, or even fourth judge must be called in to try a case (remember, each party has one or two peremptory challenges available), considerable time is lost in making the proper substitution(s). Then, when the new judge travels into the district where the case is to be tried, his or her lodging, meals, and travel expenses must be paid, by the State. In lengthy trials, this can be an expensive proposition. If this were a

necessary or even a beneficial system, of course, the associated delays and expenses would be worth it. But it isn't.

My comments, incidentally, are not intended as an attack upon the rights of civil litigants and criminal defendants to challenge judges where good cause exists, such as in the case of actual bias, and of course your bill would do nothing to change the Supreme Court rule governing challenges for cause. And that's the whole point: if lawyers and their clients genuinely believe a judge to be biased against them; if they have good-faith doubts that they could have a fair trial in his (her) court, then they have every opportunity to allege and prove it at a for-cause hearing. Not only do they have this opportunity, they have an obligation to do it, in my opinion. If as many of Montana's trial judges are unable or unwilling to grant the parties in their courts fair trials as the number and frequency of peremptory challenges suggests, then this is a serious matter, one in which the people of Montana have a legitimate interest. Then the problem--however distasteful--must not be shoveled under the carpet in the name of convenience or civility, through an "automatic" system of elimination.

I said in the beginning that HB 3 doesn't go far enough, and would therefore urge you and the other committee members to consider an amendment which would do away with peremptory challenges in criminal cases. If a defendant really does have cause to insist upon another judge, then let him demonstrate that.

One of the main purposes of the interim legislative subcommittee on the judiciary was to improve our justice system by minimizing waste and delay in bringing cases to trial. The passage of HB 3 will help to expedite civil litigation; and, if amended as suggested, will further the legitimate ends of criminal justice as well.

Many thanks.

Best personal wishes,



Michael H. Keedy  
District Judge



CLERK OF DISTRICT COURT

1983 JAN -6 PM 3:44

IN THE DISTRICT COURT OF THE ELEVENTH  
JUDICIAL DISTRICT OF THE STATE OF MONTANA, BY FILED  
IN AND FOR THE COUNTY OF FLATHEAD DEPUTY XK

Cause No. DC-82-136

STATE OF MONTANA, )

)  
Plaintiff, )

vs. )

MOTION FOR SUBSTITUTION  
OF JUDGE

GARY GENE VANZANDT, )

)  
Defendant. )

\* \* \* \* \*

COMES NOW, Gary Gene VanZandt, Defendant in the above entitled  
matter, by and through his attorney, Stephen J. Nardi, and pursuant  
to the laws of the State of Montana, hereby moves for substitution  
of another Judge to replace the Honorable Michael H. Keedy in this  
case.

DATED this 6<sup>th</sup> day of January, 1983.

SHERLOCK & NARDI  
Attorneys for Defendant

By: [Signature]

Stephen J. Nardi  
30 Fifth Street East  
Kalispell, MT 59901

CERTIFICATE OF MAILING

I, Mila A. Anderson, secretary to SHERLOCK & NARDI, attorneys  
for the Defendant in the above entitled matter, do hereby certify  
that on the 6<sup>th</sup> day of January, 1983, I served the foregoing  
MOTION FOR SUBSTITUTION OF JUDGE upon counsel for Plaintiff by  
mailing a true and correct copy thereof first class postage prepaid  
mail at Kalispell, Montana, as follows, to wit:

Mr. Michael C. Prezeau  
Deputy County Attorney  
Flathead County  
800 South Main  
Kalispell, MT 59901

[Signature]  
Mila A. Anderson

1  
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CERTIFICATE OF MAILING

I, Nancy Berger, Legal Secretary to the law firm of,  
MOORE, DORAN & CROWE, do hereby certify that on the 10<sup>th</sup>  
day of January, 1983, I mailed a true and correct copy of  
the within and foregoing "MOTION FOR DISQUALIFICATION,  
ORDER, AND ACCEPTANCE, first class, postage prepaid, to  
the following:

Michael Prezeau  
Deputy Flathead County Attorney  
P.O. Box 1516  
Kalispell, MT 59901

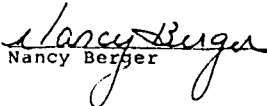
  
Nancy Berger

Exhibit P

NR 3

4/11/83

CLERK OF DISTRICT COURT  
JAN 1983

1982 DEC 29 PM 3:33

IN THE DISTRICT COURT OF THE ELEVENTH  
JUDICIAL DISTRICT OF THE STATE OF MONTANA,  
IN AND FOR THE COUNTY OF FLATHEAD

FILED  
BY DEPUTY

No. DC-81-063

STATE OF MONTANA, )  
Plaintiff, )

-vs-

MOTION

BRUCE ALLEN FREY, )  
Defendant. )

\*\*\*\*\*

COMES NOW the Defendant, by and through his attorney,  
and moves to disqualify the Honorable Michael Keedy,  
District Judge, for cause on the grounds that in the instant  
case, the Defendant has filed notice of the defense commonly  
known as "Insanity Defense", and intends to raise such  
defense at time of trial, and further, that the Defendant  
could not receive a fair and impartial trial before Judge  
Keedy based upon statements made in his campaign for  
election and in various forums to the effect that such a  
defense has been abolished and no longer exists in the  
State of Montana. An example of the Judge's position in  
this regard is attached hereto and incorporated by this  
reference as Exhibit "A".

DATED this 29 day of December, 1982.

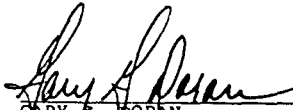
  
GARY S. MORAN  
Attorney for Defendant  
P.O. Box 1198  
Kalispell, MT 59901

Exhibit Q  
HB 3 1/11/83

CLERK OF DISTRICT COURT  
JAN 11 1983

1983 JAN -6 PM 3:45

1 IN THE DISTRICT COURT OF THE ELEVENTH  
2 JUDICIAL DISTRICT OF THE STATE OF MONTANA,  
3 IN AND FOR THE COUNTY OF FLATHEAD

FILED

DEPUTY

Cause No. DC-82-122

4 STATE OF MONTANA,

5 Plaintiff,

6 vs.

7 RAYMOND L. STEWART,

8 Defendant.)

MOTION FOR SUBSTITUTION  
OF JUDGE

9 \* \* \* \* \*

10 COMES NOW, Raymond L. Stewart, Defendant in the above entitled  
11 matter, by and through his attorney, Stephen J. Nardi, and pursuant  
12 to the laws of the State of Montana, hereby moves for substitution  
13 of another Judge to replace the Honorable Michael H. Keedy in this  
14 case.

15 DATED this 6<sup>th</sup> day of January, 1983.

16 SHERLOCK & NARDI  
17 Attorneys for Defendant

18 By: Stephen J. Nardi  
19 30 Fifth Street East  
20 Kalispell, MT 59901

21 CERTIFICATE OF MAILING

22 I, Mila A. Anderson, secretary to SHERLOCK & NARDI, attorneys  
23 for the Defendant in the above entitled matter, do hereby certify  
24 that on the 6<sup>th</sup> day of January, 1983, I served the foregoing  
25 MOTION FOR SUBSTITUTION OF JUDGE upon counsel for Plaintiff by  
26 mailing a true and correct copy thereof first class postage prepaid  
27 mail at Kalispell, Montana, as follows, to wit:

28 Mr. Dennis J. Hester  
29 Deputy County Attorney  
30 Flathead County  
31 800 South Main  
32 Kalispell, MT 59901

Mila A. Anderson  
Mila A. Anderson

Exhibit R  
NB 3  
1/11/83


IN THE DISTRICT COURT OF THE ELEVENTH  
JUDICIAL DISTRICT OF THE STATE OF MONTANA,  
IN AND FOR THE COUNTY OF FLATHEAD

STATE OF MONTANA, )  
 ) Cause No. DC-82-144  
Plaintiff, )  
 )  
-vs- )  
 ) MOTION FOR DISQUALIFICATION,  
THOMAS LaVALLEY, ) ORDER, AND ACCEPTANCE  
 )  
Defendant. )

\*\*\*\*\*

COMES NOW, the above-named Defendant, pursuant to  
3-1-802, M.C.A., and moves for substitution of another  
Judge for the Honorable Michael H. Keedy, District Judge,  
in this cause.

DATED this 10 day of January, 1983.

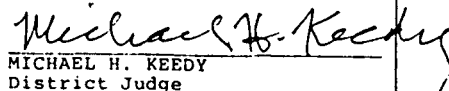
  
GARY A. CROWE  
Attorney for Defendant  
P.O. Box 1198  
Kalispell, MT 59901

ORDER

The foregoing Motion having been presented to the  
Court, and the same having been duly considered; NOW,  
THEREFORE,

IT IS HEREBY ORDERED that the Honorable Michael H.  
Keedy shall relinquish jurisdiction in this cause, and  
that the Honorable James J. Salansky shall assume  
jurisdiction.

DATED this 10<sup>th</sup> day of January, 1983.

  
MICHAEL H. KEEDY  
District Judge

ACCEPTANCE

The foregoing Motion and Order having been presented  
to the undersigned, and upon consideration, jurisdiction  
in this cause is hereby accepted.

DATED this \_\_\_\_ day of January, 1983.

Exhibit S

HB 3

4/11/83

CLERK OF DISTRICT COURT  
JAN 10 1983

1983 JAN -6 AM 10:58

1 IN THE DISTRICT COURT OF THE ELEVENTH  
2 JUDICIAL DISTRICT OF THE STATE OF  
3 MONTANA

BY FILED DO  
DEPUTY

4  
5 State of Montana,

6 Plaintiff,

7 -vs-

8 Richard D. Gordon,

9 Defendant.

Cause No. DC 82134

MOTION FOR SUBSTITUTION  
OF JUDGE

10  
11 The undersigned hereby moves for the substitution  
12 of another Judge for the Honorable Michael H. Keedy in  
13 this cause.

14 Dated this 6 day of January, 1983.

15  
16  
17  
18 *Richard D. Gordon*  
Richard D. Gordon, Defendant

Exhibit T  
NB 3  
4/11/83

CLERK OF DISTRICT COURT  
JUDICIAL DISTRICT

1982 DEC 29 PM 3:34

IN THE DISTRICT COURT OF THE ELEVENTH  
JUDICIAL DISTRICT OF THE STATE OF MONTANA,  
IN AND FOR THE COUNTY OF FLATHEAD

FILED **KK**  
BY DEPUTY

No. DC-81-064


STATE OF MONTANA, )  
Plaintiff, )  
-vs- )  
BRUCE ALLEN FREY, )  
Defendant. )

MOTION

\*\*\*\*\*

COMES NOW the Defendant, by and through his attorney,  
and moves to disqualify the Honorable Michael Keedy,  
District Judge, for cause on the grounds that in the instant  
case, the Defendant has filed notice of the defense commonly  
known as "Insanity Defense", and intends to raise such  
defense at time of trial, and further, that the Defendant  
could not receive a fair and impartial trial before Judge  
Keedy based upon statements made in his campaign for  
election and in various forums to the effect that such a  
defense has been abolished and no longer exists in the  
State of Montana. An example of the Judge's position in  
this regard is attached hereto and incorporated by this  
reference as Exhibit "A".

DATED this 29 day of December, 1982.

  
GARY G. DORAN  
Attorney for Defendant  
P.O. Box 1198  
Kalispell, MT 59901

WITNESS STATEMENT

exhibit U  
HB 3  
1/11/83

NAME Karla Gray BILL No. HB 3  
ADDRESS 104 Broadway, Helena DATE 1/11/83  
WHOM DO YOU REPRESENT Montana Trial Lawyers  
SUPPORT \_\_\_\_\_ OPPOSE X AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. Rule not abused; <sup>used only where lawyer feels it necessary</sup> no statistics on use of 2 per. challenges
2. Delays involved in use of rule are insubstantial, particularly in light of overall time frame of a lawsuit.
3. Use of the peremptory challenge, rather than the motion to disqualify, when a lawyer feels a judge is prejudiced or biased against the lawyer or the litigant, is less likely to adversely impact on relationships between bench and bar.

Lawyers only use the peremptory challenge when they feel it is really necessary. Utilizing the challenge is a better method than making a public affidavit stating that the judge is biased or prejudiced.





*The Big Sky Country*

EXHIBIT V  
HB 3  
1/11/83

## MONTANA STATE HOUSE OF REPRESENTATIVES

Rep. Aubyn A. Curtiss  
House District No. 20  
Box 216  
Fortine, Montana 59918

Committees:  
Natural Resources,  
Judiciary,  
Legislative Administration,  
Vice-Chairman, House Water Committee

CLOSING H.B. 3

THE ESSENCE OF H.B. 3 BOILS DOWN TO ONE QUESTION! WHOM DO WE WANT TO RUN OUR COURT SYSTEM? THE JUDGES WHOM WE ELECT TO MAKE DECISIONS. OR THE LAWYERS WHO ARE PAID TO REPRESENT THEIR INDIVIDUAL CLIENTS?

WE MUST RECOGNIZE THE FACT THAT IT IS IN THE INTEREST OF LAWYERS TO CONTROL THE COURTS. DISQUALIFICATION IS A TOOL WITH WHICH THEY MAY OBTAIN JUDGES FROM WHOM THEY MIGHT EXPECT TO GAIN MORE FAVORABLE DECISIONS.

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE. OUR RESPONSIBILITY IS TO CHOOSE WHICH BEST SERVES THE PUBLIC INTEREST.

AND AS YOU DECIDE, PLEASE KEEP IN MIND THE FACT THAT OTHER OPTIONS REMAIN FOR REPLACING A JUDGE WHOM IS DEEMED TO HAVE A BIAS RELATED TO EITHER PARTY IN THE CASE. UNDER PROVISIONS OF H.B. 3, ONE PEREMPTORY CHALLENGE WOULD STILL BE ALLOWED, AND A JUDGE WOULD STILL BE REMOVED FOR CAUSE.

THANK YOU VERY MUCH!

Exhibit W  
HB 3  
4/11/83

Proposed amendments to House Bill 45

1. Title, line 7

Following: "25-1-201,"

Insert: "40-2-405,"

2. Page 4, line 3

Following: line 3

Insert: "Section 3. Section 40-2-405, MCA is amended to read:

"40-2-405. Funding. (1) Revenue from the marriage license fee and the fee collected under [section 2] is the primary source of funding for the battered spouses and domestic violence program. The disposition of the marriage license fee is as established in 25-1-201.

(2) Twenty percent of the operational costs of a battered spouses and domestic violence program must come from the local community served by the program. The local contribution may include in-kind contributions.""

Exhibit X

HB 3

4/11/83

TESTIMONY OF CELINDA C. LAKE, WOMEN'S LOBBYIST FUND LOBBYIST, ON JANUARY 11, 1983,  
BEFORE THE HOUSE JUDICIARY COMMITTEE REGARDING HB 45.

The Women's Lobbyist Fund, representing a broad coalition of women's groups in Montana, supports the passage of HB 45 to establish a fee for declaration of marriage without solemnization, allocating it in the same manner as a marriage license fee. We are particularly interested in that portion of the marriage license fee which goes to fund battered spouse programs.

Battered women constitute a sizeable group within our population and it is estimated that this type of violence is generally on the increase. The rise in battering is particularly acute during bad economic times such as we face now. It is also in these times that many women have the least resources to leave battering situations. According to the survey done by the Women's Bureau entitled "Women and Work", an estimated 7%-8% of Montana's women are in regular battering situations and many have argued that figure drastically underestimates the true incidence of battering in this state. In fiscal year 1982 3448 men, women, and children were service recipients of the domestic violence aid, provided by state government, according to the Domestic Violence Program Reporting Service of the Evaluation Bureau of SRS. At the same time 250 battering incidents were being reported per month to county officials across Montana -- again a figure which underestimates the actual incidence of battering.

These statistics give some idea of the potential demand for services for domestic violence programs in Montana. The need for these services adds urgency to the desire to have a loop-hole closed which would provide more money for these programs and would treat marriage applicants more equitably. For these reasons we again urge this committee to pass HB 45.