

with law enforcement officers near Jordan, Montana during the Spring of 1996. Some of the Freemen have demanded grand jury investigations of various federal, state, and local officials, contending that the officials are guilty of criminal wrongdoing. Some of the Freemen have also filed lawsuits against government officials, have filed purported common law "liens" against officials, and have issued documents which purportedly originate in "common law courts" created by the Freemen.

4. In response to the complaint Mr. Harris provided a copy of a petition signed by Rep. Vick and 42 other state legislators.

The petition states:

WHEREAS

There exists increasing tension in Montana between law enforcement personnel and various groups who sincerely distrust the actions of state and federal governmental agencies, and

WHEREAS

Many concerned citizens are becoming alarmed at the potential for violence because of actions of out of state entities, and

WHEREAS

Spokesmen for some of these groups have requested a Grand Jury investigation to identify the sources of provocation, and

WHEREAS

Montana law so narrowly defines the method for calling a Grand Jury as to preclude that eventuality, and

WHEREAS

This confrontational situation must be diffused to maintain peace and tranquility under The Big Sky,

We the undersigned respectfully request that you demonstrate your leadership and prerogative as Governor of this state by establishing a special committee to provide an official forum where citizens can present their grievances before an impartial body without fear, having been granted amnesty and immunity during committee sessions and while commuting between places of residence and committee hearings.

Rep. Vick's signature appears on the second page of the petition, in the second column of signatures. The petition was apparently signed in 1995, prior to the Freeman standoff near Jordan.

5. Rep. Vick admits that he signed the petition. He contends, however, that when he did so it was not his intent to address the specific concerns of the Freeman or of any other particular group. He states that when he signed the petition there were many citizens who felt "disenfranchised." He believed that the petition acknowledged the concerns of disenfranchised citizens in Montana, and his intent was to help provide a forum for those persons.

6. Mr. Harris contends that, although the petition does not expressly mention the Freeman, it was referred to in press accounts in connection with the Freeman. He points to an April 12, 1996 news article in the Bozeman Daily Chronicle which stated, in part:

At the press conference, Militia of Montana member Kamala Webb of Bozeman handed out a year-old petition signed by 43 state legislators asking Gov. Marc Racicot to call a hearing to allow groups such as the Freeman to air what they believe is government wrongdoing. The petition states such a hearing could avoid possible violence. The petition asked that people be allowed to speak with immunity.

A May 3, 1996 article in the Bozeman Daily Chronicle also referred to the petition, with the following language:

During the 1995 Legislature, 30 lawmakers signed a petition urging Gov. Marc Racicot to form a special committee to hear the Freeman's views.

7. Several media representatives who were contacted were familiar with the petition, and referred to it as the "Freemen petition." Several legislators whose signatures appear on the petition were also contacted. Some stated that the petition was not designed to address the concerns of any specific group, but instead was intended to provide a forum for any disaffected or concerned citizens who wished to express their concerns. Several other legislators who signed the petition specifically identified the document as the "Freemen petition."

8. During the Spring of 1996, while the Freeman standoff was ongoing, a column in the Bozeman Daily Chronicle written by Sam Hofman, chairman of the Gallatin County Republican Central Committee, included the following statement:

Several Gallatin County Republican lawmakers signed a petition during the 1995 Legislature asking Gov. Marc Racicot to form a Committee to hear the Freeman's views.

STATEMENT OF FINDINGS

Code of Fair Campaign Practices

Mont. Code Ann. § 13-35-301 sets forth Montana's Code of Fair Campaign Practices, and Mont. Code Ann. § 13-35-302 provides a method whereby a candidate voluntarily may subscribe to it. Legislative history of these two statutes makes it clear that no civil or criminal penalty for a violation of the code was intended by the Legislature. Therefore, consistent with the practice of this office in past cases, I decline to make a determination

whether a candidate adhered to the principles set forth in the code.

Political Criminal Libel

Mont. Code Ann. § 13-35-234 provides:

Political criminal libel - misrepresenting voting records. (1) It is unlawful for any person to make or publish any false statement or charge reflecting on any candidate's character or morality or to knowingly misrepresent the voting record or position on public issues of any candidate. A person making such a statement or representation with knowledge of its falsity or with a reckless disregard as to whether it is true or not is guilty of a misdemeanor.

(2) In addition to the misdemeanor penalty of subsection (1), a successful candidate who is adjudicated guilty of violating this section may be removed from office as provided in 13-35-106 and 13-35-107. [Emphasis added].

The petition signed by Rep. Vick sought the establishment by the Governor of a forum "where citizens can present their grievances before an impartial body without fear, having been granted amnesty and immunity during committee sessions" Mr. Harris's campaign flier states that Rep. Vick signed a petition "requesting that the Governor call a special hearing so that the Freemen could vent their complaints and grievances." Although the petition does not specifically refer to the Freemen, it is apparent that members of the Freemen would be permitted to "vent their complaints and grievances" at the type of forum envisioned by those who signed the petition. The petition refers to "increasing tension in Montana between law enforcement personnel and various groups who sincerely distrust the actions of state and federal government," and notes that "spokesmen for some of these groups have requested a Grand Jury investigation to identify the sources of provocation." The

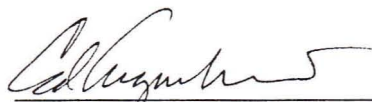
petition also requests that "amnesty or immunity" be afforded to those who appear before any such forum.

In addition, the petition was apparently known as the "Freemen petition," not only by members of the media but by some of those legislators who signed the petition. Press accounts referred to the petition in connection with the Freemen. In a guest column in the Bozeman Daily Chronicle, the chairman of the Gallatin County Republican Central Committee stated that the petition signed by legislators during the 1995 legislative session asked the Governor to "form a Committee to hear the Freemen's views." In view of these facts it was not unreasonable for Mr. Harris to conclude that the petition sought the provision of a forum for a group such as the Freemen.

To prove a violation of Mont. Code Ann. § 13-35-234, it is necessary to establish that a person knowingly made a misrepresentation. Under the circumstances there does not appear to have been an intentional distortion of any fact by Mr. Harris.

Based on the preceding, there is insufficient evidence to support the claim that Christopher Harris violated Mont. Code Ann. § 13-35-234 by knowingly misrepresenting Rep. Vick's position on a public issue.

DATED this 4th day of November, 1996.



ED ARGENBRIGHT
Commissioner of Political Practices