

ORIGINAL

IN THE SUPREME COURT OF THE STATE OF MONTANA

No. 12309

FILED

SEP 15 1972

Thomas J. Kearney
CLERK OF SUPREME COURT
STATE OF MONTANA

The State of Montana on the relation of
WILLIAM F. CASHMORE, M. D. and
STANLEY C. BURGER,

v.

Relators,

FORREST H. ANDERSON as Governor of the
State of Montana,

Respondent.

MEMORANDUM OF AMICUS CURIAE
ON PETITIONS FOR REHEARING

The presentation and argument of the parties
and both the majority and dissenting opinions overlook a
central issue with regard to which all other points are
peripheral.

The electorate was provided with no information
of the content and language of the existing constitution
which is to be discarded for the new one. This fact is
established if not directly at least satisfactorily in the
record. From the election returns one is led inescapably
to conclude the failure to provide that information
prevented an intelligent vote upon the proposed new
constitution and resulted in the inability of many voters
conscientiously to mark their ballots at all. While the
people have a sovereign right to adopt or discard any
constitution whatever, they can not make a valid choice

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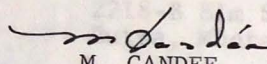
unless they are apprised of what the choice consists.

Here demonstrably they were not so apprised.

The constitution should be resubmitted after the electorate has been furnished a side by side comparison or other text of the old and the new constitution in compliance with the requirement for adequate voter information.

Rehearing should be granted so those circumstances which produced this controversy can be fully considered and passed upon.

Respectfully submitted,


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CERTIFICATE OF SERVICE

The undersigned certifies service by mail of the foregoing memorandum on the 14th day of September 1972 upon -

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