SENATE BILL 337

Introduced by Rye

2/09	Introduced
2/09	Referred to Judiciary
2/09	First Reading
2/21	Hearing
2/22	Committee ReportBill Not Passed
2/22	Adverse Committee Report Adopted

LC 1653/01

INTRODUCED BY 2 3 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING A FULLY 4 INFORMED JURY: AND AMENDING SECTIONS 25-7-102, 26-1-201, AND 5 46-16-103, MCA." 6

7

1

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9 NEW SECTION. Section 1. Fully informed jury. (1) In 10 any criminal trial, the court must inform the jury of its right to judge both law and facts in reaching a verdict. The 11 12 court must also inform civil trial jurors of their right to judge the law as well as the facts whenever the government 13 14 or any agent of the government is a party to the trial.

15 (a) Trial jurors must acknowledge by oath that they understand this right, and no party to the trial may be 16 17 prevented from encouraging them to exercise it. No potential juror may be disqualified from serving on a jury because he 18 19 expresses a willingness to judge the law or its application, 20 or to vote according to conscience.

21 (b) Failure to so inform a jury, or any other 22 infraction of these rules of procedure, is grounds for 23 mistrial and another trial by jury.

24 (2) Before the jury hears a case, and again before jury 25 deliberation begins, the court shall inform the jurors of

Montana Legislative Counci

1 their rights in these words:

"As jurors, your first responsibility is to decide 2 ٦ whether the defendant has broken the law. If you decide that he has, but that you cannot in good conscience support a 4 5 guilty verdict, you are not required to do so. To reach a verdict which you believe is just, each of you has the right 6 7 to consider to what extent the defendant's actions have 8 actually caused harm or otherwise violated your sense of 9 right and wrong. If you believe justice requires it, you may 10 also judge both the merits of the law under which he has been charged and the wisdom of applying that law to the 11 12 defendant. Accordingly, for each charge against the 13 defendant, even if review of the evidence strictly in terms 14 of the law would indicate a quilty verdict, you have the 15 right to find him innocent. The court cautions that with the 16 exercise of this right comes full moral responsibility for the verdict you bring in." 17

Section 2. Section 25-7-102, MCA, is amended to read: 18

*25-7-102. Issues of law to be decided by court. Except 19 20 as provided in Article II, section 7, of the Montana 21 constitution and [section 1], all questions of law, 22 including the admissibility of testimony, the facts 23 preliminary to such admission, the construction of statutes 24 and other writings, and other rules of evidence, are to be 25 decided by the court unless they are referred upon consent,

> INTRODUCED BILL -2-53 337

LC 1653/01

1 and all discussions of law are to be addressed to the
2 court."

3 Section 3. Section 26-1-201, MCA, is amended to read:

4 "26-1-201. Questions of law. Except as provided in 5 Article II, section 7, of the Montana constitution and 6 <u>[section 1]</u>, all questions of law, including the 7 admissibility of testimony, the facts preliminary to such 8 admission, the construction of statutes and other writings, 9 and other rules of evidence, must be decided by the court."

Section 4. Section 46-16-103, MCA, is amended to read: "46-16-103. Who decides questions of law and fact. (1) All prosecutions deciding issues of fact must be tried by the court and jury, except on a plea of guilty.

14 (2) Questions Except as provided in [section 1], 15 <u>questions</u> of law must be decided by the court and questions 16 of fact by the jury except that on a trial for criminal 17 defamation the jury shall determine both questions of law 18 and of fact. Questions of law and fact must be decided by 19 the court when a trial by jury is waived under 20 46-16-102(2)."

NEW SECTION. Section 5. codification instruction.
(Section 1) is intended to be codified as an integral part
of Title 25, chapter 7, part 1, and the provisions of Title
25, chapter 7, part 1, apply to [section 1].

-End-

-3-