

JUDICIARY COMMITTEE

January 11, 1977

The regularly scheduled meeting of the House Judiciary Committee convened at 8:00 A. M. with all members present. Chairman John Scully presided.

Bills scheduled for hearing were House Bills #28, 29, 39, 53 22 and House Joint Resolution #5.

REPRESENTATIVE BENGSTON, District #59, SPONSOR of House Bills #28 and 29. Basically these bills will change the statutes to raise the drinking age from 18 to 19. These two bills are not meant to be an emotional issue. We want to approach the situation rationally and objectively. These problems are in our homes and in society in general. It is my hope that both sides can be aired today. Representative Bengston explained the bills, their ramifications and the penalties, the effective date, and that the matter would be submitted to the electors, at the general election to be held November 7, 1978.

REPRESENTATIVE ROTH, District #10 is the co-sponsor of these bills. She said the most forceful reasoning is to keep it out of the high schools, which now creates great difficulty. It drifts down into the junior high. The habitual use of alcohol at age 18 years is adversely affecting the lives of many young people. School administrators have asked us to address this problem.

PROPONENT, MAURICE HICKEY, spoke next. He is the executive secretary of the Montana Education Association. I represent 6500 members in the state of Montana. We are represented in every school system in the state. We are in support of having it put on the vallot.

PROPONENT, LÉONARD SARGENT, Executive Director of the Montana School Boards Association. He mentioned that 78% of 18 year olds are still in the senior year of high school, and presented the committee with written testimony, (exhibit attached).

PROPONENT, MAYNARD OLSON, representing the School Administration of Montana. This has been of great importance to me for some time. I agree with most of the other remarks that have been presented here. He read his written testimony, a copy of which is attached.

PROPONENT, HOWARD VOILES, representing the Association of School Principals. We in the Montana Association feel the same way. We would support and encourage passage of this bill. I don't feel the lower drinking age has caused many problems. It is the effect on our younger students. We urge the passage of these bills.

PROPONENT, CHAD SMITH, representing the Montana School Board Association. We encourage the passage of both of these bills. They are companion measures. One is to change the constitution and the other is more a question of mechanics. This is not like an unusual

exercise in police power, where you would have to be 18 to drive a motor vehicle, for example. It all depends on what you are talking about. Our greatest concern is for the effect the present law has on schools. The school system is set up to educate all of the students. Over age 19 you find very few individuals still going to high school. This bill is not offered as a means of discipline. We strongly urge passage.

PROPONENT, DAN MIZNER, League of Cities and Towns. 80 to 90% of the total population of 18 year olds drink alcoholic beverages. We would support House Bill #28 to raise the drinking age to 19.

PROPONENT, TED LECHNER, Juvenile Probation Officer, 13th Judicial District. I agree with the reasons these others have stated. He quoted several cases of juveniles where drinking caused accidents and other serious problems. He said he felt it is an insidious deterioration. I think this bill will not stop alcohol but will curtail it somewhat in our younger students, the 12, 13 and 14 year olds. They are exhibiting extreme drinking problems in many areas. 18 year olds have not shown good judgment by not allowing it to younger children.

OPPONENT, SENATOR CHET BLAYLOCK, District #35. I have been a teacher for 27 years. There was a mass meeting held in Helena of parents protesting booze in the schools. They were most irate and wanted to know what they could do about it. The year was 1922 and there was no legal booze. Before we lowered the drinking age here we always had beer busts. At one beer bust 90 cases of beer was consumed, and a large part of them were 7th graders, doing this drinking. I asked my students to be honest with me. When was the first time you got a drink, and some of them stated it was in the 6th grade. When I asked them where they got the booze, they said at home. Our schools say we have to control this. The school administrators want the legislature to do their job for them. What are they going to do that they can't do right now. Not one blessed thing. Senator Blaylock asked the question of the committee: How many of you drank before you were legal? 3/4 raised their hands. He went on to talk about the drinking problem, not only in this state but across the United States, 10 million in this country. He then talked about the high accident rate which he stated has always been high in this age bracket, because they are reckless. He concluded, "I hope you take a long look at this House Bill #28 and also #29 before you leap."

OPPONENT, ROBERT CAMPBELL. He was a constitutional delegate. He quoted from section 14 in the bill of rights. He mentioned the debates they had on this problem. He mentioned the power of the 18 year old vote and asked if you are going to tell them that they are not mature individuals. Are you going to say that these are not responsible people? Alcohol is the most dangerous drug, but this bill will do more harm than good. He mentioned several cases.

he was familiar with concerning alcohol and drugs. He quoted Dante as saying that it was the scourge of civilization. He presented an editorial on drinking to the committee (attached) and concluded with the comment, we need to educate our young people that alcohol is the most dangerous drug.

OPPONENT: GRANT PARKER, Legislative Intern, representing the Montana Advisory Council on Children & Youth. There are strong questions to ask yourselves. It will not solve the problem. This legislature should take steps to educate away some of the abuses of alcohol. I think we should look strongly at the issue and decide if it will stop it. Take educational steps to stop the use of alcohol. He then asked if the 18 year old would be tried in court for a crime as an adult or as a minor. The school district has the power to cope with the problem. They have the power to stop it.

OPPONENT: KEVIN HUNT, representing the Montana Youth Lobby. He mentioned that he represented several hundred students in the state of Montana. He said the bill would make criminals out of 18 year olds. We would be creating a new class of criminals. We would be denying 18 year olds the full protection of the law. He mentioned a survey he had studied and that 85.1% of the youths questioned viewed alcohol as more addictive than marijuana. Why is there no warning on the effects of alcohol. I would like to ask you to work for the defeat of this unfortunate proposal. He presented a copy of written testimony to the committee, (attached).

OPPONENT: RUTH POOLE, Montana Youth Lobby. She presented a number of petitions, protesting the passage of the bill. She felt a formal youth survey should be done. People should deal with the causes rather than the results.

OPPONENT: ERIN CORK, Missoula. This bill is not the best solution to the problem. Maturity doesn't necessarily come with age. The problem should be solved at the local level.

OPPONENT: DAVE HULL, Missoula, student. With rights comes responsibility. He made several comments about who is responsible and who is not. I would tend to resent being able to raise children, adopt children and not be able to drink. If I am mature enough to run for the legislature, I should be recognized as being responsible to handle liquor. Enforcement of the present laws would be better than a whole new set of stricter laws.

REPRESENTATIVE BENGSTON: In closing she presented several exhibits in support of House Bill #28 and 29. She stated, remember that every hour spent on discipline and enforcing the law is one hour less spent on education. She mentioned the greater risks of teenage drinking, the accidents, the inability to handle it, etc. Young people need to learn wholesome ways to face problems. She mentioned the higher incidence of drinking among juvenile delinquents

the behavior as more anti-social and a greater tendency to get into trouble. I am completely and wholly in favor of any education that will deter or alleviate alcohol. She mentioned that alcohol treatment centers that are now available to anyone with an alcohol problem.

REPRESENTATIVE HOLMES asked what would be the procedure if a student was caught at school with alcohol on the breath, and Representative Bengston stated, it would have to be determined by the courts.

There followed general discussion about the procedure of the court, enforcing of rules, the data available on actual drinking in the schools, etc.

Howard Voiles stated that he had not seen additional problems in the schools, since the lower drinking age. There is no evidence, about behavior at school. I am in disagreement with many educators about this. It was mentioned that about 75% of 18 year olds are still in high school.

Questions were asked of the student opponents whether they had assisted law enforcement agencies in disciplining any problem students. There was a general discussion about this.

There was discussion about the effect of the constitution and the proposed amendment, the constitutional language, whether drinking is a privilege or a right, whether the constitution says whether it is, etc. Discussion about school authority, school procedure.

CHAIRMAN SCULLY: (of Voiles and Olson) How many of your colleagues that are now school administrators that you have been associated with for more than 15 years, how many for 10 years, and how many within the last five years. I asked that question because of reputation and backgrounds, since most have been in the educational system for less than 5 years. There followed discussion of blackmailing of beer to 14 and 15 year olds by older students.

The hearing on House Bills #28 and 29 closed.

THE HEARING ON HOUSE JOINT RESOLUTION #5, SPONSORED by REPRESENTATIVE LORY, District #99. This is a recodification bill, to establish the office of Court Administrator.

Representative Dussault mentioned that the regulation was based on statute. The administrative code commissioner has no right of veto. The question was asked, if the legislature has to have annual sessions would it be possible for the legislature to have more control rather than delegate power to a committee. The

answer was that it is unconstitutional for the legislature to delegate power.

The motion was made by Representative Keyser, that HJR #5 "do pass". The motion was seconded. The question was called and the vote was unanimous.

THE HEARING OPENED ON HOUSE BILL #22.

PROPONENT, DAVE COGLEY, from the office of the code commissioner explained the bill. This is in conjunction with a recod bill, concerning the Montana Abortion Control Act. There was some discussion about notice should be given, consent, etc. and Representative Ramirez made the motion to rewrite and resubmit. This bill conflicts with the present abortion act. It should be clarified.

CHAIRMAN SCULLY appointed a sub-committee to do so, consisting of Representatives Holmes and Colburn to meet with Mr. Cogley and resubmit on Thursday.

THE HEARING ON HOUSE BILL #22 CLOSED.

THE HEARING OPENED ON HOUSE BILL #39.

DAVE COGLEY explained the recodification of this bill. It was mentioned that House Bill #39 is a companion bill to House Bill #22.

HEARING CLOSED ON HOUSE BILL #39.

HEARING OPENED ON HOUSE BILL #53.

DIANA DOWLING, attorney from the Code Commissioners office and staff attorney to the Judiciary Committee, spoke and explained the bill. She mentioned that Jim Moore, a representative serving in the 1975 session had noticed a discrepancy and brought it to her attention.

HEARING CLOSED ON HOUSE BILL #53.

REPRESENTATIVE EUDAILY moved "do pass". The motion was seconded and the motion carried with the vote unanimous.

THE MEETING ADJOURNED AT 12:30.


REPRESENTATIVE JOHN SCULLY, CHAIRMAN

Mary Ellen Connelly, Secretary