

JUDICIARY COMMITTEE  
February 22, 1977

The regular meeting of the House Judiciary Committee was called to order by Chairman Scully at 7:30 a.m. in room 436 of the Capitol Building, Helena, Montana on Tuesday, February 22. All members were present.

Scheduled for hearing were House Bills 787, 797, and 800.

HOUSE BILL #797:

REPRESENTATIVE MULAR, DISTRICT #85:

This bill reserves limited amounts of water necessary for the continuing development and appropriating funds for the purposes of the department of state lands. It would be 4-acre feet per year per acre within the tract.

TED DONEY, DEPARTMENT OF NATURAL RESOURCES:

We have reviewed this bill and I think it is an interesting concept. If it is appropriated to existing law, it will work.

REPRESENTATIVE MULAR:

We do think it is a good concept. He cited two case laws, Nevada and Washington, with similar laws. The state can reserve water. All this bill would do is hold the water. The state only has an appropriated right like a citizen. He mentioned the research development account and then discussed the sub-surface and surface water. Any water with a right of its own would not be affected by this law.

After a short question and answer period the hearing closed on 797.

THE HEARING OPENED ON HOUSE BILL #800:

REPRESENTATIVE HOLMES, DISTRICT #67:

Last session we passed legislation to establish small claims court, but it has not been used at all. We would like to allow small claims to be heard in justice court. This is an alternative approach for small claims.

JUDGE WYN DOWLING, JUSTICE OF THE PEACE, BILLINGS:

The supreme court on lower courts came up with this bill. It is a copy of the Nevada court act. He explained how the court would work, how there would be a pamphlet to explain the process, summons, a copy would be served on the defendant, and the trial handled informally. He mentioned the 500 dollar limit and elaborated on it some. He went on to explain it further and stated that this would save the district court a lot of time.

PROPOSER, TOM WINSOR, MONTANA CHAMBER OF COMMERCE:

We are in favor of the small claims court system but because the small claims court has not been implemented we are inclined to favor this. I would recommend that the \$500 be reviewed by the committee.

February 22, 1977

Page 2

RUSS LIVERGOOD, MONTANA RETAIL ASSOCIATION:

There is only one area of the bill I would address. We would oppose this bill unless it is amended. He gave prices of things in stores and made the comment that most articles are not under \$500. When you lower it you lower the effectiveness of a small claims court. We would lose the effectiveness.

REPRESENTATIVE HOLMES:

I hope the committee will keep in mind that this is for the people. We want to make a small claims court available for the use of the people.

Representative Keyser asked if we are going to have to double the number of JP's.

JUDGE:

No, they do that now.

KEYSER:

How long do you have to keep the records.

JUDGE:

The docket is a court of record and would be kept forever. The other records would be kept for five years.

CHAIRMAN SCULLY:

Explained to the committee the jurisdictional limits.

A general discussion followed about the use of the justice court for retail merchants.

MR. SCULLY:

Asked the judge if he hadn't opposed the bill he, himself, had introduced in 1975.

The judge answered that he had not opposed it, only questioned it.

Mr. Scully commented on the jurisdictional limits of the small claims court and explained the procedure of the small claims court to the committee.

The hearing closed on House Bill #800.

THE HEARING OPENED ON HOUSE BILL #787:

REPRESENTATIVE DRISCOLL, DISTRICT #91:

The bill would authorize the secretary of state to order the involuntary dissolution of corporations without court decree.

MIKE MCGRATH, ATTORNEY GENERALS OFFICE:

This will was introduced at our request. We discovered that there was a law on the books to dissolve corporations that had not met

February 22, 1977

Page 3

specific requirements. There were about 20,000 delinquent corporations. The requirements for dissolution are the same as under the old law. He presented a copy of the proposed amendments from the secretary of state.

He explained how there are many corporations that are no longer in existence and how the books need to be cleared up. After a short question and answer period, the hearing closed on House Bill #787.

The meeting adjourned at 9:50 a.m.



JOHN P. SCULLY, CHAIRMAN



Mary Ellen Connelly

Mary Ellen Connelly, Secretary