

JUDICIARY COMMITTEE

March 22, 1977

The regular meeting of the House Judiciary Committee was called to order by Chairman Scully at 8:00 a.m. in room 436 of the Capitol Building, Helena, Montana. All members were present with the exception of Representatives Colburn, Conroy, Courtney, Kennerly and Seifert.

SCHEDULED FOR HEARING WERE SENATE BILLS 27 and 385 and HOUSE JOINT RESOLUTION #93.

The hearing opened on Senate Bill 385:

SENATE BILL #385:

SENATOR THOMAS, DISTRICT #20:

This bill will revise the law regarding eligibility for parole and merger of sentences when a second crime is committed while in prison or on parole or furlough. The rights for parole eligibility is from 1/4 to 1/2. The purpose is to try to take the intent, as set forth in the codes, so the parole board can work with the offender who is a threat to society. He went on to explain in more detail how this would be done. Judge Shampstrom intended to be here and was unable to make it. He is the head of the trial judges.

JACK LYNCH, EXECUTIVE SECRETARY FOR BOARD OF PARDONS:

I am heartily in support of this bill. It would give the parole board a great deal of authority. I feel this measure is good legislation.

HANK BURGESS, BOARD OF PARDONS:

I think it will do the many things that have been problem areas, that have been mentioned. I have always felt that a higher penalty should be available for the offender who is back several times. I am very strongly in favor of this legislation. I think it will solve the problem of the feeling that the violent offenders are sometimes paroled when they shouldn't be. He went on to talk in this same vein and explain in more detail the intent of the bill.

TOM DOWLING, SHERIFFS AND PEACE OFFICERS:

There are a number of offenders who are multiple offenders. Under the old system the longest we could give them was 50 years. I think this bill will solve a lot of our problems. I support it.

TOM HONZEL, COUNTY ATTORNEYS:

We support this bill for reasons that have already been stated.

SENATOR THOMAS:

The fiscal note had quite a bit of work done on it. There were two fiscal notes. This is the latest one. The fixed cost of operating the prison is the major portion of the total per diem cost. Small variations in population could be absorbed without increases in facilities or personnel. It is a kind of common-sense approach to a very difficult problem.

March 22, 1977

Page 2

The question was asked if there no longer existed the multiple offender act. Senator Thomas stated that yes, it has been repealed.

REPRESENTATIVE DUSSAULT asked for the definition of the non-dangerous offender. There was general discussion about this definition.

MR BURGER:

We went to several sources to find this definition. We wanted the best definition. One source he mentioned was the American Correctional Association Handbook. He said this was an excellent definition.

There were no further questions, so the hearing closed on Senate Bill 385.

SENATE BILL #27:

SENATOR BLAYLOCK, chief sponsor of the bill did not attend the hearing, so Larry Weinberg stated he would explain the bill.

LARRY WEINBERG, LEGISLATIVE COUNSEL:

There are some amendments we wish to have put in the bill. One is on page 11, lines 23 and 24. He discussed the senate amendments and then went on to discuss the voting privilege. He stated that if you are out on parole your right to vote is reinstated.

There was discussion about the rights that are in the constitution, pertaining to the convicted felon. The right to vote is triggered by the release from prison. He mentioned the committee should look at the election laws.

JOAN WOODGERD, SECRETARY OF STATE OFFICE:

I have some proposed amendments, on page 36, line 10, change columns back to categories. With the size of elections getting bigger, it is no longer possible to put only three columns anymore. On page 94, section 75, this is a new R.C.M. section that would go into title 97. It was an attempt to straighten out a problem in the old law. If the Senate Bill 403 passes it will repeal this section. I would suggest you delete all of section 75, on page 94 and 95, if SB 403 passes. 403 would repeal all of the sections.

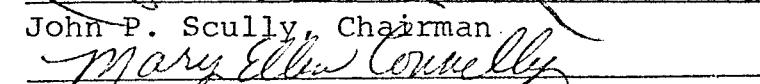
Discussion followed about repealing the law and amending the law.

After general discussion and some questions, the hearing closed on Senate Bill 27.

HOUSE JOINT RESOLUTION #93:

REPRESENTATIVE DUSSAULT commented that this was merely a method of drawing attention to the observance of law day. May 1st is already established as law day and the general feeling of the committee was that it was not needed.

The committee went into executive session at 8:45 a.m.


John P. Scully, Chairman

Mary Ellen Connelly, Secretary