

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
February 9, 1977

The meeting of this committee was called to order at 9:40 a.m. by Senator Towe in the absence of the Chairman and Vice-Chairman who were in other committee meetings. The meeting was held in Room 442 of the State Capitol Building on the above date.

ROLL CALL:

Five committee members were present to begin the meeting. Senator Roberts, Vice-Chairman, was 30 minutes late having attended another meeting, and Senator Turnage, the Chairman, entered the meeting when it was half over. He had to attend the Agriculture Committee meeting. Senator Warden was excused this date.

WITNESSES PRESENT TO TESTIFY:

Senator Thomas - District 20

Jack Lynch - Executive Secretary of Montana Parole Board

Judge Shanstrom - District Judge, Livingston

Curt Chisholm - Dept. of Institutions

Rev. Philip J. Mills - Anaconda

Robert L. Peterson - Prof. of History at University of Montana

John M. Miner - student at University of Missoula, Criminology & Social Justice Dept.

Rep. Polly Holmes - District 67

Franklin E. Mann - student of Sociology, University of Montana

R. E. Indreland - Bureau of Indian Affairs, Montana State Prison

Lt. Charles Hensley - Billings Police Dept.

Gary Broyles - Investigator - Board of Pardons

CONSIDERATION OF SENATE BILL 369:

Senator Thomas, sponsor of S.B. 369, explained that this bill was brought about because of two instances in Great Falls in the past year which caused the citizens much concern. In both cases, men were murdered by parolees. He said that there are at least four bills dealing with the same subject as S.B. 369, and that he believes that the work furlough program is available to prisoners too soon. He does not believe this was the intention of the 1975 legislature. He then offered the committee an amendment to S.B. 369.

The first proponent of the bill to testify was Jack Lynch, Executive Secretary of the Montana Parole Board, who said that they believe that an individual applying for parole should be within the prison at least one year.

The next proponent was Judge Shanstrom who said that he is very much in favor of S.B. 369 and that he thinks they have prisoners on work furlough programs much too soon.

Curt Chisholm of the Department of Institutions proposed an amendment to this bill to the committee. (See Exhibit 1)

Joe Mills of Anaconda proposed 2 amendments to the committee for their consideration. (See Exhibit 2)

There being no more proponents wishing to testify, Senator Towe, acting Chairman, allowed the opponents of S.B. 369 to testify. The first opponent to speak was Robert L. Peterson, a professor of History at the University of Montana, who said that he opposed the bill because the bill that was written and passed two years ago is still in the experimental stage and he felt they should continue with the current law. He said that fewer than a dozen students have been released under the student portion of the work furlough program and that none of them have caused any trouble.

John Miner, a student in criminology and social justice at the University of Montana, said that he thinks the law we have now is a good law. He said further that what we must do is try to stop people from becoming professional criminals and this law does help. Mr. Miner then said that, although he is a student, he is an ex-furlouguee who is now on parole. He is an opponent of S.B. 369.

Rep. Polly Holmes, who said she was appearing as neither a proponent nor an opponent of S.B. 369, told the committee she believed the bill should be amended by striking the word "warden" and inserting in lieu thereof the word "department" because the work furlough committee is included in the regulations and not included in the law. She is very anxious that the program be successful. She brought out the fact that, according to the presiding judge, sentences differ terrifically. She said that it would be a mistake to do away with this program. (See Exhibit 3)

Frank Mann, a student in sociology at the University of Montana was the next opponent to testify. He said that he is against the one year exception in S.B. 369 because after a prisoner is in prison a year he becomes used to that life. He then told the committee that at the present time he is a furlouguee from the prison.

The next opponent to testify was R. E. Indreland who is with the Bureau of Indian Affairs at the prison. He said that the current law was well researched and backed by a very large constituency, that it was written in advance of the 1975 session and studied by the Montana Bar Association. He further stated that it is known to be the best work furlough program in the country today. He said that he would submit a prepared statement to the committee. Senator Towe said the committee would accept the statement.

At this time Senator Thomas closed on S.B. 369, saying that first offenders very seldom go to the state prison. He asked that this committee take all sides into consideration when they consider this bill.

The committee then asked questions of the witnesses, and the hearing of S.B. 369 was closed.

CONSIDERATION OF SENATE JOINT RESOLUTION 28:

At this time, Senator Roberts, who had recently entered the meeting, assumed his duty as Vice-Chairman and placed SJR 28 before the committee for their consideration.

Senator Thomas explained this resolution and asked that a study be made so Montana can have unified sentencing.

Rep. Polly Holmes was the only proponent of the resolution to testify. She said that she believes this study should be made and asked that they not be given several studies of the same type.

There being no more proponents or opponents of SJR 28 present, the hearing of this resolution was closed.

CONSIDERATION OF SENATE BILL 318:

Senator Towe, sponsor of this bill, explained the bill to the committee and the results expected to be obtained therefrom.

Judge Shanstrom, appearing as a proponent of this bill, said that he and the other district judges were in support of S.B. 318. He said that the major complaint they hear from their constituents is that prisoners are paroled too soon.

The next proponent to testify was Lt. Charles Hensley of the Billings Police Department. He told the committee that a professional criminal is a model prisoner and that most law enforcement officers feel that prisoners get out much too soon.

Curt Chisholm from the Department of Institutions said that he neither appeared in support or opposition to S.B. 318, but offered to answer questions concerning his department's views.

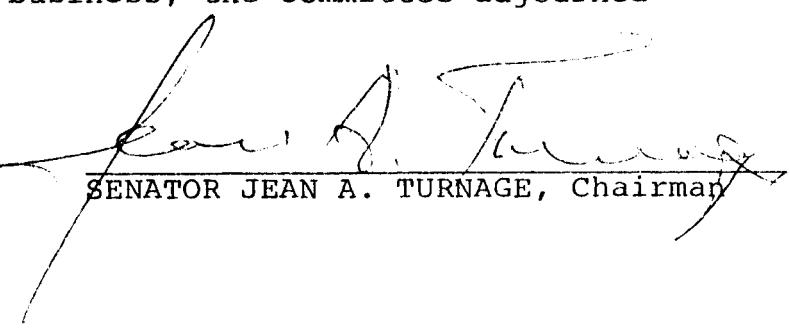
The opponents were then allowed to testify. Jack Lynch said he was opposed to S.B. 318 and read a letter from the Chairman of the Board of Pardons who said that this bill was incurable. He then said that the parole board is not responsible for the quandry they are now in because they only work under laws imposed upon them by the legislature. He testified that he thinks the "good time" award is too much and that he doesn't believe the prison should be the ones to say when a prisoner is to be paroled.

A partial opponent to S.B. 318 was R. E. Indreland of the Bureau of Indian Affairs at the prison. (At this time, Senator Turnage entered committee and assumed his duties as Chairman.) Mr. Indreland told the committee that this bill would force the state to build more accommodations at the prison and will cause chaos because it puts sentencing at the discretion of district judges.

The next opponent was Gary Broyles, an investigator for the Board of Pardons, who asked that the "good time" allowance be not done away with. Senator Turnage asked him what the maximum total of "good time" days is. He said that it was 25 days a month.

Senator Turnage then allowed committee members to ask questions of the witnesses. In closing, Senator Towe pointed out that he feels the parole board has been doing a good job and that he appreciates their problems. He said further that he did not believe this bill would increase the inmates in the state prison. He then referred to an amendment proposed by Dick Vandiver in the written testimony he had submitted. (See Exhibit 1 to S.B. 318)

There being no further business, the committee adjourned at 11:10 a.m..


SENATOR JEAN A. TURNAGE, Chairman

ROLL CALL

JUDICIARY COMMITTEE

45th LEGISLATIVE SESSION - - 1977

Date 2-9-77

(Ex 1)

PROPOSED AMENDMENT TO SB 369

Amend Senate Bill #369 on page 1, line 18 after the word "year" strike: "after the date of the application"

On line 19 after the word "the", insert the following "work furlough committee"

On line 19 after the word "the", strike the word "warden" and insert "work furlough committee"

(Ex 2)

Rev. Philip J. Null

PROPOSED COMMITTEE AMENDMENTS TO SENATE BILL NO. 369

REPRESENTATIVE HOLMES

February 9, 1977

1. Amend page 1, section 1, subsection (1), line 18.

Following: "application;"

Strike: "and"

Insert: "or"

2. Amend page 1, section 1, subsection (2), line 19.

Following: "of the"

Strike: "warden"

Insert: "department"

NAME: _____

Philip J. Mills

DATE: 2-9-77

ADDRESS: 208 E 3rd St Anaconda, Mont 59711

PHONE: 563-2652

REPRESENTING WHOM?

Myself

APPEARING ON WHICH PROPOSAL:

DO YOU SUPPORT?

AMEND? ✓

OPPOSE?

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

(8.3)

PROPOSED COMMITTEE AMENDMENTS TO SENATE BILL NO. 369

REPRESENTATIVE HOLMES

February 9, 1977

1. Amend page 1, section 1, subsection (2), line 19.

Following: "of the"

Strike: "warden"

Insert: "department"

2. Amend page 1, section 1, line 21.

Following: line 21

Insert: new subsection (3), as follows:

"(3) in exceptional cases, the department determines that a closely supervised furlough program would be a more productive and successful alternative than further incarceration, in which case a furlough application may be approved by the board at an earlier date, subject to revocation as provided by law."

PH:lk1

(En. 13
SB. 318)

MEMBERS OF THE SENATE JUDICIARY COMMITTEE
REGARDING SENATE BILL 318

I am sorry I cannot be in your hearing on this bill. I have examined this bill and in my professional opinion it is only workable if it is amended to significantly decrease the length of the time persons sentenced would spend in the prison. I see no problem with the implementation of the rest of the bill's provisions.

I recognize that there is a clamor for longer prison terms among some persons in the state. Increased punishment has been a long standing panacea for suppressing frustrations over perceived increases in crime. A few relatively rare but highly publicized crimes lead people to cry for getting tougher locking people up and throwing the key away, etc.

There are two primary problems with long sentences. They are very expensive and they have long term very negative effects on the persons sentenced. They are expensive in that the longer people are kept in confinement the less turnover in the population and thus the larger the prison population becomes. Each person kept in the prison costs the people of the state over \$25 per day. Parole and probation supervision of the same persons living in the community costs around 60 cents per day. In addition people on probation and parole can work at constructive jobs, pay taxes and support their families. The state of Montana cannot afford to keep anyone in the prison any longer than is absolutely necessary to guarantee their own protection.

Most of the persons who commit serious crimes for which long sentences are provided are not deterred by long sentences. These are typically situational acts committed in the irrationality of a highly emotional condition. By providing long sentences for everyone who commits these crimes in an effort to justly punish and secure those few who could be deterred, we would be setting up a very expensive, counter productive

situation as well as having very little impact on the number of these crimes.

Montana had around 750 inmates locked up in the prison in the middle 60's. A concerted effort by the parole board to decrease the prison population by paroling those who did not require imprisonment reduced the prison population to a low of around 250 in the early 70's. There was no consequent increase in the number of these serious crimes as a result of that action. There is no reason to believe that long imprisonment would now decrease the total number of those serious crimes.

Incarceration in a prison has no positive impact on a person. In fact our prisons are advanced schools of crime where the skilled experienced criminals teach the younger less experienced criminals. Prison does not teach patriotism, respect for persons or property, responsibility or any other positive attitudes. It does breed cynicism, lack of self respect, lack of patriotism and respect for persons and property, and irresponsibility. It may produce fear but fear rarely leads to constructive programs and activities.

I urge you to think seriously about rushing into a series of programs and proposals which would be very costly and not produce the real long term protection desired by your constituents.

The only way this bill could produce the desired effects, would be to amend it to provide for considerable decrease in the presently allowed imprisonment time.

Sincerely,

Richard Vandiver, PhD
Criminologist
University of Montana

IR.28

Sp. 318 369

Judiciary

VISITOR'S REGISTER 20/177

Vogelkunde

(Please leave prepared statement with Secretary)