

MINUTES OF MEETING  
SENATE JUDICIARY COMMITTEE  
March 9, 1977

The meeting of this committee was called to order on the above date by Senator Turnage, Chairman, at 9:40 a.m. in Room 405 of the State Capitol Building.

ROLL CALL:

All members of the committee were present except Senator Towe who was excused. Senator Regan was excused at 10:00 a.m. to attend another meeting.

WITNESSES PRESENT TO TESTIFY:

John Sheehy - former senator and a Billings attorney, Yellowstone Ba  
Rep. Bud Gould - District 98, Missoula  
Rep. Huennekens - District 68, Billings  
Sgt. Ted Stollfuss - Montana Highway Patrol, Justice Dept.  
Rockwood Brown - Yellowstone County Bar Assn.  
Mike Whalen - Yellowstone County Bar Assn.  
Bruce R. Toole - " " " "  
Fred Moulton - attorney, Moulton, Bellingham, Longo & Mather  
Harold Hanser - County Attorney for Yellowstone County  
Larry Sverdrup - Pres., Lincoln County Bar Assn.  
Judge Robert Sykes - Judge, 11th Judicial District  
Judge Keller - Flathead Bar Assn.  
David Harman - Libby attorney, Lincoln County Bar Assn.  
Anne German - Lincoln County Bar Assn.  
Don Shaffer - " " " "  
Tom Bostock - Fennessy, Crocher & Harman, Libby law firm  
John Heberling - N.W. Montana Bar Assn., attorney at Kalispell  
Jim Cunningham - Attorney at Thompson Falls  
Winifred VanDerhoff - Sanders Co. Clerk of Court  
Alex Morrison-Plains attorney with office in Thompson Falls  
Rosemary Feorinteno - Sanders County  
Greg Morgan - Montana Bar Assn., Bar of Gallatin County  
James McAlear - Bozeman, Gallatin County Bar Assn.  
Charles Angel - Gallatin County Bar Assn.  
Judge Lessley - 18th Judicial District  
George Sagor - Gallatin County Commissioner  
Elizabeth Clark - Gallatin County Youth Court  
Ray Stuart - court administrator for Montana Supreme Court  
Bill Douglas - Lincoln County Attorney  
Dorothy Burkenpas - Gallatin Youth Court Advisory

CONSIDERATION OF HOUSE BILL 260:

Bud Gould, representative from District 98 in Missoula, sponsor of the bill, told the committee that it simply makes the first 10 days of a DWI sentence a mandatory jail sentence when it is a third offense.

Sgt. Ted Stollfuss of the Montana Highway Patrol was the only proponent of the bill to testify. He said that they supported H.B. 260 and that he was available to answer any questions the committee might have.

Rep. Gould said that H.B. 243, 251 and 356 are in Judiciary, but asked that this committee hold H.B. 260 until H.B. 355 comes over and then consider them all at once.

#### CONSIDERATION OF HOUSE BILL 4:

Senator Turnage, committee Chairman, told those present that this bill is to add judges in Yellowstone, Gallatin and Sanders & Lincoln counties.

John Sheehy, former senator and here on behalf of the Yellowstone Bar Assn., made the presentation of the case for adding a judge in the 13th Judicial District. He said that their judicial district includes Yellowstone, Treasure, Carbon, Stillwater and Big Horn counties and that they have twice the average case load of the other judicial districts in Montana. They actually average 900 cases per year per judge if the case load is divided by 4 which is why they are requesting a 4th judge.

At this time, Rep. Huennekens of Billings, sponsor of the bill, appeared in committee and said that H.B. 4 was a product of the interim judiciary committee which made an extensive study of the problem and arrived at several conclusions which essentially are that there is a need of additional judges in different areas of the state. He said that primarily Lincoln and Sanders counties need a new district; that Gallatin county should have another judge, and also Yellowstone county. He was then excused by Chairman Turnage to return to his Taxation committee meeting.

Rockwood Brown, representing the Yellowstone County Bar Assn., testified as a proponent of H.B. 4, saying that there is a need for an additional judge in the 13th Judicial District.

Mike Whelan, a Billings attorney since 1953, told the committee that there has been a great growth in both Yellowstone and Big Horn counties which increases the case load for the judges in that district. He said that a judge should not be overloaded with cases so that he cannot give sufficient attention and study to the cases assigned to him. He said that Yellowstone county is now on the verge of great growth again.

Bruce Toole, an attorney in Billings since 1951, as a proponent, said that the executive board of the State Bar Assn. supports this bill. He said that the witnesses present from Billings cover all groups which handle different types of cases and that the judges in their district need help as there are so many cases all of the time. He said that sometimes a judge may have 5 or 6 cases in one

day and that the methods of handling cases vary among the judges. Therefore, another judge in District 13 would help.

Fred Moulton of the law firm of Moulton, Bellingham, Longo & Mather in Billings, said that he has been an attorney in Billings since 1936 and that a lot of changes have occurred since then. He also told the committee that there are more than the average number of cases in Judicial District 13.

Harold Hanser, Yellowstone County attorney, was the next proponent to testify. He said that he uses up more court time than all of the lawyers present combined. He also said that they are trying to keep the number of felony cases down to 500 a year because they are overloading the courts. He anticipates that there will be more pre-trial hearings in the adult arena and the juvenile arena is increasing also. Mr. Hanser also told the committee that his office files more welfare fraud cases because there are now more federal and state investigators in this area. He then said that there are more juvenile cases in district court because of a lack of time to schedule them in juvenile court. Further, he added that if we are going to have efficient service, we should have had the 4th judge before now and maybe should be speaking for a 5th judge at this time.

The portion of the hearing on the 13th Judicial District was closed and consideration was given to the 19th Judicial District of Lincoln and Sanders.

The first proponent for the judgeship in Libby was Larry Sverdrup, President of the Lincoln County Bar Assn., who has been practicing for 11 years in Lincoln County and has always had a problem with the judge time. He presented 2 letters in support of this portion of H.B. 4. (See Exhibits 1 and 2)

The next witness for H.B. 4 was Judge Robert Sykes of the 11th Judicial District, said he was impressed with the study made by the interim committee on Judiciary. He said that in both counties the population is increasing and, therefore, the number of court cases is also increasing. These counties are increasing in population in excess of 1% a month. He said a lot of people came in when the dams were being built in both counties, but that they have not left. He said that the actual case load per judge was in excess of 1700 in 1976. Through the use of pre-selected jurors, they have reduced the cost from \$400 to \$200 a day. He can serve the people in Lincoln County but cannot also serve the people in Flathead County. Judge Sykes said that "justice delayed is justice denied", and they need another judge in Lincoln County. If they had a resident judge in Lincoln County, that would reduce the mileage expense for judges in that area. He further said that, in the winter months, sometimes it is very hard to get up to Libby because of the accessibility of highways. Therefore, he believes that a judge is needed in Lincoln County for the people up there.

The next proponent was Judge Keller who submitted a certificate of resolution from the Northwest Bar Assn. which gives unanimous support to two judicial districts in this area. (See Exhibit 3) He then read a letter from Judge Salansky in support of this also. (See Exhibit 4)

The next proponent was Bill Douglas, County Attorney for Lincoln County since November, 1967, who said that this is a small county but the case load has increased 4 to 5 times since he took office. They try more criminal case than Flathead County does. In fact, they are right under Yellowstone, Cascade and perhaps Missoula counties in this respect. He also said that the dams which were recently built brought people into the area who have stayed there, and that there is now another dam which is going to be built and the W. R. Grace Co. is going to expand and hire more people as is ASARCO which will employ at least 200 men for the next 25 years. He then said that they need more court time to be put in by judges in Lincoln County and that Sanders County would also get some of the people who come in.

David Harmon, a Libby attorney, was the next proponent to testify. He reiterated the previous testimony and also said that he had filed suits in 1972, 1973 and 1975, on which he has not received decisions from the district judge yet. Therefore, he feels that the people are being denied justice up there and he urged the committee to pass H.B. 4.

Ann German, a Lincoln County attorney, also appeared in support of this bill.

Don Shaffer, a Libby attorney, testifying as a proponent, said that he has sometimes been in from 8:00 in the morning until 9:30 or 10:00 at night on cases.

Tom Bostock who has practiced for ten months in Lincoln County also appeared in support of the bill, as did John Heberling, a Kalispell attorney for 2 1/2 years. He said that he has seen the cases double and redouble. He said he has seen the effect the heavy case load is having on the judges and that society should not put so much pressure on people who have such important decisions to make.

Senator Roberts submitted 2 letters he had received in support of a Nineteenth Judicial District in Lincoln and Sanders counties and a map of the area. (See Exhibits 5, 6 and 11)

Proponents of H.B. 4 appearing who do not oppose a judgeship in Lincoln County but who want to remain in the Missoula district were Jim Cunningham, an attorney from Thompson Falls, who submitted a letter and also appeared to testify, (See Exhibit 8) and Winifred VanDerhoff, Clerk of the District Court for Sanders County, who both testified and submitted a letter. (See Exhibit 7) Also, another Plains resident, Alex Morrison, who has his law office in Thompson Falls, said that he is content with being in Judicial

District 4 because the judges from Missoula do service them well and also because they have cases from the Flathead Reservation. However, he said that he is aware that they do need another judge in Libby.

Rosemary Feorinteno of Ronan who works with the Lake, Sanders and the Flathead counties' drug and alcohol problems, was the next proponent to testify. She has been with the program five years. She said that they work well with the judges in Judicial District 4 and feel comfortable with the arrangement they now have, so would like to see it stay the way it is.

At this time the committee considered the additional judge for Gallatin County. Greg Morgan, a Bozeman attorney who represents the Montana Bar Association and the Bar of Gallatin County, was the first proponent of this portion of the bill. He said that Gallatin County has the 4th highest number of cases per judge in the state and asked that they be given an additional judge because the cases are increasing due to the fact that the county is one of the fastest growing ones in the state.

The next proponent of this issue was James A. McLean, president of the Gallatin County Bar Assn., presented the committee with a resolution for the Bar Assn. supporting this bill. (See Exhibit 12)

Allen McAlear, Gallatin County Bar Assn., was the next proponent to testify. He said that he does not believe the statistics the committee has include the college students, and that the pressure of growth creates friction and friction creates problems. Therefore, he supported a new judge for Gallatin County.

Charles Angel of the Gallatin County Bar Assn. supports the bill also. He said that he does not want Gallatin County to be in the same position that Lincoln and Sanders counties are in today. He would like to see a new judge brought in now who would be able to learn much under their unique judge, Judge Lessley.

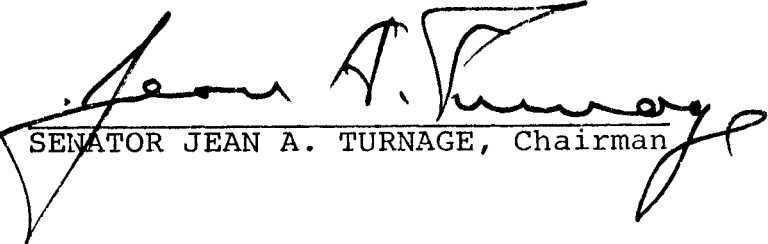
Judge Lessley of the 18th Judicial District was an opponent of the portion of H.B. 4 which would add a new judge in the 18th District. He said that he believes the courts belong to the people, but that his court is current and he is able to handle the cases in his court without another judge. He asked that a new judge not be added until 1980 when the county would have a new courtroom ready for him and could better afford it. He said that he uses law clerks in the summer from the University and will have one full time soon.

George Sagor, a Gallatin County Commissioner, also appeared as an opponent of a new judge in Gallatin County and asked that it be delayed until 1980 when the county could better afford one and have a courtroom and secretary for him. He said that if, in the meantime, Judge Lessley could not handle the case load, they could use a small claims court. However, he believes that Judge Lessley can handle the load.

The last witness to testify was Elizabeth Clark, probation officer with the Youth Court in Gallatin County, who also said that she would like to see the date of 1980 for another judge in Gallatin County be put back in the bill as it was originally before the House amended H.B. 4. This statement was agreed in by Dorothy Burkinpas, the Youth Court advisory.

Ray Stuart, the court administrator for the Montana Supreme Court, appeared before the committee and testified that they need some new judges, but don't know where they are needed, and that the cases are growing before the Supreme Court.

Senator Roberts moved that the committee adjourn at 11:30 a.m.

  
SENATOR JEAN A. TURNAGE, Chairman





(Ex. 1 - Libby)

## First National Bank in Libby

P. O. BOX 4P  
LIBBY, MONTANA 59923 TELEPHONE (406) 293-6255

March 8, 1977

Mr. Lawrence H. Sverdrup  
President, Lincoln County  
Bar Association  
119 West Fifth Street  
Libby, Montana 59923

Dear Mr. Sverdrup:

It is my understanding that you are going to Helena Wednesday, March 9, 1977, to appear before the Senate Judiciary Committee to urge and support the passage of a bill to create a new Judicial District for Lincoln County or Lincoln and Sanders Counties. As our bank assumes a responsible role in the community, we find that the judicial services to the community are sorely lacking. It seems that all we read about in the papers is the criminal cases and that the judges are so over worked that there is no time to hear civil cases. I know as a fact that some of our own commercial legal work suffers due to lack of judicial attention. These reasons plus other comments from other people lead me to urge the passage of the bill for the new Judicial District.

Truly yours,

Bernard J. Remick, President





*Lincoln County*  
MONTANA

*(Ex. 2 - Libby)*

PHONE: 293-6296

LIBBY, MONTANA  
59923

OFFICE OF  
ELLIOTT F. HOLDER  
CLERK OF THE DISTRICT COURT

March 3, 1977

Honorable Senate Judiciary Committee  
State Capitol Building  
Helena, Montana 59601

Gentlemen:

I sincerely urge your support for House Bill 4 creating the Nineteenth Judicial District. In the fourteen years that I have been Clerk of the District Court here, our caseload has more than tripled and our trial-load has increased about proportionately. Flathead County has increased proportionate to Lincoln County, and it looks like to me that our District Judges have more of a workload than they can properly handle.

Thanking you for your kind consideration.

Very truly yours,

*Elliott F. Holder*

Elliott F. Holder  
Clerk of District Court

(Ex 3. Tilly)


CERTIFICATE OF RESOLUTION

The Secretary of the Northwest Montana Bar Association hereby certifies that the following resolution was adopted at a regular meeting of the Association on March 7, 1977.

Upon Motion duly seconded, it was unanimously:

RESOLVED, that the Northwest Montana Bar Association supports the creation of a new judicial district for the State of Montana, so as to provide two full-time judges for the citizens and residents of Flathead County, Montana; and it was further,

RESOLVED, that Robert S. Keller shall be authorized to testify before legislative committees for the purpose of conveying the position of the Northwest Montana Bar Association to the members of the Montana Legislature, and any comment made by him shall be those of said Association.

  
Secretary.

(cc 4  
to 8 Libby)

James M. Salansky  
Judge of the District Court  
COURTHOUSE  
P. O. Box 839  
Kalispell, Montana 59901

STATE OF MONTANA  
ELEVENTH JUDICIAL DISTRICT  
FLATHEAD & LINCOLN COUNTIES  
TEL: 755-5300 EXT. 222

March 8, 1977

ROBERT T. NIEBOER  
COURT REPORTER  
REBECCA E. BENDER  
COURT SECRETARY

Honorable Members of the Senate Judiciary Committee:

I have been a District Judge in the Eleventh Judicial District, comprising Flathead and Lincoln Counties, for over eight months now. I find it not only a challenging position, but one of great importance and considerable power over the lives of many human beings who come before the court either as litigants in civil matters or as defendants in criminal cases. My primary function is to dispense justice in all those matters and my every aim is to see that that goal is actually achieved.

During my first six months I was given a Lincoln County assignment and, therefore, I was the presiding Judge in Lincoln County for two days of each week, as well as a co-Judge in Flathead County for the remaining three days of each week. During that period I spent almost my entire working hours hearing cases. I attempted to hear at least one nonjury trial, and maybe two, each time I went to Libby, as well as handle all criminal arraignments, criminal sentencings, all ex-parte matters, all juvenile matters, all pending motions each week, hear suppression hearings, under age marriage applications, pre-trial conferences, sanity hearings, dependent and neglected proceedings, and the myriad of other matters that come before the court there each week.

Since my entire workdays were almost completely occupied hearing such matters, I found there was practically no time within which to read the briefs, do the research, write opinions and decide cases. Those things had to be accomplished in my free time during the evenings and on weekends. When the jury term commenced in Libby during the months of September and October, I spent three entire weeks hearing and disposing of the forty criminal cases that were set for trial by a jury.

During that six month period, I was further required to handle a jury term in Flathead County. I did handle the complete criminal jury calendar, but I found that there was no time left to handle any civil jury cases within Flathead County. During the three days in Flathead County each week, about all I could do was handle the urgent matters that came up daily, my share of all the criminal arraignments and sentencings, some nonjury trials that couldn't wait, pending motions, ex-parte matters,

Senate Judiciary Committee  
March 8, 1977  
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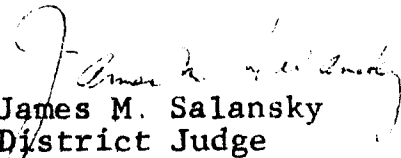
order to show causes, sanity matters, and the various sundry other cases that came to the court's attention and had to be disposed of immediately. I finished my Lincoln County assignment at the end of December.

In January I thought things would improve, since I assumed that I would concentrate on Flathead County and hoped to improve the backlog that accumulated here. It was necessary for me to schedule many pre-trial conferences with the attorneys so that the cases would be readied for trial. I have been here for over two months now and I am now in the middle of my jury term, and am spending all my work days hearing cases, going from one to the other. I have attempted to hold two jury trials each week, but I now find that this is an impossible task since most trials will last longer than two and a half days. At the same time, I hold law and motion at 8:30 o'clock each morning so that I can hear all ex-parte matters, criminal arraignments, handle criminal sentencings, hear order to show causes, and take care of the other matters that cannot wait. My term will last through the month of April. Again, I am finding when the jury term ends at the end of April, there again will have been no time to sandwich in any nonjury cases, and I have about 37 of these pending in my department. Most of these nonjury cases will require about two days each.

This is a serious situation. Frankly, I am running out of steam. I honestly do not feel that Judge Robert C. Sykes and myself can keep up the pace for any considerable length of time. Most of the other departments of government have been enlarged with increased staff, additional deputies, and more personnel, but the District Judges do not have deputies to hear cases or decide cases. This must be done by the District Judge individually. The standards of criminal justice now dictate that we should try a defendant within 60 days of his arraignment. This seems to require the presence of a year around jury. Our jury terms will probably last the entire year. If our function is to dispense justice, we must have sufficient time to hear the cases promptly, to consider them fully, to brief them so that our decisions are within the law, and sufficient time to decide them in a timely and intelligent fashion.

I am sorry, but I am unable to attend your hearing on the matter of a nineteenth judicial district, but I do hope that you fully and fairly consider this letter as my statement concerning this proposed judicial district.

Sincerely,

  
James M. Salansky  
District Judge

JMS:reb

(Ex. 5 Libby)



**NATIONAL BANK OF LIBBY**

LIBBY, MONTANA 59923 • TELEPHONE (406) 293-4151

March 8, 1977

Senator Joe Roberts  
Helena, Montana 59601

Dear Senator Roberts:

I respectfully urge the establishment of the proposed Nineteenth Judicial District for Lincoln and Sanders Counties. The Bank's and the Public's business would be more expeditiously handled with a resident judge in Libby. The delays now encountered because of the present work load in the Eleventh Judicial District seriously reduce the effectiveness of the Court System.

The population of both Lincoln and Flathead Counties has increased dramatically over the past decade and I look for this growth to continue. This is readily seen in the growth of our Bank. I believe a resident judge, particularly in Lincoln County, is necessary to adequately serve our community.

Yours truly,

A handwritten signature in dark ink, appearing to read "Burton R. Holt", is written over a large, loopy flourish that extends upwards and to the right.

Burton R. Holt  
President

BRH/es

**MAHONEY, BAXTER & FLETCHER**

**ATTORNEYS AT LAW**

EUGENE H. MAHONEY  
ROBERT T. BAXTER  
ROBERT L. FLETCHER

March 8, 1977

1018 MAIN STREET  
POST OFFICE BOX 38  
THOMPSON FALLS, MONTANA 59873  
AREA CODE 406-827-3514  
827-3462

Honorable Joe Roberts  
Senate Judiciary Committee  
Montana Senate  
Helena, Montana 59601

RE: Proposed Judicial District  
For Lincoln and Sanders County

Dear Joe:

I am writing in support of proposed legislation to create a new Judicial District which will include Lincoln and Sanders Counties. It is not my purpose to criticize our present system or to indicate dissatisfaction with the Judges who are now serving us. It is rather my intention to indicate that I believe we have an opportunity to improve our system of justice by creating a new Judicial District and by appointing a Judge to serve Libby and Thompson Falls.

Specifically, it is my belief that a new Judicial District is indicated because:

1) A new Judicial District will provide better service to the Bar and people of both counties by making a Judge and Court Reporter more available and more regularly available than is the case under the present system. As you know, there are a number of delays presently built in to our legal system and I feel we are generally criticized, and properly so, for not providing speedier services to our clients and faster resolution of disputed matters.

2) A new Judicial District will provide an opportunity for continuity that presently is lacking. As you know, nearly every matter which comes before the Court has several elements and will probably require several hearings prior to its final resolution. I've always thought it to be an advantage if all of the elements of a case could be heard before one Judge so that he can become fully conversant with the case and fully advised about the matter before he is obliged to

Honorable Joe Roberts

March 8, 1977

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reach a decision or make a ruling. Under the present system of rotation of Judges, it is nearly impossible to have one matter heard before the same Judge and the case is nearly always fragmentized to the extent that one Judge will make a ruling on one facet of the case at a given Court day and another Judge will be obliged to make an additional ruling or decision in the matter on a subsequent Court day. I cannot help but feel that the parties who are involved in these matters must wonder how the Court can reach an intelligent decision when the Judge has seen the matter for the first time minutes before he is obliged to make a decision.

It may not be appropriate to argue against the opinions of other counsel who may be differently persuaded, but I would like to suggest that I, for one, have no reluctance to practice before one Judge. I am convinced that when one is placed in a prestigious position, and one filled with so much responsibility, that he will endeavor to put aside any personal matters that might otherwise be present and make a decision based entirely on the law and facts. It would seem to me that if an attorney or client were convinced that he could not receive a fair trial before a given Judge, it would not be hard to call in another Judge to handle a particular matter in the new Judicial District.

Although I have not had an opportunity to carefully analyze the cost element, I am not persuaded that our decision should be swayed by the possibility of having to expend a few extra dollars to provide better service within our Judicial system. If it were necessary to spend a few extra dollars in this connection, I believe they would be well spent.

The Judicial system, and particularly the lawyers working within it, have come under a great deal of criticism in recent times. I urge you to support legislation which I believe will permit us to provide a better service to the people of Lincoln and Sanders Counties and which will offer a Judicial system more responsive to the needs of those people.

Very truly yours,

  
Robert T. Baxter

WESLEY W. STEARNS, COMMISSIONER

HENRY L. GILL, COMMISSIONER

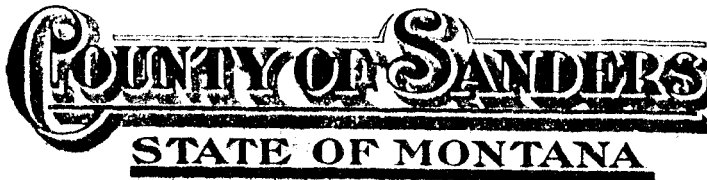
*(Ex. 7 - Lincoln)*  
GEORGE W. WELLS, COMMISSIONER

DIXIE VAUGHT  
CLERK & RECORDER

JUNE M. THAYER  
TREASURER

PAUL J. FARLAN  
ASSESSOR

JAMES L. PALMER  
SUPT. OF SCHOOLS



WINIFRED I. VAN DERHOFF  
CLERK DISTRICT COURT

ROBERT L. FLETCHER  
ATTORNEY

A.H. CHENEY  
SHERIFF

C.E. ROSDAHL  
CORONER

THOMPSON FALLS, MONTANA

59873

January 26, 1977

*Geo*  
Hon. Jean A. Turnage, State Senator  
Judiciary Chairman  
State Capitol  
Helena, Montana

In re: Forming a Judicial District of Sanders and Lincoln Counties

Dear Jean Turnage:

I, as well as many other citizens in Sanders County, are very much against forming a new Judicial District consisting of Sanders County and Lincoln County for the following reasons:

1. The cost would be astronomical and the new district would serve no purpose. The cost of another judge would be \$25,000.00 plus what raises might be given plus mileage and expenses. There would also be the cost of an office and the expenses of the office. There would be the cost of a court reporter at \$16,000.00 per year plus mileage and expenses. (Sanders County now pays only a little over 6% of the cost of the court reporter in the Fourth Judicial District.) Also the cost of a probation officer.
2. We have very little contact with Lincoln County now and the mail service to Libby is not the best. At the present time we are able to send important legal papers to Missoula with someone any day of the week. Also, a letter mailed before four O'clock is delivered in Missoula early the next morning.
3. Working under one judge can sometimes be bad for the public as well as an attorney. Now we have a choice of three judges.
4. We of Sanders County elected the three judges and we would like to work under them. Sanders County would be outnumbered by Lincoln County electors; therefore we would be working with a judge of their choice.
5. Our Flathead Indian Reservation would be split between two districts. Now we have close contact with the alcoholic program in Roman and the Juvenile authorities of Lake County.
6. Our judges are not overworked in the five counties of the Fourth Judicial District and each judge has a larger case load per judge than the judges in Flathead and Lincoln Counties.

Very truly yours,  
*W. W. Stearns*



You're welcome in Sanders County—a land of unsurpassed recreation, scenic beauty and financial opportunity. Here are the famous Camas Hot Springs with their life-giving mineral waters; giant hydro-electric plants which dot the Clark Fork River, and lumbering, agriculture and other industry which combine to form a healthy, year-around economic climate. Big game animals abound in the mountains, and streams are stocked with fish to provide endless hours of fine sport. There is plenty of room—for you!



(E. S. Lincoln)

*James W. Cunningham*

ATTORNEY AT LAW  
FIRST STATE BANK BUILDING  
P. O. Box 8  
THOMPSON FALLS, MONTANA 59873  
406 - 827-3454

January 18, 1977

Hon. George McCallum  
Senate Chambers  
State Capitol Building  
Helena, Montana 59601

Dear George:

I understand that a bill creating a new judicial district comprised of Sanders and Lincoln Counties has been introduced, and that it is scheduled for hearing before the House Judiciary Committee.

The proposed new district would have a single judge. Presumably, he would be based in Libby since Lincoln County has the greater volume of judicial business and, as I understand, it is the primary purpose of the new district to accommodate the volume of such business in Lincoln County.

Whatever the arguments may be from the standpoint of the Lincoln County Bar, I believe that Sanders County would be better off to remain as part of the Fourth Judicial District. I give the following reasons, which apply both to the lawyers and those whom they represent:

1. Although I have never practiced in a single-judge district, I am reasonably convinced that it would be more restrictive, and that lawyers and clients alike benefit from having what amounts to a choice of judges, under our present status. The thought of having to disqualify the judge in a single-judge district is disquieting, to say the least, because, in so doing, the lawyer takes the risk of incurring that judge's disfavor in future appearances.

January 18, 1977

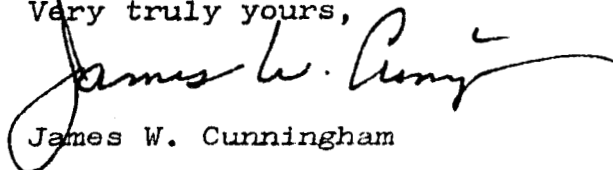
I do not mean to say that all judges are personally offended by every disqualification. On the other hand, I doubt that there is a judge who is not offended by some disqualifications to the point of prejudice against the disqualifying lawyer.

2. The three judges in our district have accommodated our needs and have been most cooperative in arranging schedules, terms of court and so forth. There is no indication from them, so far as I am aware, that they are over-burdened by our inclusion in the Fourth Judicial District, or that they want us out for any reason.
3. Since, either way, we are bound to have satellite status, I believe it will be more convenient to continue as a satellite of Missoula, to which city most people in this county more often travel on business of all sorts. Travel on legal business, when it is necessary, can more often be made to coincide with other business, to the convenience of lawyers and clients alike.

It is unlikely that I will be able to appear before the Committee and I would be grateful if you would present this letter to the Chairman. It is possible that Alex Morrison, who shares the views expressed herein, may appear at the hearing. If so, he has my proxy.

Thank you and kindest personal regards.

Very truly yours,



James W. Cunningham

JWC:mc

cc: Hon. Chris Stobie  
Alex Morrison



# STATE OF MONTANA

## DEPARTMENT OF REVENUE

MITCHELL BUILDING  
HELENA, MONTANA 59601

March 8, 1977

### MEMORANDUM

TO: Members of the Montana Senate Judiciary Committee

FROM: Jon A. Meredith, Department of Revenue,  
Staff Attorney

RE: Creation of a New Judicial District Consisting of  
Lincoln and Sanders Counties

Ladies and Gentlemen:

As a recent member of Sanders County Bar, I have been asked by fellow members and by State Legislators to convey my thoughts regarding the creation of a new judicial district in Lincoln and Sanders Counties. I am not totally familiar with the present Eleventh Judicial District (Flathead and Lincoln Counties) situation; therefore, I shall confine these remarks to my experience as an attorney in Sanders County and as a participant in the Fourth Judicial District system.

I worked as a sole practitioner in Plains from June, 1974, until December, 1976, and I had occasion to attend almost every law and motion session held at Thompson Falls during that period. First let me say that I thoroughly enjoyed my practice in the Sanders County area and my association with the attorneys and judges serving the district.

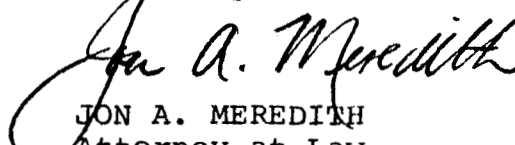
In my opinion, court sessions held on the second and fourth Tuesdays of every month were always plenty adequate to dispose of litigation accumulated. Rarely did law and motion run past 12:00 o'clock noon and afternoon hearing sessions never seemed to continue past 3:00 or 3:30 p.m. Judges were very accessible considering their base location in Missoula.

A variety of judicial temperament is desirable but not entirely necessary. I found all three judges in the Fourth Judicial District to be even-handed in their "dispensation of justice" if you will. Although possible personality conflicts in a one-judge district could lead to perpetual disqualification problems, I don't foresee that as a real stumbling block to the creation of a new district.

Memorandum  
Page 2  
March 8, 1977

Finally, it is my opinion that the Sanders County populace would choose, given the opportunity, to remain a judicial satellite of Missoula rather than Libby. Economically and socially that has been the situation for years and the local citizenry appears to be comfortable with it. Thank you for allowing me to be heard.

Sincerely,



JON A. MEREDITH  
Attorney at Law

JAM:laa

# The Plainsman

(G. 9 - Lincoln)

Plains, Montana 59859

March 6, 1977

Jean Turnage, Chairman  
Senate Judiciary Committee  
Montana State Senate

Dear Senator Turnage:

I would like to go on record in opposition to that portion of House Bill 4 which would create a new Judicial District composed of Sanders and Lincoln Counties out of the existing Fourth and Eleventh Judicial Districts.

To create the new district would bring on more problems than it would solve. It would appear that the appointment of another judge in the Eleventh District would relieve the congested case load in that district--a case load, by the way, which was undoubtedly enhanced by the boom years of the Libby Dam construction period which is now passed. The added expense of setting up an entirely new district would be alleviated by the appointment of a third judge.

To those who are familiar with the territory, a Lincoln-Sanders Judicial District does not seem to me to be the best approach to the problem. The geographical arrangement leaves much to be desired. The two counties have very little communication with each other because of lack of transportation facilities--no connecting railroad, an out-of-the-way secondary highway between the two county seats and very poor mail service.

Splitting the judicial jurisdiction on the Flathead Indian Reservation could also entail future unforeseeable problems.

Creation of the proposed district might solve a few of the problems that now exist, but at the same time it might also create many more in the future.

Sincerely,

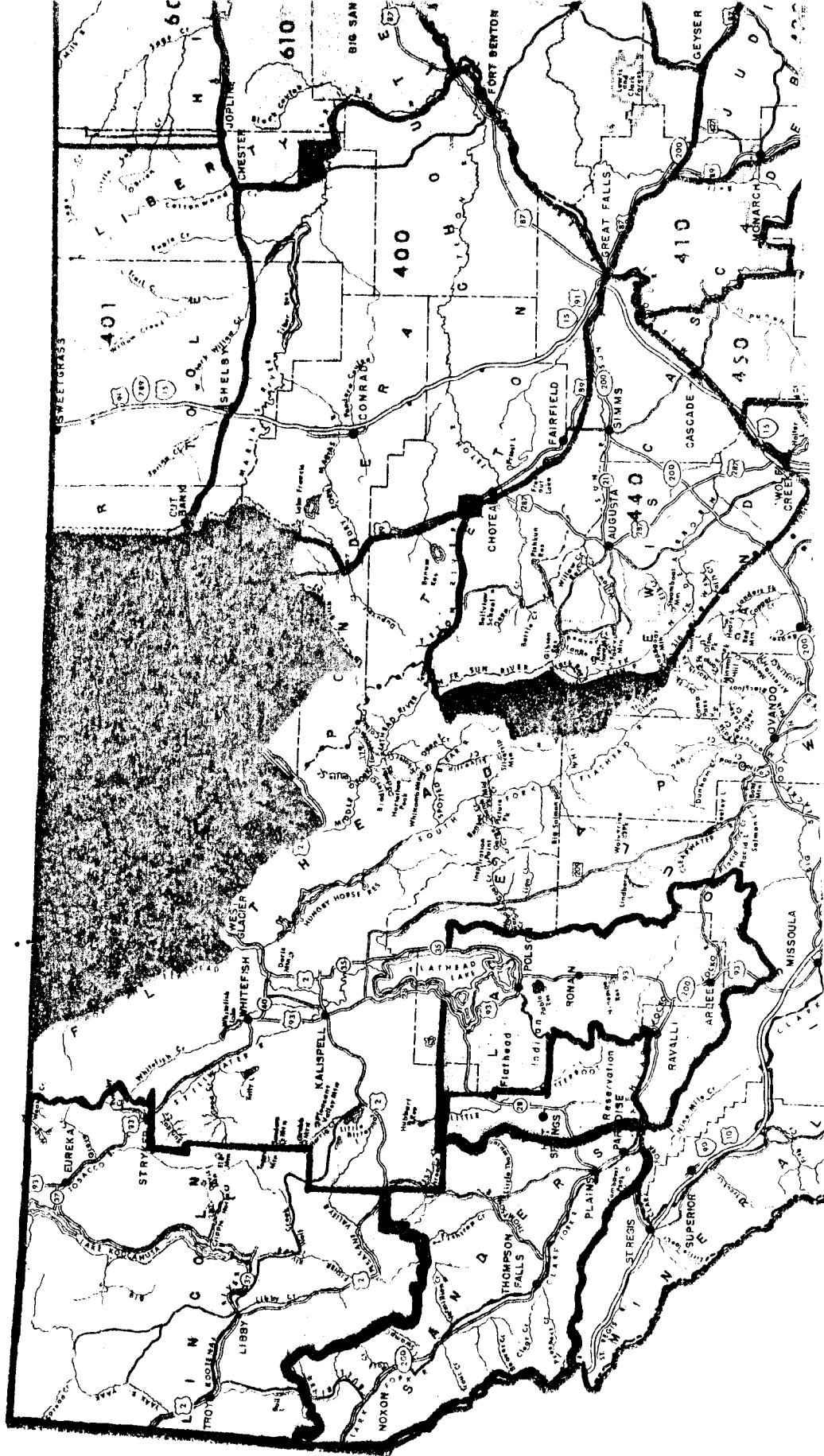


Donald R. Coe, Publisher  
The Plainsman,  
Plains, Montana 59859

Gr - Lincoln

The accompanying maps are intended to  
Legal descriptions of hunting districts,

**ANTELOPE . . . SEE OTHER SIDE**



(EX-12 - Gallatin)

RESOLUTION

WHEREAS, a regular meeting of the Bar Association of the County of Gallatin, State of Montana was held on March 2, 1977, there being twenty-nine members present, constituting a quorum; and

WHEREAS, a motion was duly introduced and seconded that said bar association pass a resolution supporting the establishment of a second judgeship for the Eighteenth Judicial District; and

WHEREAS, after discussion, said motion was carried by a vote of twenty-eight yeas and one nay;

NOW, THEREFORE, BE IT RESOLVED that the Bar Association of the County of Gallatin, State of Montana does support and urge the creation of a second judgeship for the Eighteenth Judicial District, in and for the County of Gallatin, State of Montana, and does urge that said judgeship be established as of July 1, 1977.

DATED this 2nd day of March, 1977.

GALLATIN COUNTY BAR ASSOCIATION

BY:

James A. McLean  
James A. McLean, President



+ 4.1%

(Ex. 13 Shelton)

\* Twelve month calendar year aggregate total reported to legislative council by clerks of court

\*\* Field-collected data by the court administrator for Fiscal Year 76, July 1975 - June 1976

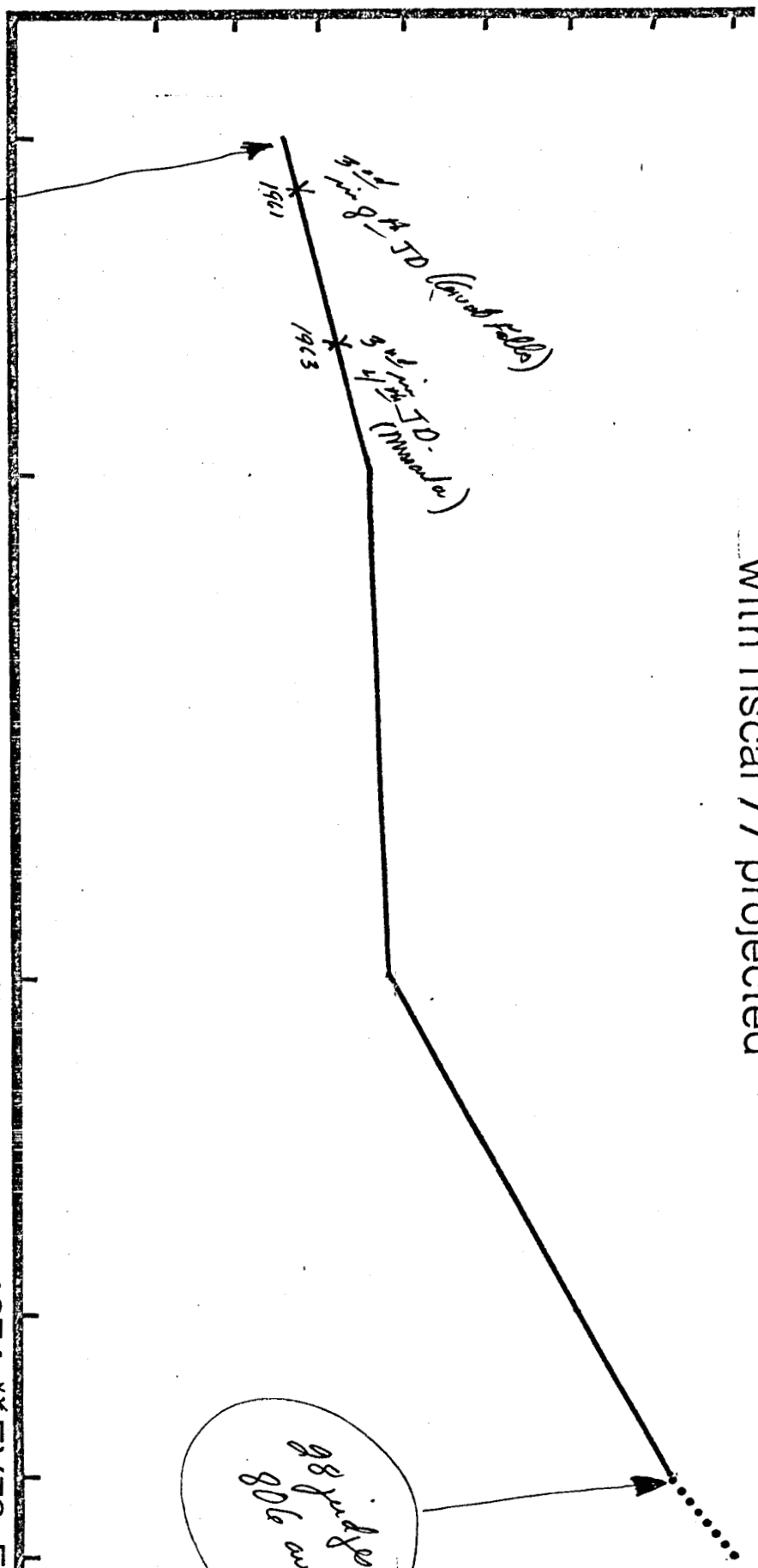
\*\*\* Cases individually reported by clerks of court to the State Court Administrator

\*\*\*\* Excludes 800 "other" cases filed in this year, but not detailed in case distribution table

# DISTRICT COURT CASE FILINGS for 1960, 64, 70, 74 and fiscal 76 with fiscal 77 projected

Thousands of Filings

24  
22  
20  
18  
16  
14  
12  
10



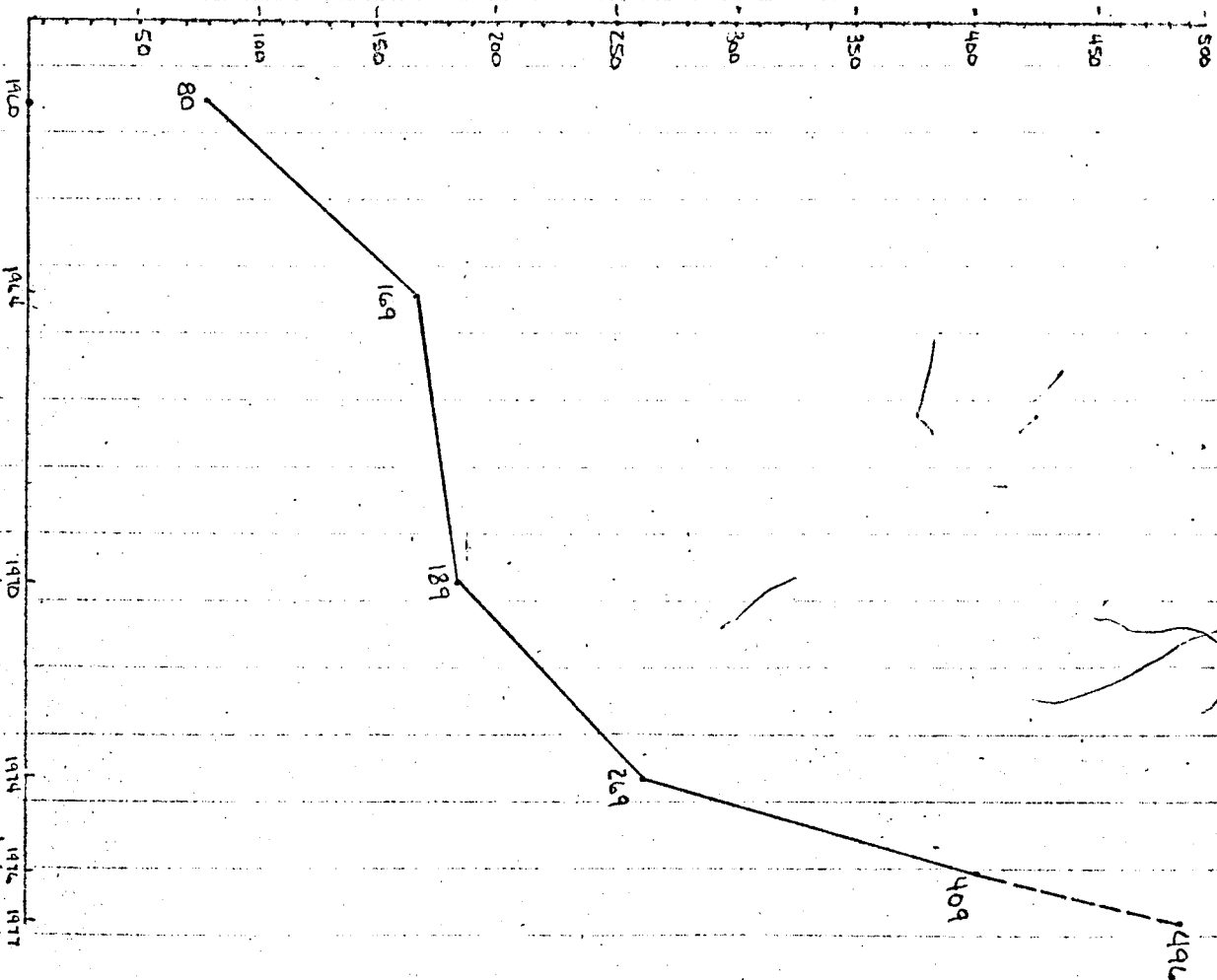
88 judges  
906 cases

86 judges

+30%

Projected

Fol. Calendar 1960, 64, 70, 74, 76  
and 1977 projected



14206  
11606  
15796  
+41106(m)

SENATE

*Judiciary*

COMMITTEE

BILL *2604 4*

VISITORS' REGISTER

DATE *3-9-77*

Please note bill no.

(check one)

NAME

REPRESENTING

BILL #

SUPPORT

OPPOSE

*Geo. W. Sager**Gallatin Co. Courthouse**HB 4*

✓

*W W Keady**County**HB 4*

✓

*Elizabeth Clark**Youth Court**HB 4*

✓

*Dorothy Burkholder**Youth Court Advisory**" 18"*

✓

*R. Budd Gould**His bill**HB 260*

✓

*Ed Stollman**Mont. Tdy. Parl**HB 260**Bob Keller**Flaxhead Bar Assn**HB 4*

✓

*Jon L. Heberling**NW Mont Bar Assn**HB 4*

✓

*Thomas R. Bostock**Fennersy, Crocker & Harman**HB 4*

✓

*David W. Harman**Lincoln County Bar Assn**HB 4*

✓

*William A. Rayburn**" " "**HB 4*

✓

*Donald J. Shaffer**" " "**HB 4*

✓

*Raymond H. Lundberg**" " "**HB 4*

✓

*Carl Kuyper**" " "**HB 4*

✓

*Robert K. Kuyper**11th Judicial District**HB 4*

✓

*Gregory D. Morgan**State Bar of Mont**HB 4*

✓

*W. L. McAlister**Gallatin Co Bar**HB 4*

✓

*James A. McLean**Gallatin County Bar Assn**HB 4*

✓

*James D. O'Connell**Grosvonts Quarry Bar**HB 4*

✓

*Paul J. O'Connell**Gallatin Co Bar**HB 4*

✓

*Bill Madde**" " "**"*

✓

*JAMES H. GOETZ**Gallatin County Bar Assn**HB 4*

✓

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

26-2-74

Note #1

NAME	REPRESENTING	Check One	
		Support	Oppose
I. GARRICK	M. H. P.		
Walter J. Dierhoff	Clerk of Court, Sanders County		X
Fred Milton	Self - Support as to 4th in 3 years		X
ROCKWOOD BROWN	- Yellowstone County BAR ASSN		X
Mike Whalen	" " " "	X	
Spencer Toole	" " " "	X	
Harold Houser	" " " "	X	
Wm. G. Speck	" " " "	X	
Wm. H. King	Collector County, etc	X	
Wm. H. King	Commissioner County, etc		
JAMES W. CUNNINGHAM	SANDERS Co. BAR ASSOC.		X in part
Raymond	County Administrator / Supreme Court	X	X
Wm. H. King	Sanders Co.		