

HOUSE OF REPRESENTATIVES
JUDICIARY COMMITTEE
January 25, 1979

The regular meeting of the House Judiciary Committee was called to order by Chairman Scully at 8:15 a.m. in room 436 of the Capitol Building on Thursday, January 25, 1979. All members were present with the exception of Representative Carl Seifert.

Bills scheduled for hearing were:
House Bills 259, 269, 308 and

Senate Bill 78.

HOUSE BILL NO. 269: Representative Yardley asked that the bill be transferred to the Taxation Committee and Representative Scully agreed that it should be in that committee and that he would take care of it.

HOUSE BILL NO. 259: Representative Tropila said the bill would allow the use of hearing examiners from the legal services unit within the Attorney Generals office. He introduced Bob Pyfer who would explain the bill in more detail.

BOB PYFER: He went through the bill and mentioned that the committee should look at page 2, lines 10 through 13 and line 22 especially.

ROGER TIPPY: The second section that Bob was alluding to is a problem that I talked to the committee about last year at a hearing of the Board of Medical Examiners. One of the members wanted me disqualified. I feel this should have been done before the proceedings start, and not during. He went on to explain what had happened and his feelings on the matter and on the bill itself.

RICHARD GILLESPIE: Superintendent of Public Instruction. In support of the bill he discussed disqualification. He mentioned that there appears to be no provision in the law on how to provide it. He offered an amendment and stated that that was the only thing his amendment proposed to do.

MIKE McGRATH: ATTORNEY GENERALS OFFICE. I am here to clarify a couple of points in section 1, the legal assistance pool. If it does pass then the bill would have to be amended. It's my feeling that there will not be a fiscal impact with this bill. The other point is that it is expected that if House Bill 12 does pass that program will fund itself by charging agencies for service at \$25.00 an hour.

REPRESENTATIVE TROPILA: Problems that have arisen are in a letter of intent. The gist of the bill is to get out the partiality.

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Representative Keedy led a question and answer session about bias and prejudice, and mentioned that it just clarifies a type of bias. It was mentioned that it would expand present law a little bit. There was some discussion about the hourly charge, and Mr. Keedy asked if it might not double the cost.

MR. McGRATH: The theory has always been that the charge would be to the agency but that it would be considerably less than the regular cost.

There were no other questions and no further discussion and the hearing closed on House Bill No. 259.

HOUSE BILL NO. 308: Representative Kemmis said that this bill was a request from the Attorney General's office, regarding a section of the code that the Attorney General has determined to be unconstitutional.

MIKE McGRATH: This statute that we are asking to be repealed was the result of an opinion in the Attorney General's office last fall. The Attorney General feels it is his responsibility to present bills when he feels they are unconstitutional. He does not have the authority to make this decision himself. A recent decision has said that the right to marry is the right to privacy. It is our opinion that this statute is unconstitutional.

REPRESENTATIVE KEMMIS: I would just like to say that I am a strong supporter of child support obligations and I would not ask that this bill remove this if I did not feel it was unconstitutional.

There was general discussion about enforcing child support. Representative Scully explained the law as it now stands.

The question was asked if we remove this are we not condoning this action in a sense. Representative Scully said it has no effect on the enforcement of support act at all.

There was no further discussion and the hearing closed on House Bill 308.

SENATE BILL NO. 78: Senator VanValkenburg was not present to present this bill, so one of the staff members of the Department of Administration did so. He said this is a simple housekeeping bill from 1973.

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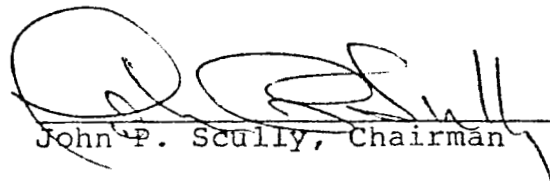
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It amends the second section of the tort act. He discussed how service is now handled and said that it would simply make his job easier if he had to be served. Everybody else gets served and I may get served two weeks later.

There was general discussion about service and it was mentioned that it can be personal service. The comment was made by Mr. Scully that these were actions brought by the State of Montana and not actions against the State.

There was no further discussion and no further questions and the hearing closed on Senate Bill No. 78.

The meeting adjourned at 8:50 a.m. and after a short recess the members went into executive session for action on pending bills.


John P. Scully, Chairman


Mary Ellen Connelly, Secretary