

MINUTES OF MEETING  
SENATE JUDICIARY COMMITTEE  
March 1, 1979

The forty-eighth meeting of the Senate Judiciary Committee was called to order by Senator Everett R. Lensink in Room 331 of the Capitol Building on the above date at 4:28 p.m.

ROLL CALL:

All members were present with the exception of Senators Healy and Anderson, who were excused.

DISPOSITION OF HOUSE BILL 203:

Senator Turnage moved that this bill be concurred in. The motion carried unanimously.

DISPOSITION OF HOUSE BILL 223:

Joan Mayer from the Legislative Council offered some amendments for this bill, and she stated that she thought these amendments would make this bill worse.

Senator O'Hara stated that he thought there was some need for this. He said that an operator called in and tied up the line for one-half hour and he claimed that he was holding someone hostage. Senator Towe stated that the reporter did not realize the fellow was there; and the man, who was holding the hostage, picked up the phone. Senator O'Hara said that that was not the way he heard it.

Senator Towe stated that this would allow them to cut the line or pull the plug. Senator Van Valkenburg said that this allows the law enforcement people to listen in on any phone conversation.

Senator Towe moved that the bill be amended on page 3, line 11, by striking "(3)" and inserting "Section 2. There is a new section which reads as follows: Code and further amend page 4, following line 4, by inserting the following new language: Section 3. Note to codifier: Section 2 should be codified in part 1, chapter 6 of title 69, and further amend on page 1, line 12, strike subsection 3 and insert (Section 2). The motion carried unanimously.

Senator Turnage moved that the small amendment which was proposed by Ma Bell be adopted. The motion carried unanimously.

Senator Turnage moved that the bill be concurred in as amended. The motion carried unanimously.

DISPOSITION OF HOUSE BILL 224:

Senator Van Valkenburg moved the bill be amended by striking "arrest" on line 23 and inserting in lieu thereof "arraignment unless such person has left the state of Montana and in such case the offense is committed unless the person is returned prior to arrest." Senator Brown stated that Tom Honzel said that arraignment wouldn't do it. The motion carried unanimously.

Senator Van Valkenburg moved that the bill be concurred in as amended. The motion carried unanimously.

DISPOSITION OF HOUSE BILL 258:

Senator Turnage moved that the bill be not concurred in. He said that thousands of deeds lie in escrow in this state; and, in every instance, there has to be an acknowledgement; a typewritten name has to appear; and it would take thousands of man hours to type these names. He said that each document with an acknowledgement has a typewritten name, and he really could not understand why the clerks want this thing.

The motion carried with Senator Galt voting no.

DISPOSITION OF HOUSE BILL 242:

Senator Brown moved that this bill be amended on page 4, line 2 by striking subsection 2-4-613;. The motion carried unanimously. He further moved that the bill be amended on page 1, line 9, after "decision" that the following language be inserted "authorizing collection of attorney's fees under certain circumstances"; and further amend on page 5, line 4, after "agency" insert "in collection of attorney's fees" and on page 6, line 5 after "record" strike all the remainder of lines 5 through 8 and on page 6, after 12 insert a new subsection (5). There was some discussion and Senator Brown withdrew all his amendments.

Senator Brown moved that the bill be amended on page 6, line 5 after "record" strike all the remaining language on lines 5 through 8; and that the bill be concurred in as amended. There was some discussion. Senator Brown then moved that the bill be amended on page 6, following line 12 by adding the following new language: "New Section. Section 5. Codification. Section 3 shall be placed in chapter 4 of title 2 of M.C.A." The motion carried.

Senator Brown moved that the bill be concurred in as amended. The motion carried unanimously.

DISPOSITION OF HOUSE BILL 248:

Senator Towe moved that this bill be not concurred in. He stated that the Department of Institutions introduced this bill; we think it should be amended so that we don't abuse discretion; Chairman of the Board of Paroles, Hank Burgess, wanted more control in parole; you can't get furlough until two years within parole eligibility; and 41 people have been furloughed and only six failures; that parole has a failure rate of fifty per cent; and he felt that some other things are bad - if you take out the hearing, they can put any rules in they want.

Senator O'Hara stated that Senator Ryan talked to him quite length, and he said that he is not sold on the program whatsoever. He said that the administrator, Carolyn Zimmet, was to come up to Great Falls for some meeting and she couldn't get a babysitter; and he just didn't feel the program would work.

Senator Brown said that he agreed that the bill should die except for one thing - considering parole, they have to provide for their own counsel; the law right now requires the state provide counsel; and it does amend it so that the prisoner is responsible.

Senator Towe said that at the prevailing rate of pay, we should require a minimum wage.

Joan Mayer suggested that maybe there should be a substitute bill. No action was taken on this bill.

DISPOSITION OF HOUSE BILL 259:

Senator Brown stated his problem with this bill is just with that last section and the way it is worded, and he felt that they are going to get in a hassel.

Joan Mayer, staff attorney for the Legislative Council, stated that Bob Pyfer said that apparently federal law prohibits the superintendent to act in some of these situations. Senator Brown said that she would just have to disqualify herself.

Senator Turnage moved that the bill be amended by striking all the language on page 3. The motion carried unanimously.

Senator Turnage moved that the bill be concurred in as amended. The motion carried unanimously.

DISPOSITION OF HOUSE BILL 229:

Senator Brown moved that this bill be not concurred in. He stated that in two years you might want to do something like this.

Senator Towe moved that we strike section 1 and further amend the bill on page 2, line 21 following "7-6-2325, insert "," and strike "and 7-6-2314" and following "2101" insert "and 3-5-404" and amend the title appropriately. The motion carried unanimously.

Senator Turnage moved that the bill be concurred in as amended. The motion carried with Senators Brown and Olson voting no.

DISPOSITION OF HOUSE BILL 250:

It was suggested that we take this up Monday, as Senator Brown could not get in touch with the people.

There being no further business, the meeting was adjourned at 5:23 p.m.

*Everett R. Lensink*

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SENATOR EVERETT R. LENSINK, Chairman  
Senate Judiciary Committee

Evening  
Date 3/1/79

ROLL CALL

JUDICIARY COMMITTEE

46th LEGISLATIVE SESSION - 1979

NAME	PRESENT	ABSENT	EXCUSED
Lensink, Everett R., Chr. (R)	✓		
Olson, S. A., V. Chr. (R)	✓		
Turnage, Jean A. (R)	✓		
O'Hara, Jesse A. (R)	✓		
Anderson, Mike (R)			✓
Galt, Jack E. (R)	✓		
Towe, Thomas E. (D)	✓		
Brown, Steve (D)	✓		
Van Valkenburg, Fred (D)	✓		
Healy, John E. (Jack) (D)			✓

Each Day Attach to Minutes.

# HB 223

1. Title, lines 4 and 5.  
Strike: "AMEND SECTION 45-8-213, MCA, TO"
2. Title, line 7.  
Following: "HOSTAGES"  
Insert: "AND TO LIMIT THE LIABILITY OF TELEPHONE COMPANY OFFICIALS; AMENDING SECTION 45-8-213, MCA"
3. Page 1, line 12.  
Following: "in"  
Strike: "subsection (3)"  
Insert: "[section 2]"
4. Page 3, line 11.  
Following: line 10  
Strike: "(3)"  
Insert: ~~NEW SECTION.~~ "NEW SECTION. Section 2. Control of telephone communications to and from a person holding hostages -- nonliability of telephone company officials."

~~Following "communications"~~  
~~Insert:~~

5. Page 3, line 25.

Following: "THIS"

Strike: "SUBSECTION"

Insert: "section"

6. Page 4, line 2.

Following: "this"

Strike: "subsection"

Insert: "section"

7. Page 4, line 4.

Following: "communications"

Insert: "and is ~~not~~ not liable in any civil  
action brought as a result of such good faith  
actions"

8. Page 4.

Following: line 4

Insert: "Section 3. Codification. Section 2 is  
intended to be codified as an integral part of  
Title 69, chapter 6."

# HB 223 - Amendment proposed by Ma Bell

1. Page 3, line 25 through line 4 on page 4.

Following: "SUBSECTION." on line 25

Strike: remainder of line 25 through line 4 on page 4

Insert: "Good faith reliance on an order given pursuant to this subsection is a complete defense in any civil or criminal action brought as a result of actions taken by a telephone company or its employees pursuant to such order."

## ALTERNATIVE:

1. Page 4, line 4.

Following: "communications"

Insert: "and is not liable in any civil action ~~for~~ brought as a result of such good faith actions"



# STANDING COMMITTEE REPORT

March 6, 19 79

MR. President:

We, your committee on Judiciary

having had under consideration House Bill No. 223

Respectfully report as follows: That House Bill No. 223, third reading bill, be amended as follows:

1. Title, lines 4 and 5.  
Strike: "AMEND SECTION 45-8-213, MCA, TO"
2. Title, line 7.  
Following: "HOSTAGES"  
Insert: "AND TO LIMIT THE LIABILITY OF TELEPHONE COMPANY OFFICIALS; AMENDING SECTION 45-8-213, MCA"
3. Page 1, line 12.  
Following: "in"  
Strike: "subsection (3)"  
Insert: "[section 2]"
4. Page 3, line 11.  
Following: line 10  
Strike: "(3)"  
Insert: "NEW SECTION. Section 2. Control of telephone communications to and from a person holding hostages--nonliability of telephone company officials."

DO PASS

(continued)

5. Page 3, line 25.

Following: "THIS"

Strike: "SUBSECTION"

Insert: "section"

6. Page 4, line 2.

Following: "this"

Strike: "subsection"

Insert: "section"

7. Page 4, line 4.

Following: "communications"

Insert: "and is not liable in any civil action brought as a result of such good faith actions"

8. Page 4.

Following: line 4

Insert: "Section 3. Codification. Section 2 is intended to be codified as an integral part of Title 69, chapter 6."

And, as so amended,  
BE CONCURRED IN

EVERETT R. LENSINK, Chairman.

STANDING COMMITTEE REPORT

March 2, 19 73

MR. President:

We, your committee on Judiciary

having had under consideration House Bill No. 203

Respectfully report as follows: That House Bill No. 203

BE NOT CONCURRED IN  
DO-PASSXX

Everett R. Lansink Chairman.

# STANDING COMMITTEE REPORT

March 2, 1979

MR. President:

We, your committee on Judiciary

having had under consideration House Bill No. 258

Respectfully report as follows: That House Bill No. 258

BE NOT CONCURRED IN

~~DO-PASS~~

HB 224

1. Title, line 8.

Following: "PRIOR TO"

~~ARRAIGNMENT OR~~

Insert: "ARRAIGNMENT OR, IN CERTAIN CASES,  
PRIOR TO"

~~ARRAIGNMENT OR, IN CERTAIN CASES,  
PRIOR TO~~

2. Page 1, line 21.

Following: "(3)"

Insert: "a person who has not left the state does  
not commit an offense under this section if he  
voluntarily returns such person to lawful custody  
prior to arraignment."

Following: "person"

Insert: "who has left the state"

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# STANDING COMMITTEE REPORT

March 2, 1979

MR. President:

We, your committee on Judiciary

having had under consideration House Bill No. 136

Respectfully report as follows: That House Bill No. 136

BE NOT CONCURRED IN  
DO PASS

*J.C.*

# STANDING COMMITTEE REPORT

March 5 19 79

MR. President

We, your committee on Judiciary

having had under consideration House Bill No. 224

Respectfully report as follows: That House Bill No. 224,

third reading bill, be amended as follows:

1. Title, line 8.

Following: "PRIOR TO"

Insert: "ARRAIGNMENT OR, IN CERTAIN CASES, PRIOR TO"

2. Page 1, line 21.

Following: "(3)"

Insert: "A person who has not left the state does not commit an offense under this section if he voluntarily returns such person to lawful custody prior to arraignment."

Following: "person"

Insert: "who has left the state"

And, as so amended,  
BE CONCURRED IN

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