

MINUTES OF THE MEETING
STATE ADMINISTRATION COMMITTEE
MONTANA STATE SENATE

January 21, 1981

The tenth meeting of the Senate State Administration Committee was called to order by Senator Pete Story, Chairman, on the above date, in Room 442 of the State Capitol Building at 10:00.

ROLL CALL: All members of the committee were present except Senator Johnson.

CONSIDERATION OF SENATE BILL NO. 113:

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE
FOR A THIRD DISTRICT COURT JUDGE IN THE FIRST
JUDICIAL DISTRICT."

Senator Steve Brown, Helena, District 15, sponsor of the bill, stated that it is a simple bill. There are many reasons why we need another judge in the first judicial district. This request is based upon the case load statistics themselves. This district has the third highest case loads. All complicated state cases are tried in the first judicial district. This amounts to about 12 to 15 cases a year. He alluded to complex examples: the coal tax, Colstrip Appeal, the Beaver Creek South case, and Northern Tier Pipe Line. Those appeals go through the first judicial district.

Senator Brown introduced the attorney in the room; then he called on Senator Joe Mazurek, District 16, Helena, who submitted a copy of a letter from Judge Peter Meloy. Senator Mazurek said there are 43,000 people in Lewis and Clark County, more in Broadwater County, and Jefferson County that are included in the first district. The reason for their request for a third judge is the government is here in Helena in the first district. He acknowledged that the district is very fortunate that they have two very good judges. They have a large amount of research to do and a huge complex volume of work.

PROPOSERS:

Pat Hooks from Townsend stated they had received a judge from Helena every other week. Presently, they are scheduled every Friday, with the last week of each month for trial. If a judge cannot come to Townsend, they have a delay. Sometimes they have to bring trials to Helena, which is not right. District one has cases that are unique, and these take time away from other matters. He told the committee there is need for another judge, and there is space in the court house.

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Tom Dowling, representing himself, had been county attorney for nine years and stated the fact that in 1965 a man could be sentenced to prison in an hour's time. Things have changed, and it takes months now. He is for this bill because Helena is the seat of state government.

Tom Harrison, attorney, cited three associations that work full time at litigation. The significance of another judge is not just to Helena, but it is statewide. In fairness, he points out that this is not just a bill for a judge serving in Helena but the entire state.

Jerry Loendorf claimed that when cases are appealed, they end up in the first district.

Mike McCabe stated that district judges have changed their schedules to list cases and to try them. The problem is not only in presenting complicated cases to the court but having the time to reach decisions. Many cases require in-depth study of the law. He gave the example of the senators listening to the pros and cons. They have other things to do, as do the judges. They all have homework. He stated the First Judicial Bar Association is in full support of a third judge.

Larry Huss, appearing for his law firm, says they are always involved in litigation. There are no simple every matters. They definitely do need help.

Ron Waterman gave reasons why it should be supported:

1. The availability of time in the court - also, a month's notice is usually needed. There may be a delay of at least two to four months.
2. Complex cases. Many involve more than simply a trial. The judges spend many hours studying and re-searching. If they looked into redistricting, they would have problems like Boulder River School.

Alan Cain seconded what had been said and supported the bill.

Tom Honzel voiced his support.

Scot Curry gave an example of an inter-state child custody case which took three weeks to get a hearing and six weeks to get a decision.

OPPONENTS: None.

Questions from the committee: Senator Towe asked how long it would take to get a non-jury trial. Mr. Waterman answered that it would be 2 1/2 months for 1/2-day trial, 9-12 months for complex trial.

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Senator Towe asked where would the third judge be located?
The answer was that there is adequate space in the courthouse.

Senator Ryan asked Senator Brown why he was only asking for one more judge. He responded by saying that they think they have addressed the problem well and feel that one will suffice.

Senator Brown closed by saying the bill should be passed for these reasons: 1. Space is available. 2. The judges are working too hard. 3. The types of cases the judges have to deal with are lengthy and complex.

The hearing of Bill No. 113 was closed.

ACTION ON SENATE BILL NO. 113: Senator Kolstad moved that this bill DO PASS. It carried by a unanimous oral vote.

ACTION ON SENATE BILL #114: Senator Towe moved that this bill DO NOT PASS. It passed by unanimous oral vote.

ACTION ON SENATE BILL #142: Senator Hafferman moved that this bill DO PASS. It passed by unanimous oral vote.

ADJOURNMENT: 10:50



SENATOR PETE STORY, Chairman

10th meeting

ROLL CALL

STATE ADMINISTRATION COMMITTEE

47th LEGISLATIVE SESSION - - 1981

Date 1-21

NAME	PRESENT	ABSENT	EXCUSED
Senator Pete Story, Chairman	✓		
Senator Allen Kolstad, V. C.	✓		
Senator William Hafferman	✓		
Senator H. W. Hammond	✓		
Senator Jan Johnson			✓
Senator Patrick Ryan	✓		
Senator Thomas Towe	✓		

Each day attach to minutes.

STANDING COMMITTEE REPORT

JANUARY 21 19 81

MR. **PRESIDENT**

We, your committee on **STATE ADMINISTRATION**

having had under consideration **SENATE** Bill No. **113**

Respectfully report as follows: That **SENATE** Bill No. **113**

DO PASS

P.C.

ROLL CALL VOTE RECORD

SENATE COMMITTEE STATE ADMINISTRATION

Date JANUARY 21, 1981 Bill No. 113 Time

DO PASS

NAME	YES	NO
Senator Pete Story, Chairman	X	
Senator Allen Kolstad, V. Chairman	X	
Senator William Hafferman	X	
Senator H. W. Hammond	X	
Senator Jan Johnson	X	
Senator Patrick Ryan	X	
Senator Thomas Towe	X	

Barbara Simic
Secretary

Pete Story
Chairman

Motion: Senator Allen Kolstad moved that Senate Bill No. 113

DO PASS; motion was seconded and carried by unanimous vote

(include enough information on motion--put with yellow copy of
committee report.)

STANDING COMMITTEE REPORT

JANUARY 21, 81
..... 19.....

MR. **PRESIDENT**

We, your committee on **STATE ADMINISTRATION**

having had under consideration **SENATE** Bill No. **114**

Respectfully report as follows: That **SENATE** Bill No. **114**

DO NOT PASS
~~DO NOT PASS~~

JE
STATE PUB. CO.
Helena, Mont.

Pete Story
.....
SENATOR PETE STORY

Chairman.

ROLL CALL VOTE RECORD

SENATE COMMITTEE STATE ADMINISTRATION

Date January 21, 1981 Bill No. 114 Time

NAME	DO NOT PASS	
	YES	NO
Senator Pete Story, Chairman	X	
Senator Allen Kolstad, V. Chairman	X	
Senator William Hafferman	X	
Senator H. W. Hammond	X	
Senator Jan Johnson	X	
Senator Patrick Ryan	X	
Senator Thomas Towe	X	

Barbara Simic
Secretary

Pete Story
Chairman

Motion: Senator Thomas Towe moved that Senate Bill No. 114

DO NOT PASS; motion was seconded and carried by unanimous vote.

(include enough information on motion--put with yellow copy of committee report.)

STANDING COMMITTEE REPORT

JANUARY 21 19 81

MR. PRESIDENT

We, your committee on STATE ADMINISTRATION

having had under consideration SENATE Bill No. 142

SENATE 142
Respectfully report as follows: That..... Bill No.

DO PASS

MC

ROLL CALL VOTE RECORD

SENATE COMMITTEE STATE ADMINISTRATION

Date JANUARY 21, 1981 Bill No. 142 Time

NAME	DO PASS	
	YES	NO
	X	
Senator Pete Story, Chairman		
Senator Allen Kolstad, V. Chairman	X	
Senator William Hafferman	X	
Senator H. W. Hammond	X	
Senator Jan Johnson	X	
Senator Patrick Ryan	X	
Senator Thomas Towe	X	

Barbara Simic
Secretary

Pete Story
Chairman

Motion: Senator Allen Kolstad moved that Senate Bill No. 142

DO PASS; motion was seconded and carried by unanimous vote

(include enough information on motion--put with yellow copy of committee report.)

DATE

1-21-81

COMMITTEE ON

BILL NO.

113

VISITOR'S REGISTER

NAME	REPRESENTING	Check One	
		Support	Oppose
Lyle Kirkpatrick	Sen. Tom Ione		
Mike McCabe	Sec. of State	✓	
1st Judicial Bar Assn.		✓	
Tom Hawks	Tom Personal	✓	
Tom B. Smith	Self	✓	
Bobie Remington	Secretary of State		
Tom H. Smith	Self	✓	
Tom H. Smith	Lewis & Clark County Attorney	✓	
Joseph P. Mazurek	Sen Dist 16	✓	
MIKE McGRATH	ATTY GENL	X	
William R. Van Orden	Leg. Aid - Sen. D. Brown		
Tom Hawks	Self	✓	
James J. Hays	Montana Judges Assoc.	✓	
Alvin E. Carr	Self	✓	
Barold J. Watman	Self		
Mike Abley	Supreme Court		

(Please leave prepared statement with Secretary)

State of Montana



District Court

First Judicial District

Helena, Montana 59601

Gordon R. Bennett
District Judge

January 14, 1981

Peter G. Meloy
District Judge

The Honorable G. Steven Brown
Senate Chambers
State Capitol
Helena, Montana 59601

The Honorable Joseph P. Mazurek
Senate Chambers
State Capitol
Helena, Montana 59601

Gentlemen:

With regard to your bill to expand the judiciary for this district to three judges, we have been doing a little research, which we will pass on to you.

Volume 8 of the Reports (1889) discloses that the district at that time consisted of Lewis & Clark, Jefferson and Beaverhead counties and that the chief justice presided as judge. The next volume (1890) discloses that the district was reduced to Lewis & Clark County alone and a single judge presided. Volume 10 (1891) discloses that the district continued to consist of Lewis & Clark County alone and two judges were presiding, and we have had two judges ever since. The 1890 census gave Lewis & Clark County 19,000 population and the 1980 census gave the county 43,050 and Broadwater County 3,263. It should also be noted that much of our litigation today arises from the presence in the northern part of Jefferson County of a sizeable population. The earliest statute book that we have is that for 1897, six years after we obtained two judges. The fifth legislative assembly, meeting that year, passed 129 laws and the book contains 300 pages. The seventy-ninth legislature passed 763 laws and 7 ballot issues. The 3 volumes for that session consisted of 2,362 pages. The litigation arising from legislative action usually is filed and handled in this first judicial district. The Administrative Procedure Act alone has added considerably to the work load of this district in which most of the appeals are filed. In the majority of the administrative appeals the records of the agency, which must be read by the Court, are very voluminous and the legal questions very complex.

On a modest scale, this district is comparable in this particular function to the United States Court of Appeals for the District of Columbia. Chief Justice Warren E. Burger in his year-end report to Congress on December 29, 1980, had this to say about that court:

"The haphazard way in which judgeships are created, in large numbers after long periods of adding none at all,

The Honorable G. Steven Brown
The Honorable Joseph P. Mazurek
January 14, 1981

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merely compounds this problem [of court overload] and underscores the dire need for some better means of allocating new judgeships at the district and circuit level. Of special importance is the need for additional judges for the United States Court of Appeals for the D.C. Circuit. The unique jurisdiction of that court has placed an unrealistic burden on its judges. That court must have additional judges."

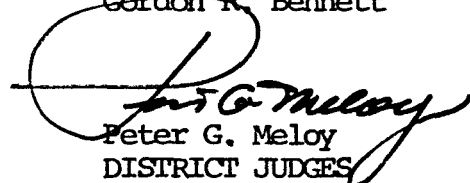
In this the Chief Justice was "singing our song."

The adding of a third judge in this district is a matter of urgency and we respectfully request that this legislation be implemented as soon as possible.

Very truly yours,

A handwritten signature in black ink, appearing to read "G. R. Bennett", with a long horizontal flourish extending to the right.

Gordon R. Bennett

A handwritten signature in black ink, appearing to read "Peter G. Meloy", with a large circular flourish on the left side.

Peter G. Meloy
DISTRICT JUDGES

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