MINUTES FOR MEETING
SENATE JUDICIARY COMMITTEE
February 17, 1981

The thirtieth meeting of the Senate Judiciary Committee was called to order by Jesse O'Hara, Vice Chairman, on the above date in Room 331, at 10:00 a.m.

ROLL CALL:

All members were present.

CONSIDERATION OF SENATE BILL 364:

AWARDING COSTS AND ATTORNEY'S FEES TO DEFENDANTS IN CERTAIN ENVIRONMENTAL ACTIONS AND REQUIRING SECURITY.

Senator Hafferman, District 11, Lincoln County, presented this bill, stating that its purpose is to make those who bring environmental class action suits responsible for their actions.

Janelle Fallan, representing the Montana Chamber of Commerce, spoke in support of the bill. She stated that using the courts to delay development is frequently done, and this bill would bring a greater sense of responsibility to this type of action.

Joan Miles, representing the Environmental Information Center, opposed the bill, saying that she feels it is discriminatory against environmentalists, and takes away from the courts their right to determine who is responsible. She also felt it would put unfair burdens on the Attorney General's office because it is probably unconstitutional.

Pat Osborne spoke in opposition to the bill on behalf of the Northern Plains Resource Council, because he feels it addresses an issue that can be handled under present law.

Mike Meloy, representing the Montana Trial Lawyers Association, said that the House has already killed a similar bill, so will not be able to accept this one. He also said that the bill would not do very much, and was unconstitutional.

Senator S. Brown stated that this bill perhaps does not do what it intended to do, but even if it does, it infringes upon the American right to go to court if the person wishing to do so does not have much money. He asked if the courts were not presently addressing the issue by throwing out

frivolous suits. Senator Hafferman said that according to the correspondence he receives from his constituents the issue is not being handled satisfactorily, and as a result they are losing jobs.

Senator Crippen said that even though, as a developer, he has been obstructed many times on his projects, he still does not want to do away with the system of seeking redress if an individual thinks he is being damaged by a development.

Senator S. Brown pointed out that any huge national group would be able to put up a bond, but in the case of an individual who does not have access to a lot of money his lack of bond would prevent his being able to file suit.

CONSIDERATION OF SENATE BILL 381:

PROVIDING FOR DISCLOSURE OF YOUTH ARREST RECORDS AND YOUTH COURT PROCEEDINGS AND FILES IN CERTAIN CASES.

Senator Turnage presented the bill on behalf of Senator Stephens. He said that this bill had originated in response to a poll made by the "Independent Record" in an attempt to determine priorities with their readers. The greatest concern had been with juvenile felons. The purpose of the bill is to remove the secrecy surrounding the legal proceedings that result from a juvenile's having committed an act which would, if he were an adult, be considered a felony. The intent of this bill is to remove the privacy which the offending juvenile currently has in those cases.

Mike Voeller, editor of the "Independent Record" stated that he finds it very frustrating when the newspaper is accused of covering up on these cases, when in fact the current law demands that a veil of secrecy be drawn over the proceedings so long as the action involves a juvenile. He recounted his personal experience which involved one of his stepchildren getting into trouble, and due to the privacy now accorded juveniles, he was unable to even find out who the child's associates had been.

Kevin Giles, appearing as both a journalist with the "independent Record" and a victim of juvenile crime, outlined the problems he had encountered when he had attempted to find out the name of the juvenile who had damaged his automobile and home. He felt it unfair that under present law he, the victim, was not entitled to any rights or reimbursement. He said that the law should be changed so as to make the public aware of who is responsible for certain crimes. He feels that youth must accept responsibility for their actions, and he strongly supports passage of this bill.

Gladys Inman, Helena, read from written testimony, attached to these minutes with her testimony sheet, and read from a court case (marked Exhibit A and attached to these minutes) while urging support for this bill.

Rose Mary Rodgers, Helena, read her written testimony (attached to her testimony sheet), in support of the bill.

Walter Hodgson, operator of Knox Flower Shop, Helena, told of the burglary to his business by some sixteen-year-olds who were on their fifth burglary over a period of a few days. Because of present law and the resulting inability to seek restitution, the business's own insurance company was probably going to have to stand the loss. He feels that the community should be informed of the identity of these juveniles.

Senator Stephens, sponsor of the bill, urged passage of the bill, and stated that the rumors that circulate after a crime has been committed can sometimes unfairly point toward an innocent person, and that publication of the names of the juveniles who were involved can keep these rumors from getting out of hand.

Senator Turnage asked that a newspaper article be included in the minutes (marked Exhibit B and attached to these minutes).

Karen Mikota, opposing on behalf of the League of Women Voters, felt that the measure would be too harsh. She said that the present system attempts to divert youth from taking a criminal path, and that unnecessary exposure would inflict damage on other innocent family members, as well as providing the attention that some juveniles deliberately seek by committing a criminal act.

Dick Meeker, Chief Probation Officer in Lewis & Clark County, opposed the bill. Although he feels that some of the juveniles' names should perhaps be published, he doesn't feel that this should be automatic. He pointed out that often the individual arrested for a crime turns out not to be guilty, but that the public would only remember that his name had at one time been associated with the crime. He also said that records contain psychological profiles, character analyses, etc., which would be damaging to the individual if released to the public, and would serve no public good.

Jeremiah F. Johnson, representing the Montana Probation Officers Association, felt that the press should not be actively supporting this, or any other particular bill. He said that some juveniles do have to make restitution under current law.

In closing, Senator Turnage stated that regarding the publication

of records, publication applies only to felony convictions, and only to those records "directly related" to the felony committed. He pointed out that the present system is not working, and feels that it would be beneficial to apply pressure on the criminals on the local level.

Senator S. Brown said that he feels the existing law is not being used correctly to achieve some of the purposes of this bill, and Mike Voeller admitted that the judges never notify the papers of upcoming action on juvenile hearings, although it could be done.

Senator Turnage presented a booklet written by Judge Loble (marked Exhibit C and attached to these minutes). He said that judges are so dependent upon the juvenile officers that they will not go against their wishes on opening up the juvenile hearings.

Senator Berg observed that, as a teacher, he was very much aware of juveniles competing for attention, and felt that publicity might actually increase their criminal activity. Senator Stephens said that he feels that most juveniles would much rather have positive rather than adverse publicity.

Senator Mazurek objected to the fact that this bill specifies that the publicity begin at the moment a juvenile is taken into custody in connection with a crime. He felt it should be changed to after he has been officially charged so that an innocent person would not be damaged by the ensuing publicity. Senator Turnage agreed that this would be better.

CONSIDERATION OF SENATE BILL 289:

REQUIRING THE ATTORNEY GENERAL TO CHALLENGE FEDERAL LAWS THAT IMPAIR THE TAXING AUTHORITY OR AUTONOMY OF THE STATE.

Senator Lee presented the bill.

Senator S. Brown asked how much it would cost to implement the broad action outlined in the bill. Senator Lee replied that it would be up to the Attorney General to determine how stringent the enforcement would be, and how much it would cost as a result.

There was further discussion of the cost of implementing the bill and whether or not it was needed.

CONSIDERATION OF SENATE BILL 290:

AUTHORIZING A COUNTY CLERK AND RECORDER TO REFUSE AN ILLEGIBLE DOCUMENT.

Senator Hager presented the bill, and said that its purpose is as shown in the above description. To demonstrate the need for this bill, he presented an illegible copy of a document which had been presented for recording (marked Exhibit F and attached to these minutes), and letters from two clerk and recorders (marked Exhibits D and E, and attached to these minutes).

Other clerk and recorders supporting the bill and presenting illegible documents were Joanne Peres, Choteau, Helen Kovich, Lewis & Clark, Ethel Harding, Lake; and Doris Shepherd, of the Montana Association of Counties, who presented a letter in support of the bill (marked Exhibit G and attached to these minutes).

CONSIDERATION OF SENATE BILL 334:

GENERALLY REVISING MONTANA INSURANCE LAW.

Senator Olson took over the chair for Vice Chairman O'Hara, who had to leave at this point, and invited Josephine Driscoll to present the bill for Senator Anderson, who had left to attend another committee meeting.

Mrs. Driscoll explained that the bill had been submitted by the State Insurance Department, and read through it for the benefit of the committee. She said that many different factions of the insurance business had contributed to the input.

Richard Hall, an independent insurance agent from Billings, spoke in support.

Senator Berg expressed his concern over the large number of insurance bills that are appearing before this legislature. Mrs. Driscoll replied that some of the laws on the books date back to 1949, and that when her department feels that there are abuses or lack of clarification, she feels it is their responsibility to bring those matters up.

Mike Anderson

Senator Anderson
Chairman, Judiciary Committee

ROLL CALL

JUDICIARY COMMITTEE

47th LEGISLATIVE SESSION - - 1981 Date 2/17/81

NAME	PRESENT	ABSENT	EXCUSED
~~Anderson, Mike, Chr. (R)~~	✓		
O'Hara, Jesse A. (R)	✓		
Olson, S. A. (R)	✓		
Brown, Bob (R)	✓		
Crippen, Bruce D. (R)	✓		
Tveit, Larry J. (R)	✓		
Brown, Steve (D)	✓		
Berg, Harry K. (D)	✓		
Mazurek, Joseph P. (D)	✓		
Halligan, Michael (D)	✓		

Each day attach to minutes.

NAME: Janette Fallon DATE: 2/17/81

ADDRESS: Box 1730, Helena, 59624

PHONE: 442-2405

REPRESENTING WHOM? Montana Chamber

APPEARING ON WHICH PROPOSAL: SB 264

DO YOU: SUPPORT? ✓ AMEND? _____ OPPOSE? _____

COMMENTS: Using the courts to delay industrial development is an old and often-used ploy. This would bring responsibility to such actions and take a step towards SB 222, which the committee passed last week.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Joan Miller DATE: Feb 11, 1981

ADDRESS: PO 1184 Helena, Montana 59601

PHONE: 442-2520

REPRESENTING WHOM? Environmental Information Center

APPEARING ON WHICH PROPOSAL: SB 324

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? X

COMMENTS:- Bill is blatantly unconstitutional; why are costs just required for plaintiffs in environmental law cases?

- The only effect of this bill is tying up the Attorney General's office and tying up state court costs in its defense of a bill that is probably unconstitutional in addition to being blatantly discriminatory

- Under current law judge/court has discretion to determine if court challenge is legitimate. This bill would predespose the courts duties and responsibilities. The court should decide if you have a case.

- If bill really wants to get after "person" responsible for any delays in "development" then in actuality the courts should be sued since they "delay" while determining legitimacy of court action.

- The bill simply does not address ~~concerns~~ concerns voiced by the bill's sponsors.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

EIC urges a do not pass on SB 324.

NAME: Patrick Osborne DATE: 2/17/81

ADDRESS: Box 486 Glasgow Box 558 Helena

PHONE: 243-2565

REPRESENTING WHOM? Northern Plains Resource Council

APPEARING ON WHICH PROPOSAL: SB 364

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? ✓

COMMENTS: Unnecessary legislation

Limits assets which are to compensate injury victims access to the judicial process

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Mike Meier DATE: 2/16/81

ADDRESS: Security Bldg

PHONE: 442 9430

REPRESENTING WHOM? MTLA

APPEARING ON WHICH PROPOSAL: SB 364

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? X

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Mitchell DATE: 2-17-81

ADDRESS: 1410 Solons Helena

PHONE: 442 3190

REPRESENTING WHOM? Mont. Educational Board

APPEARING ON WHICH PROPOSAL: SB 351

DO YOU: SUPPORT? ✓ AMEND? _____ OPPOSE? _____

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Karen Giles DATE: 2-17-81

ADDRESS: 1122 Kelly Road Helena

PHONE: 443-6093(H); 442-7190 (W)

REPRESENTING WHOM? Myself + The Independent Record

APPEARING ON WHICH PROPOSAL: SB 381

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: [illegible] DATE: [illegible]

ADDRESS: [illegible]

PHONE: [illegible]

REPRESENTING WHOM? [illegible]

APPEARING ON WHICH PROPOSAL: LB 301 [illegible]

DO YOU: SUPPORT? ✓ AMEND? _____ OPPOSE? _____

COMMENTS: [illegible]

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

I would like to thank both Jan Jungge and Stan Stickers for sponsoring this bill and also the Independent Record for giving me this opportunity.

I feel very adamant about the necessity of curbing vandalism and violence committed by juveniles and allowed to continue just because they are juveniles. And I get angry when I hear the familiar statement that it probably won't do any good to publicize their individual names. How does anyone know that it won't? It sure can't do any harm, although I've even heard that said.

Just last week, an article in our paper described a burglary by a 16 year old girl and because of her age she had all these rights. The victim thought her name should have been made public, but the article stated that local juvenile authorities generally disagree on this. They said such disclosure would not deter crime and would

be unduly tough on youths who commit first offences. How do they know that this would not deter crime, and as far as being unduly tough on first offenders, what better time to stop them. Also what is unduly tough about the publicizing of a person's name.

These offenders know their rights so what do they have to lose under the present laws? Even if they are caught, they are just turned over to their parents who may or may not take any further action. The worst thing that can happen is that they may be required to make restitution and in many cases this is not much punishment.

Why should juveniles have special treatment just because they are juveniles? Victims of these acts have no rights or special treatment.

Respect should have no age limit and if it isn't taught at a young age by parents it must be taught by tougher laws. Let's get started by publishing names and then let the

records show it "won't do any good".

Gladys Inman
1101 Knight St
Helena Mt

NAME: Rose Mary Rodgers DATE: 2/19/81

ADDRESS: 1519 Shoemaker - Helena, Mt. 59601

PHONE: 443-5180

REPRESENTING WHOM? Concerned Citizen - Taxpayer

APPEARING ON WHICH PROPOSAL: Juvenile Disclosure Bill

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS:

As we teach our youth about their endless rights - let us balance it out by allowing them to be responsible for their actions. It is no favor to them to cover up and encourage further crime.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

2/17/81

Re - Juvenile Name Disclosure Bill 381

It seems we are contributing to the delinquency of a minor when we patronizing come up for him by not allowing his name to be published.

Imagine how quickly published names would reduce the endless petty thievery, crime we now have!

The bleeding hearts continue to say it will not deter them. Have tried it their way. It has failed.

While we teach youth about their endless rights let us balance their training to also teach them to be responsible and subject to laws that are adult in nature. I believe they want to be accountable for the most part.

Let us try to help them become law abiding citizens, lest our indulgence might easily lead them into a life of crime. The failure of coddling our youth is hardly a success story.

They wish to be treated as adults. Why not.

believe we owe it
our fine law abiding citizens
not allow the rampant lawlessness
by [redacted] so far.

Rose Mary Rodgers
1517 - Flowerree
Helena, MT. 59601

NAME: Karen Rebelle DATE: 2/10/81

ADDRESS: 416 N Yellowstone

PHONE: 443-1297

REPRESENTING WHOM? LWV of Montana

APPEARING ON WHICH PROPOSAL: SB 391

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? ✓

COMMENTS:

1. [illegible] a stigma - [illegible] to [illegible]
2. provide public support [illegible] to [illegible] good from [illegible] path - [illegible] [illegible] provide [illegible] [illegible] -
3. provide funds [illegible] [illegible] attorneys
4. [illegible] [illegible] to [illegible] - [illegible] [illegible] [illegible] - [illegible] [illegible] [illegible] [illegible] the situation to [illegible] path
5. [illegible] [illegible] [illegible] [illegible] -
[illegible] life [illegible] - [illegible] [illegible] [illegible] history -
[illegible] to [illegible] [illegible].

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Richard MEEKER DATE: 2-16-81

ADDRESS: Court House Helena Mont.

PHONE: 443 1010. Ext 22C Home 442 5683

REPRESENTING WHOM? Probat - Assoc.

APPEARING ON WHICH PROPOSAL: 381

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? ✓

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Jeremiah F. Johnson DATE: 2/17/81

ADDRESS: Youth Court Probation Mslr. Co. Courthouse Mslr. MT

PHONE: 721-5700

REPRESENTING WHOM? Montana Probation Officers Association

APPEARING ON WHICH PROPOSAL: S.B. 381

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? X

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME William L. Romine BILL No. SB. 290

ADDRESS Box 1691 Helena DATE 4-17-81

WHOM DO YOU REPRESENT Mont. Clerks & Recorders

SUPPORT X OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: It is the position of the Clerks that it makes little sense to record a document that cannot be read. The purpose of recording is to give notice to the public. If the document cannot be read, then it gives notice to no one. There is no excuse in this day and age for an illegible document. As to an unreproducible document, the present machines used by the clerks can make the copy look better than the original. However, if the document is of such poor quality that it cannot be reproduced, it should not be recorded.

Once the public, and lawyers, realtors, banks etc, realize that unrecordable documents will not be recorded, they will take a little time and effort to prepare legible documents. This will benefit everyone.

FORM CS-34
1-81

NAME: Joanne Peres DATE: 2/17/81

ADDRESS: Box 1166 Fort Benton, Mt. 59442

PHONE: 622-5151, office 622-3682, home

REPRESENTING WHOM? Chouteau County Clerk & Recorder

APPEARING ON WHICH PROPOSAL: SB 290

DO YOU: SUPPORT? ✓ AMEND? _____ OPPOSE? _____

COMMENTS: I have exhibits to offer in evidence, to show purpose of the bill and to present the reasoning.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Ellen Kavanagh DATE: 2/17/81

ADDRESS: 216 N. Park Ave.

PHONE: 443-1010 EXT 234

REPRESENTING WHOM? Mont. Alk + Rec.

APPEARING ON WHICH PROPOSAL: SB 290

DO YOU: SUPPORT? ✓ AMEND? _____ OPPOSE? _____

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Ethel M Harding DATE: 2-17-81

ADDRESS: Lake County Courthouse
Polson, Montana 59860

PHONE: 883-6211 Ext 245

REPRESENTING WHOM? Montana Association of Clerks & Recorders

APPEARING ON WHICH PROPOSAL: SB 290

DO YOU: SUPPORT? ✓ AMEND? _____ OPPOSE? _____

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: [illegible] DATE: 2-17-81

ADDRESS: Helena

PHONE: 449-2006

REPRESENTING WHOM? Montana Sh. Hyd

APPEARING ON WHICH PROPOSAL: SB 331

DO YOU: SUPPORT? ✓ AMEND? _____ OPPOSE? _____

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: RICHARD L. HALL DATE: 3/17/81

ADDRESS: 10 N BROADWAY, BILLINGS MT

PHONE: 252-0551

REPRESENTING WHOM? Independent Insurance Agents of MT.

APPEARING ON WHICH PROPOSAL: SB 334

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: The Consumer & Govt. Affairs Council of the Association has carefully reviewed this bill and support it in its entirety.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

king's version of communism, with its implications of a return to outright Stalinism, frightens the East Europeans much more than NATO does. Almost without exception, the communist leaders of Eastern Europe are eager for a "truce" in the cold war.

For the West, this is a change of vital significance. The chancelleries of Western Europe are filled with speculation about a possible Soviet troop withdrawal from Hungary (there are about 500,000 Soviet troops in Eastern Europe, less than the forces that the United States and its allies maintain in Western Europe).

It would be naïve to imagine that the Eastern European nations can change in a moment of time, like Cinderella, into Western-style democracies. The proximity of the Soviet Union alone precludes that. But it is no longer correct to regard the Iron Curtain, except in Walter Ulbricht's East Germany, and Albania, allied with Red China, as anything more than a tattered piece of tinfoil. Fifteen years of communist control have overlaid East Europe with a thick patina of Marxism — yet once you scratch the surface it soon becomes apparent that the people are like radishes — pink outside and white inside. They remain, at heart, incorrigibly Western.


Albania

Film-Flam

ONCE at the 20th Century-Fox studios David Raksin, talented composer of Hollywood musical scores, was ribbed by a couple of secretaries about the fact that the picture on which they were working was successfully dispensing with all music. "Why," asked Raksin, "do the producer and the director feel this picture should be without music?"

"It all takes place on a lifeboat," said one girl, "and it's way out on the ocean, so where could the music come from?"

Raksin said, "You just go and ask Alfred Hitchcock where the camera comes from, and I'll tell him where the music comes from!"

—Leonard Feather and Jack Tracy, *Laughter From the Hip* (Horizon)

FILMING outdoor shots for a Western film, director John Rich had to reshoot one scene seven times because of such extraneous noises as yelping canines and jets flying overhead. A passing woman motorist stopped to watch, and finally interrupted the director to ask, "Why do you persist in shooting the same scene so many times?" Rich answered patiently, "Madam, have you stopped to consider how many theaters there are in this country?"

The lady drove on—satisfied.

—Bennett Cerf

Exhibit A

OPEN HOUSE FOR YOUNG HOODS

In his courtroom, a Montana judge is slashing juvenile-felony rates by meting out large doses of punishment—and publicity

Condensed from THE AMERICAN LEGION MAGAZINE

DONALD JOHN GIESE

THE SCENE was similar in many ways to those enacted every day in courtrooms across the country. Sentence was about to be pronounced. The defendant stood, head bowed, staring at the floor. His attorney stood motionless beside him. Spectators quietly shifted in their seats. A newspaper reporter flipped over a fresh page in his notebook. The unsmiling judge cleared his throat.

"You have been found guilty of aggravated assault," the judge said. "It is the sentence of this court that you be confined in the State Reformatory for a period of five years. Court is adjourned."

This scene in the courtroom of Judge Lester H. Loble in Helena, Mont., was unusual in one important respect. Despite the fact that the press was present (though not photographers), and spectators were free to come and go, it was a routine session of Loble's *juvenile* court. The defendant was only 16.

For two years Loble has been giving under-18 offenders large doses of publicity and punishment. Juv

niles charged with serious offenses who appear before the gray-haired, gruff-voiced jurist are handled like adults. They appear in open court, and all the details of their trial are made public.

Under Montana's Juvenile Traffic Act, adopted as a means of curbing under-18 traffic violators, juvenile traffic offenders are also tried in open court, be it municipal or county, and their driving mistakes are reported in embarrassing detail. Other non-felony cases are heard in closed court.

The judge doesn't claim to have found a surefire cure-all for juvenile delinquency. But a survey of court records in his district (pop. 31,000) for an 18-month period following Montana's adoption of the open-court law in March 1961 shows that felony cases have dropped 49 percent, traffic cases 75 percent.

Judge Loble's fight against adolescent crime started in 1956, when, after 40 years as a prominent trial lawyer, he was elected Judge of the First Judicial District with headquarters in Montana's capital city of Helena—a ranching-trading-tourist center in the heart of the Rocky Mountains. As a Montana district judge, Loble was assigned to hear adult and juvenile cases involving both criminal and civil matters. More than half his time was spent on juvenile cases.

"My first full year was a nightmare," he says. "I had 99 cases involving serious offenses by juveniles, and it was getting worse all the time. We had juvenile gangs prowling our streets, and burglaries, robberies, assaults and other serious offenses being committed by youths under 18 years of age.

"Helena started getting a lot of publicity. When a gang of 15 juveniles attacked two old hobos, the town got headlines all over the country. But the culprits got no publicity. The juvenile court, by law, was a closed court. People had no confidence in it. Juveniles were laughing at us. People complained that 'nothing ever happens.'"

So the judge launched a campaign to change the law. "I wanted to throw the doors open and put the spotlight where it belongs—on the individual. I drafted a bill providing open courts for serious juvenile offenders and sent it to J. Edgar Hoover. He felt it was a good law. Then I tried to get support for it. I ran into a large group of opponents who claimed I was destroying Montana's youth.

"The only strong support I had was from two boys in Billings. They got up a petition signed by 400 youngsters who favored the bill because they were taking the blame for hoodlums. 'That's what we're doing every time the press has a story about some hood and never says who he is,' they said."

In 1959, Loble got his bill into the legislature—but it was killed in committee. During the next two years he visited every county in the state. "I spoke nearly every night, at farm, labor, business and PTA meetings,"

he recalls. "Whenever I could get two or more people to stand still, I told them we needed a new law that would make the offender, whether he's 12 or 17, assume his responsibility as a member of society. The public started getting behind me. Legislators wanted to know more about my bill."

The bill finally came before the 1961 legislature and was passed with only seven votes against it. The words Loble put in Montana's statutes are: ". . . whenever the hearing in the juvenile court is had on a written petition charging the commission of any felony, persons having a legitimate interest in the proceedings, including responsible representatives of public information media, *shall not be excluded* from such hearing."

In practice the law works this way: The county attorney files a petition charging Billy Doe, 16, with any felony offense that would be punishable by imprisonment in a penitentiary if the offender were an adult (burglary, auto theft, robbery, assault and other serious offenses). The judge then requires the county attorney to produce any information he has showing that a crime has been committed. If he is convinced a felony charge is warranted, the judge orders the case tried in open juvenile court.

The juvenile may hire an attorney. He can demand a jury trial. He can seek to have the judge disqualified by claiming he cannot have a fair trial before him. (No juvenile has yet asked that Loble be disqualified.)

The first case heard under Mo tana's open-court law involved tw brothers, 15 and 13, who had stole $1500 worth of electronic equi ment "because we could use it Loble committed both to the Mo tana Children's Home at Tw Bridges. Helena's daily newspape the *Independent Record*, devoted column-inches to detail: names, age parents' identities, addresses and ve batim testimony. Today, Loble say the youths are "doing very well, a the older one is going to college."

The courtroom doors swing on one way for juveniles who are fou guilty of using violence on resider in Loble's district. He tried in op court the case of two youths, 17 a 16, who robbed a gas-station atte dant of $295. They held a pistol his head, slugged him with a hea money sack and threatened to k him. The youths pleaded guilty.

Before sentencing them, Lo said, "Crimes of violence such yours require punishment in ke ing with your utter disregard the law. The people of Helena not going to be placed in fear hoodlums." He sentenced the year-old to ten years in the Mont State Prison at Deer Lodge. Th year-old was sent to the State In trial School at Miles City.

No youth who commits a se offense in Helena, nor his par can escape the floodlight of pu ity. Loble recently heard the ca a youth, 16, who had vandali school, doing $160 damage. Th

was held before 25 spectators and reported in detail in the *Independent Record*. The defendant was the son of Loble's court clerk.

In non-felony cases, such as habitual truancy, petty larceny and minor property damage, Loble's court is closed. "I want it closed so we can lay our cards on the table without a lot of formality," he says. "I may turn the offender loose under probation or other supervision, but I tell him if he comes back he'd better bring his toothbrush, because he's going to stay for a while. They all know I'll not disappoint them."

In his juvenile traffic court, Loble uses other means than fines to reform violators. "Fines are ineffective, and the parents usually end up paying them anyway," he says. "When a juvenile is tagged for his first moving violation, his parents get a letter from the chief of police asking their coöperation. This provokes some strong reactions. The parents start supervising their youngster's driving, because they know they will make the headlines if he gets tagged again.

"On the second violation he goes to court. If he is found guilty I suspend his license and order him to take driver training in a ten-week course which meets two hours a week and costs him $10. When he graduates I return his license. By that time, and after a news story informing everybody he's a bad driver, he learns that being a good driver is smart."

The son of a prominent citizen was charged with speeding through 35 stop signs. The car had no steering wheel. The boy, 16, had removed it and was maneuvering the car with a wrench fastened to the steering column. When Loble cited the danger of his act, the youth replied, "So what!" He was adjudged delinquent and committed to the reformatory at Miles City. "He's driving a tractor there now," Loble says, "and getting good grades in school."

Loble realizes many feel his methods are harsh, but he says, "I'm not trying to win a popularity contest with juvenile lawbreakers or their parents. I'm trying to restore some sanity to juvenile crime prevention. By using publicity and punishment I've achieved sharp decreases in juvenile offenses."

Dave Middlemas, sheriff of Lewis and Clark County for the past 13 years, says he and his deputies "have noticed a big drop in delinquency since Judge Loble started using the open-court procedure. We have also noticed big changes in the attitude of young people—all for the better."

Officials of Broadwater County, the second county in Loble's district, and law-enforcement officers in Townsend, the county seat, are also happy with Loble's program. They report they have had only three cases serious enough to be referred to Loble's court so far.

While Loble's success in reducing juvenile crime has been acclaimed in Helena (he was re-elected in 1960, carrying every precinct in his district), his methods have made him unpopular with those who believe that juvenile offenders are emotionally maladjusted and must be treated rather than punished.

Loble remains indifferent. "Those who condemn my methods are long on criticism, but short on producing evidence that their own theories have resulted in the slightest reduction in youth crime.

"Our crime problem is critical because our court systems have become infiltrated by dreamers. They hold that juvenile offenders are sick, have no free will, are made worse by punishment, are gravely damaged by publicity, and can't choose between right and wrong unless a psychiatrist guides them.

"They believe every young punk who robs a gas station, or snatches an old woman's purse, or assaults an innocent girl is a mental case who can only be reclaimed through 'treatment.' They want to tear down our prisons and build hospitals. In my opinion, these 'progressive' notions push crime rates higher."

Despite his tough talk, Judge Loble's interest in juvenile offenders doesn't end when they enter the reformatory. "I visit them when I can," he says. "Sometimes we play baseball or handball, or sit around and talk."

The judge has long been in demand as a guest speaker. He asks no fee, but says any contribution to the Judge Lester H. Loble Trust Fund will be appreciated by inmates, many committed by him, of a dozen public and private Montan institutions.

Franklin Robbie, executive direc tor of the Yellowstone Boys' Ranc at Billings, says he is using mone from the Fund to help pay colleg expenses for a former Boys' Ranc youth who has no other means o getting help. "We are also getting place ready for all the power too that came to us through the judge, he says. The tools, valued at $10,00 were left to the ranch in the wi of a Montana man who hear Loble discussing delinquency on th radio.

A few other Montana juvenil court judges now use the open cour and many more are watchin Loble's experiment closely. Th President's Committee on Juveni Delinquency and Youth Crime, which Loble was reappointed in O tober 1963 for a second term as special adviser, considers publici and open courts for the serio juvenile offender "a controversi subject," and a matter for each co munity to decide.

Today, as many communities ru to find answers to their own worse ing youth-crime problems, Lob continues using publicity, punis ment and rehabilitation to keep t lid down on delinquency in his d trict. Says U.S. Sen. Lee Metcalf, Montana, "Judge Loble's record reducing juvenile crime speaks f itself."

For information on reprints, page 14.

Youth law infuriates two victims

Exhibit B

By SALLY HILANDER
IR Staff Writer

Two Helena women whose apartment was burglarized last summer by a 16-year-old girl went further than most crime victims in their quest for justice.

They sued her parents for restitution.

And lost.

For their effort, the victims have a $30 restitution check, one broken wrist watch, bad memories and a jaundiced view of juvenile law.

"It looks like victims of juvenile crimes have no rights," said one of the women we'll nickname Jane to protect her identity. "It seems like victims should have as many rights as the juvenile."

Montana laws requiring police to withhold the identity of offenders under 18 made it difficult for Jane and her sister to obtain information about the girl who pried off a window screen "and pretty much helped herself to what she wanted."

Taken was jewelry, clothing and miscellaneous personal items the victims value at more than $1,100. They are by far the most upset about three rings that have great sentimental value.

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Exhibit C
February 17
1981

This I Know

Judge Lester H. Loble

Helena, Montana

Lester H Loble

30

D

LINCOLN COUNTY
MONTANA

Office of
ELEANOR L. VAUGHN
County Clerk and Recorder

LIBBY, MONTANA

TO: THE HONORABLE MEMBERS OF THE 47th LEGISLATURE, SENATE JUDICIARY COMMITTEE: MIKE ANDERSON, CHAIRMAN, JESSE O'HARA, VICE-CHAIRMAN, S. A. OLSON, BOB BROWN, BRUCE CRIPPEN, LARRY J. TVEIT, STEVE BROWN, HARRY BERG, JOSEPH MAZUREK, MICHAEL HALLIGAN

FROM: ELEANOR L. VAUGHN, CLERK & RECORDER, LINCOLN COUNTY, AND MEMBER OF MONTANA ASSOCIATION OF CLERK & RECORDER'S LEGISLATIVE COMMITTEE:

RE: SENATE BILL 290

DEAR COMMITTEE PERSONS:

Please enter this letter as testimony in favor of authorizing a County Clerk and Recorder to refuse to receive and record an illegible document.

Almost all Clerk & Recorders now use some means of filming the records. Some of the documents brought in for recording are presented in such a manner that it is impossible to get a good legibile document on the film, much less be able to reproduce it when copies are needed. Many times the copies that are required by Attorney's to present in court are difficult to certify since they will not reproduce well.

If there is a great deal of opposition to the bill fearing that Clerks and Recorder's might not be fair in deciding which instruments should be refused, perhaps an amendment need be added that would require the Clerks getting the approval of the County Attorney before refusing an instrument for recording.

As the records are permanent we as Clerks feel it very important that they be recorded in such a manner that they could be used whenever needed, at the present or far in the future.

I will appreciate your favorable consideration of this bill.

Sincerely,

Eleanor L. Vaughn

Eleanor L. Vaughn,
Clerk & Recorder

County of Yellowstone

MERRILL H. KLUNDT
Clerk & Recorder

BILLINGS, MONTANA
59101

February 16, 1981

Senator Tom Hager
Senate District #30
State Capitol Building
Helena, Montana 59601

Dear Senator Hager and Committee Members:

In reference to Senate Bill #290, a bill for an act to authorize a County Clerk & Recorder to refuse to receive and record an illegible document, under Section 7-4-2618, line 11, page 2, post office address is deleted and current mailing address is inserted. The reason is many feel that the name and town is adequate to meet this requirement; however our county attorney has ruled post office address means your current address. Each lawyer has a different interpretation.

The current mailing address is needed in deeds and etc. for the county assessor and especially for the county treasurer in mailing out tax statements. It saves our treasurer several thousand dollars in employee time as well as postage to send the statement to the proper address. The language of current mailing address should clarify this subject matter.

Section 2 of Section 7-4-2618, lines 16 through 25, gives the Clerk & Recorder descretion to refuse to receive for recording any instrument, paper or notice authorized by law to be recorded that is illegible, unreproducible, or unreadable in any material particular. Upon refusing to receive an instrument for lack of legibility or readability, the County Clerk & Recorder must state with particularity the reasons for such refusal. The refusal to receive any such instrument does not affect the validity of the record of any instrument that has been recorded.

I have contacted some of the legislators of Yellowstone County on this subject matter and their concern was that the clerks and recorders would refuse to record a document because the signature is not legible. We are not concerned that much about signatures as most can not be read anyway and are usually typed in the body of the document or in the acknowledgment of the document. Our main concern is that the contents of the document are illegible and unreproducible and with the advent of microfilm, we must have legible documents in order to reproduce copies at a future date upon request. (Present copies)

If it is the feeling of this committee that another party should be involved to review the document as to its legibility, perhaps an amendment could be added stating, "The document must be presented to the County Attorney for his examination

and determination as to legibility and etc. before the county clerk & recorder may refuse to record a document."

In behalf of the County Clerk & Recorders Association and myself, I would appreciate your support in passing this worthwhile legislation.

Yours truly

Merrill H. Klundt

MERRILL H. KLUNDT
Clerk & Recorder
Yellowstone County
Billings, Montana

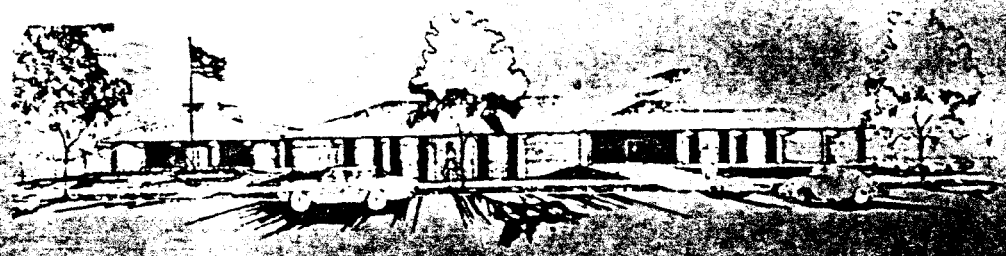
Encl.

Gospel F

COMMISSIONERS:
Box 846 Phone 778-2846
Delane Beach, Baker,
Chairman
Gary Lang, Plevna 59344
Koenig, Baker

CLERK & RECORDER
Mary Lee Dietz
Box 846 Phone 778-2846

COUNTY ATTORNEY
Denzil R. Young
Box 620 Phone 778-2406



ASSESSOR:
Curtis Huether
Box 499 Phone 778-2

CLERK OF COURT:
Colleen Peck
Box M Phone

SHERIFF
Emil A.
Box 899

TREASURER
Ann M.

FALLON COUNTY

BAKER, MONTANA 59313

February [illegible] 1981

Senator S. A. Olson
Senate
Helena, Montana 59601

Dear Senator Olson;

Re: SB 290

A law for the Clerk & Recorders to be able to refuse illegible documents is long over due. When we have to record something which isn't readable it does absolutely no good for anyone and can mess up a chain of title for the abstractors or anyone checking anything on this property. I feel it is a poor service to our customers to record something which is illegible as if they lose their original it is impossible to obtain a certified copy which would give them the information they need.

Some of the instruments we receive you can't even read on the original much less make a recordable copy of.

Anything you can do to help SB290 pass will be greatly appreciated.

Also while I am on the subject of recording [illegible] fees charged by the Clerk and Recorders is also [illegible] cost to us is continually going up and feel the people using this service should be the ones to pay for it not the general taxpayer.

Sincerely,

Mary Lee Dietz

Mary Lee Dietz
Clerk & Recorder

cc: Representative Hubert J. Abrams
Senate Judiciary committee
Mike Stephens, MACO
Lorraine Molitor, Pres. MACR

DATE February 17, 1981

COMMITTEE ON Judiciary

SB 289 SB 364
SB 290 SB 381
SB 334

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Check One: Oppose
[illegible]				
Vickie Spence				
Valerie Wilson				
[illegible]				
Jeremiah F. Johnson	Mont. Probation Association	S.B. 381		✓
Karen [illegible]	[illegible]	SB 381		✓
Susan Leaphart	Democratic Headquarters	SB 364		
[illegible]				
[illegible]				
[illegible]				
[illegible]	Montana Chamber	SB 364	—	
Ellen Kovich	Illegible Dec	290	✓	✓
Joanne Peres	Choteau County	290	✓	✓
William L. Romine	Mont. Clerks & Recorders	S.B. 290	✓	
Patti O'Connell		~~290~~		
Renee LaJoie				
Lynda Hown				
[illegible]				
[illegible]				
[illegible]				
Pilar Osborne	MPRC	364		✓
Mike Mulry	MTLA	364		✓
Joan Miles	EC	364		✓
Dave Shepherd	Mt. Assn of Cos.	290	✓	
Walter Hodgson	Knox Flower Shop	381	✓	

(Please leave prepared statement with Secretary)