

MINUTES OF THE JOINT COMMITTEE OF THE SENATE AND HOUSE
JUDICIARY COMMITTEE
June 22, 1982

The Joint Committee of the Senate and House Judiciary Committees was called to order by Chairman Senator Mike Anderson presiding at 2:00 P.M. on June 22, 1982 in Room 108 of the Capitol. Rep. Kerry Keyser, Co-Chairman, was also present. All members of the House Judiciary Committee were present, except Rep. Alison Conn and Rep. Ramirez, who were excused. All members of the Senate Judiciary Committee were present. Lois Menzies and John MacMaster, Researchers from the Legislative Council were also present.

SENATE BILL 2

SENATOR PAUL BOYLAN, chief sponsor of the bill, stated he received a letter, (EXHIBIT A), from a former inmate of the state prison, which some of the members of the committee may have seen. This bill would essentially have the warden under the direct supervision of the Governor instead of the Department of Institutions. The warden, who is presently holding the position, was in charge during the crisis in March. Sen. Boylan stated whoever is in charge cannot manage efficiently in the situation the prison is now in. He stated some people of the prison system are for leaving the situation as it is.

SEN. BOYLAN told of his visit to the prison. He felt the prisoners wanted to get outside to work with their hands, yet the prison ranch is not really functioning as it should. If the prisoners were allowed to work in the various areas, (prison ranch, etc.), it would generate enthusiasm. Also, because of the nepotism at the prison, an inmate cannot effectively tell his problems or requests to an employee because most of the workers there are related. Sen. Boylan also mentioned that during his visit to the prison, inmates complained to him about having no fresh fruit on the table, yet they can buy fruit at the Canteen. Buildings are deteriorating. He felt that because of all the "little systems" within the prison, the warden has no real control. Sen. Boylan also mentioned that 90% of the problem of the prison is not really money, but allowing the prisoners to work with their hands giving them something to do.

SEN. BOYLAN stated the Superintendent of Ranches is not under the control of the warden, but under Mrs. Harris in Helena. He did not know what the coordination is between the warden and the ranch superintendent. The warden should be in charge of everyone. If the warden cannot handle this position, another one should be hired that can. Sen. Boylan stated that Lee Heiman, Legislative Council Attorney, drafted the bill.

REP. ELLERD was a proponent of the bill. He hoped the committee would give consideration to the bill as he felt it is a constructive bill.

SEN. MANLEY, who was a proponent for the bill, stated he lives

in the district that the prison and the ranch are in. He has been in that area all his life and has observed the problems the prison has had. Sen. Manley stated he remembers when the prison and the ranch (which included other ranches the prison had at the time), was operated completely by the warden through the trust of the governor. Sen. Manley does not remember how the prison was administrated during that time, yet he felt the prison was efficient and ran quite well. There was not a problem with the guards or the discipline of the prisoners. Buster Ellsworth was the warden. The inmates, under Ellsworth's direction, did all the work and the employees and guards supervised. The Deer Lodge farms were purchased by the State of Montana, and since that time the influence of bureaucracy started. The warden of the prison lost control of the operation. This was a reason that the ranch deteriorated. The benefits to the state are nonexistent.

SEN. MANLEY feels the inmates should do the work and not the employees. If a well qualified warden and a ranch manager, that was a rancher, were hired, it would get the system back in the right direction.

JOHN PRICE from Bozeman, was also a proponent for the bill. As a former inmate he feels the crisis of March was just a small segment of the problem. In the prison there is a bureaucracy. It is not a matter of overcrowding, but one of mismanagement, waste and disorganization. He felt the governor's and Department of Institution's ideas about overcrowding at the prison is off base. Mr. Price knows of 20 inmates that have been granted their parole, but because of their lack of ability to get a job, they won't be released until they have a job. The prison bureaucracy is huge, and there are many "stumbling blocks". Trying to talk truthfully to one of the guards or associate wardens is hard because you might be criticizing someone else that that person is related to because it is a Deer Lodge family working there.

There were no further proponents.

GENE HUNTINGTON, from the Governor's Office, was the only opponent to the bill. He stated this bill would erode the principles put forth in the new constitution, Article 6, Section 7. This provides that all executive and administrative offices except the Governor's, their respective powers and duties shall be allocated among the departments so as to provide an orderly arrangement in the administrative organization of state government. It also provides that executive reorganization of state offices be organized by functions in departments. Mr. Huntington referred back to the 1971 Reorganization Committee and the first three principles that they set out: (1) "the plan for the overall reorganization for the executive branch

of state government shall be kept as simple as possible. The number of separate independent organizational units shall be held to a minimum. With this principle in mind, the commission developed the overall reorganization executive branch on the basis of the 20 agency amendments. (2) the structure of the executive branch shall be organized on a chain of command basis with definite lines of authority extending from the central executive authority, the governor, down through each department. Lines of authority shall be clearly defined of the channels of communication from the top to the bottom of the executive branch will be open for maximum efficiency. (3) the functions and responsibilities of state government should be assigned to the various departments on the basis of similiarity of character and subject matter to the kinds of operating staff required." His second argument concerned the need to keep functions of similar nature all in the same department. Mr. Huntington stated if the Department of Institutions did not exist, something would have to be created as it is not practical for the governor to be in charge of the day-to-day operations of the prison as proposed by this bill.

There were no further opponents.

In closing, SEN. BOYLAN stated the legislature was in session because of a crisis and it is not feasible to go through a long chain of command when a riot breaks out. The governor should get a handle on the situation. As far as the ranch is concerned, Sen. Boylan felt it shouldn't be necessary for the ranch to run on a profit, but it should be a type of therapy for the prisoners of the institution. If it is to be run on a profit, and is not obtaining a profit, the ranch should be sold. Sen. Boylan stated that the prisoners don't want a "country club life", but there should be some enthusiasm in the place. Sen. Boylan feels that Montana could have a "model" prison that would be looked at nationwide.

During the question period, REP. MATSKO asked about section 8, page 10, line 22, concerning where to send a youth who has committed a crime. Legal Counsel, Lee Heiman, stated that is the way the law currently reads.

SEN. CRIPPEN stated the bill allows the judge to send a youth to any institution and to the prison.

MR. HEIMAN agreed, because when he drafted the bill, he used material already in the law.

SEN. BROWN asked what the purpose of the prison ranch is and what problems it now has compared to ten years ago. He was

concerned with the "mismanagement" of the prison.

SEN. BOYLAN replied he felt the possibilities were there for the prisoners. They could produce vegetables and work in the gardens.

MR. HUNTINGTON stated in 1958 a study recommended the ranch be used by the inmates to work there. The Legislative Audit reports have sometimes stated the ranch's function has been to employ inmates and sometimes it has been to operate at a profit. One main purpose is to operate on a break-even basis, charging other institutions on a market price for the food. The three purposes it has are (1) low cost food for institutions, (2) employ inmates, and (3) at various times to make a profit for the state. Mr. Huntington was not sure if those three purposes are all compatible. The bulk of responsibility as to which system has been used comes from the Legislative Audit reports.

SEN. BROWN asked if there is a problem with the present ranch foreman.

SEN. BOYLAN replied he felt it goes back to the former warden, who had different ideas. There was more strict supervision of inmates and the ranch foreman had to follow his orders.

SEN. BROWN asked what statement of purpose should be written into law about the prison if there is not one already.

SEN. BOYLAN replied that it is not necessary that the ranch operate at a profit. It should be for therapy of the prisoners which would help prevent riots.

MR. HUNTINGTON stated during the 1979 session of the legislature in the General Appropriations Act, it stated the prison would develop a cost accounting act and operate at a profit or be sold. He was not aware of any general statute concerning this.

SEN. BOYLAN stated there are no real records of the ranch's producing ability. Different people have differing ideas concerning what the actual records are.

MR. HUNTINGTON stated during the last session the ranch was totally funded by its own revolving account. Before that time it was a cut rate to institutions. Now they are selling produce at market rate and have not had to go into general funds.

REP. KEYSER asked about the governor's ideas about the prison and whether the governor passes those ideas down to Carroll South.

MR. HUNTINGTON stated yes. The governor, however, is not

involved with the day-to-day operations of the prison because that is the warden's responsibility. Mrs. Harris is in charge of the cost accounting of selling products, but she is not involved in the day-to-day operation.

SEN. BOYLAN felt that the ranch superintendent answers directly to Mrs. Harris and not to the warden.

SEN. O'HARA asked what good it would do to do away with Mr. South's part in this. Sen. O'Hara felt that this would make the system disjointed further and lose all access to the central office.

SEN. BOYLAN felt that it would abolish some of the bureaucracy involved.

SEN. O'HARA asked if the governor would have the ability to hold South responsible, in which South could hold the warden responsible.

SEN. BOYLAN replied someone had to make a quick decision during the crisis and it is hard to go through the chain of command at a time like that.

SEN. ANDERSON stated that the fiscal note for the bill indicated that it would cost the state \$7,956 to implement the Boylan Proposal.

From the Montana Session Laws of 1979, SENATOR ANDERSON read the following: "the intent...." (See EXHIBIT B).

SENATOR ANDERSON also read from the bill on page 28, section 21, line 9, concerning the supervision of the industries program.

MR. HEIMAN explained that was an existing section. The warden does not have control over the prison industries program.

SEN. ANDERSON then asked whether the ranch superintendent reports to Mrs. Harris. Mr. Heiman did not know, but he knew that Mrs. Harris works for the Department of Institutions.

SENATOR MAZUREK asked about the efficiency of the ranch operation. Why separate the prison from the Department of Institutions to make the ranch run more efficiently?

SEN. BOYLAN replied the ranch does not have to run completely for a profit but rather it should function for food purposes and for therapy. The way the system is set up now is from

the ranch superintendent to the Institution to the warden to the institution, and the process is fed back and forth, which is a lengthy process.

SENATOR CRIPPEN asked if the bill was passed as it now is written the warden would be responsible only to the governor. He was concerned with the relationship with the legislature to the warden and specifically the area of good time. The only recourse is through the governor. Wouldn't this be a con-boss system? Sen. Boylan replied all the legislature does now is decide budgets and make the laws. We really have no control anyway.

PRICE stated it would get rid of the "stumbling blocks" that are in the system now.

SEN. CRIPPEN replied that these blocks are situations where a review could be held but under this bill a review could not be held. If the warden took a dislike to an inmate he could take away all his benefits.

MR. PRICE replied he would assume the warden would have review boards under his control that would be fair.

REP. DAILY asked who was responsible for the language concerning that the ranch operate at a profit or be sold as is in the books currently.

REP. YARDLEY stated during the 1979 session he was vice chairman of the Appropriations committee. The committee tried to decide the status of the ranch at that time. The accounting system was such that no one could tell whether the prison ranch was making money or not. At that time it was felt that the ranch would have to pay for itself.

SEN. TVEIT asked if Mr. Price knew of drugs and contraband being smuggled in to the prisoners by visitors. Mr. Price said yes he was aware of the situation and had been approached by visitors while working outside the gates to take materials in to other prisoners.

SEN. TVEIT also mentioned the physical condition of the guards. Mr. Price replied basically that the guards would not be able to handle the prisoners if there was a riot because of the shape the guards are in.

SEN. TVEIT also mentioned a letter from an inmate to his sister concerning the lack of medical attention given. Mr. Price felt that the inmates think the medical attention is a

joke. Some prisoners, however, will complain of an illness just to get the physical exercise to walk to the infirmary.

SENATOR OLSON stated, as a doctor, he feels there should be an around the clock doctor in the infirmary and that medical supplies and standards should be brought up to date.

SEN. BROWN questioned how many prisoners are working on the ranch today and as the prison population, percentage-wise increases, with repeat offenders and more maximum security risks, what types of prisoners are allowed to work on the ranch.

JOHN MACMASTER, with the Legislative Council, stated that there are 85 inmates working at the ranch. Depending upon the time of the year, it will vary from 70-100 inmates. If more money was appropriated the operation could be expanded.

CARROLL SOUTH, from the Department of Institutions, stated the latest figure he knew of working at the ranch was 70. There is a mixed change of the type of inmate used on the ranch, which includes both, violent and nonviolent offenders. We should consider the pre-release center because for the most part, the same type of inmate that goes to a pre-release center also is the type that would work on the ranch. Mr. South explained that he sets the price of products that are sold to the institutions. The overall policy of the ranch is set by his office with the help of a Legislative Committee which includes Rep. Marks, Rep. Donaldson, Rep. Bardanoue, Rep. Jensen, and Rep. Conn. Mrs. Harris works for South and she takes care of the accounting and oversees what goes on and the policies of the ranch and the industries.

SEN. BOYLAN asked Mr. South who hires the ranch superintendent, to which Mr. South replied he did after the superintendent was interviewed by the committee just named. The superintendent is responsible directly to Mr. South.

REP. HANNAH asked if the only people allowed to work on the ranch or allowed to be in the pre-release centers are trustee status people.

MR. SOUTH replied current policy of the pre-release center is that inmates have to be within six months of parole. We can hire a higher risk inmate in places like the dairy and the slaughter house because they are inside a building; but they would have to be under constant supervision. Mr. South stated

his philosophy of the ranch based on the law is that he has to provide products to the institutions at or below market price and break even. He was not part of the department when that policy was forced upon the department. It was done however, because there was talk of selling the ranch. Instead of selling the ranch, they decided they would not sell it if it became productive and self-supportive. Mr. South does support keeping the ranch.

REP. DAILY stated from information given on an earlier date, there are 130 minimum security prisoners in the prison and it takes 75 prisoners to operate the ranch. If we establish the pre-release centers 62 more prisoners will be pre-released. If it takes minimum security prisoners to operate the ranch there will not be enough prisoners to operate the ranch.

WARDEN RISLEY stated that a large number of prisoners that operate the ranch have to be under supervision. Of the total 55 that work in the dairy and slaughter house, a good number of those inmates are one grade higher than minimum security. The only difference is they have to be under direct supervision.

Testimony and questions were closed at this time.

Discussion of the committee included REP. HANNAH discussing the classification of the prisoners. According to Mr. South before a prisoner can go to a pre-release center he must be of trustee status. This contradicts material given yesterday. He feels it is critical the committee knows who can or cannot be released. CHAIRMAN ANDERSON stated the paper given yesterday has not been implemented yet.

REP. MATSKO stated Mr. South said the only people that go outside the wall are minimum security but the warden says we have medium people going outside. Rep. Matsko wondered if Mr. South and the Department of Institutions knows what their criteria is.

REP. HANNAH stated that the classification inside the fence is a system that is evolved and one they are trying to put together. The other classification about pre-release is a new program.

SENATOR HALLIGAN moved a do not pass vote. Since this is a Senate Bill, only the Senate members of the committee voted. The motion of DO NOT PASS carried with a vote of 7 to 3. SENATORS ANDERSON, TVEIT and OLSON voted NO to the motion with the remainder of the committee voting YES.

SENATOR BROWN made a motion that the Legislative Council draft a bill that would set out the general statutes that embodies this bill that the prison ranch not necessarily be

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run at a profit, but should be used for rehabilitation of the inmates and to ask SENATOR BOYLAN if he would like to sponsor the bill.

THE MOTION PASSED.

The meeting adjourned at 3:50 p.m.

Rep. Carl A. Seft
Rep. Kerry Keyser, Co-Chairman
Vice Chairman 24

Maureen Richardson
Maureen Richardson, Committee Sec.

MEMORANDUM

To: Senator Paul Boylan,
Montana State Legislature,
Bozeman, Montana.

This is in reference to the many news releases (to date) in connection with the so-called "overcrowding" at the Montana State Prison since the inmate uprising which occurred on Wednesday, March 24th.

As you already know, the situation has been labelled a "crisis" — which is nothing more (and nothing less) than a critical turning point in the progress of an affair or the culmination of a series of events. Because of its public impact, however, it has more factually become an effervescent political hot potato. Considering all of the "alleviating" proposals and counter-proposals from various state officials, it is a foregone conclusion that the state legislative body will be faced with the problem of what-to-do and how-to-do-it. It is with this in mind that I offer the following discussion on the basis of "for whatever it may be worth" to your line of thinking and action when the issue is spread before the special legislative session now anticipated.

If (I repeat, IF) the state's legislators are really interested in doing a constructive and economical service for the people of Montana, it should be uppermost in their minds that the whole problem is not singular in scope. ("overcrowding"), but involves side issues of omnifarious description; i.e., of all varieties, forms or kinds.

Since it would be something like impossible to arrange this discussion in a synchronized or chronological order, I will do my analytical best to arrange it categorically so that one category of thought will substantiate or justify another.

First and foremost, the politics of the matter should be viewed with far-reaching thought — retrospective as well as introspective. Despite the outlay of their suave "dedicative" rhetoric (like "acting in the best interests of the public," etc.), it doesn't take a genius to figure out what Governor Schwinden and Carroll South are up to. And as for their acting in political

unison, there can be little doubt that Schwinden is stumping for South in their publicized concept of another complete penal institution — whether it's at the Glasgow base or any other site. In this instance, the expense of acquiring the site, modifying the buildings and grounds, furnishing the new establishment, etc., would amount to a mere bag of pennies as compared to what the duality would eventually become in terms of a continuing expense to the taxpayers. The staffing of another prison, by itself, would be cataclysmal in scope: one warden, a deputy warden, two associate wardens, one captain, five lieutenants, eleven sergeants, and a minimum of fifty correctional officers (guards) — all this being required just for the security aspects. The rest would mandatorilly follow: sectional managers, work supervisors, psychologist counsellors, analysts, accountants, clerks, secretaries, doctors, nurses, functional directors, etc. And here you would need to interject such items as patrol vehicles, construction of guardtowers, electronic cellblock monitors, and the like. Granted, the construction contractors and various types of entrepreneurs would have a hey-day — all to the tune of tremendous outlays of public funds.

For South, this kind of "plum" would virtually put him out on cloud nine — A WHOLE NEW INSTITUTIONAL UNIT TO MANAGE, MANIPULATE AND CONTROL! And as for his operational budget, you would need to think in terms of at least doubling what he has now for the prison function. In due course, the cry of being understaffed, overworked and underpaid would be heard — resulting in a sizeable pay raise for South, and undoubtedly the hiring of at least one Assistant Director of Institutions.

All the above would be put to the public as the "necessary action to relieve the dangerous overcrowding at Deer Lodge." Such overtures should be viewed as so much political flatulency — simply because the alleged overcrowding problem can be economically corrected by the reorganization and efficient management of existing facilities. To explain this in colloquial terms without going into a point-by-point treatise at this time — if and when I get my book ready for publication on the whole subject, its title will be "LAW AND ODOR and HOW TO GO BROKE ON FORTYSIX THOUSAND ACRES WITH PUBLIC FUNDS AND SLAVE LABOR." It will deal extensively with the real prison situation as it now exists — waste, rip-off, payoff, graft, feedback, kickback, disorganization, mismanagement, and multifarious forms of skulduggery and debauchery too numerous to mention. The whole horrendous vested-interest system will be thoroughly explored and blasted.

While we are pondering the political aspects, let's look at a potential that would really benefit the people of Montana (as well as benefitting the institutional system itself) — A MOVE TO ABOLISH THE STATE DEPARTMENT OF INSTITUTIONS! Naturally, this would be a shocking overture — nothing less than a political bombshell. But if such a proposition is properly organized, coordinated and pursued, it will not only gain overwhelming support in the public sector, but will undoubtedly be wholly supported by the several heads of the state's institutional units.

The general idea, here, would be to abolish the "Department of Institutions," per se, and give each individual unit a status of autonomy; i.e., let each unit be directly responsive and answerable to the legislature. The abolishment of the existing "Department" would not only increase the effectiveness and efficiency of each unit, it would reduce the outlay of funds by MILLIONS of dollars annually — simply by not having to feed the middle-man bureaucracy. Each unit would operate with an allotted budget, unhampered by the red-taped purse-stringed Department of Institutions. It would, in simple terms, do away with the Helena departmental bureaucracy and give each unit its own professional base from which to administer its own peculiar brand of expertise and function. It would be goodbye to one of the state's foremost white-elephants. You have already seen the plaguing effects of other white-elephantry, such as the Soil and Water Conservation Districts — nothing less than bureaucratic monstrosities. And, of course, the salaried administrators will all tell you how smooooooooooth the system is working. Actually, they are accomplishing nothing that could not have been properly administered by the existing Board of Natural Resources. ~~Their~~ travesties are nothing short of an abomination to the human intellect.

I can predict with reasonable accuracy that if the proposal to abolish the Department of Institutions is brought into open view and perspective, each institutional unit will support such a move with alacrity. And if the proposal is sensibly strong enough to be escalated into public hearings, you would get an avalanche of testimony which would reveal just how much of a plague and stumbling-block the Department really is — which, to a large extent, is exactly why there are deficiencies at the various units which have remained uncorrected for "x" number of years. And the most troublesome stumbling-block

is that South controls the purse strings — resulting in a bludgeonary type of bureaucratic manipulation. Politically, it goes even further. The heads of the various units couldn't brief the legislature in matters of truthful significance even if they wanted to. They must all take their cues from South, or ELSE! — (the "else" means perish). No one could be so naive as to not know what would literally happen to an institutional head if he dared to communicate directly with the legislature (or any of its functional committees) without prior briefing and approval by South.

Pursuing further the subject of political upheaval, this would be an opportune time to start the ball rolling with the idea of revising the status of the legislature itself — A MOVE WHICH WOULD REQUIRE THE LEGISLATURE TO BE IN PERMANENT SESSION; to be in recess when not in assembly rather than in adjournment from one session to the next. This, in purpose and scope, would solve the never-ending controversy of whether the legislature should assemble annually or bi-annually — the legislature itself would decide the next regular session whenever it goes into recess. Oh yes, there would be an avalanche of "politics as usual" to be reckoned with, but for the most part it would give the legislators an opportunity to do a better job in what they're for; namely to TAKE CARE OF THE STATE AND ITS PEOPLE! In principle, thought and activity, the public still looks to the legislature (not the quasi-judicials) as their political representatives and caretakers of their interests.

The upcoming special session to deal with the prison "overcrowding" should not, under any circumstances, allow itself to assemble for the purpose of rubber-stamping the package to be delivered by Schwinden and South — a surreptitious bundle all tied in yellow ribbons and neatly presented on the well-known silver platter. Legislators should condition themselves to Schwinden's timing technique in calling the special session. He knows only too well that many legislators are farmers — and JUNE is a crucial month in farm and ranch activity. For all legislators, JUNE is a family-activity month for such summertime activities as vacations, reunions, visitations, and the like. Schwinden and South obviously anticipate that the legislators will want to "get it over with" as quickly as possible and go home. But if this special session is allowed to become a farcial rubber-stamping spectacle, the state will suffer irreparable damage.

"If I were a legislator, I would rigidly and diligently commit myself to the common-weal principle. I would, to the best of my human ability and sensibility, employ such God-given attributes as knowledge, wisdom, judgment, courage, energy, strength, patience, perseverance and endurance to see it through with determination and thoroughness; forsaking all personal desires, whatever they may be. I would outspokenly serve notice to the Helena bureaucracy that this would be a special session long remembered — that I do represent the people and am not about to sit still while they are gouged with a multi-million dollar expense under such an asinine pretense as "relieving the prison overcrowding."

Legislators should conscientiously remind themselves that the prison "crisis" did not suddenly occur overnight. What we have now is the result of many years of erroneous administration and management. First, you must take into consideration what the Roger Crist philosophy has done — it is plainly written in the prison's history. Crist was responsible for structurizing and administering the new prison as a bastille-type of establishment with lots of concrete cells, barred windows, clanking iron doors, barbed-wire fences, etc., to keep the inmates contained and rigidly regulated. Gradually, he eliminated such productive potentials as the hog farm, the poultry farm, the garden farm, and all productive activities which provided the inmates with some kind of work programming — they were all closed down during Crist's administration. Dilapidated as it is, the dairy managed to survive — (and here you will need to look into some unique commercial "arrangements" connected to the Cloverleaf Dairy of Helena which hauls a tanktruck load of milk out of the prison weekly (2500 to 3000 gallons per haul). No record of these "haulings" are kept at the dairy and no questions are ever raised.

In addition to the dairy survival, a very small percentage of the total acreage is worked to produce hay and grain for the dairy herd (and also the beef-cattle feedlot which supports the slaughterhouse activity). The slaughterhouse itself should be the subject of intense investigation — learn why no beefsteaks ever appear at the inmate's food service! About ten beef-cattle are slaughtered per week and the steaks must go somewhere. This "somewhere" is into the private dining rooms of prison officials, and into the hands of officials at the other institutional units. Granted, the "system of distribution" calls for paperwork exchange of funds from the other units to the prison — it would be of major interest to learn what those "exchanges" amount to.

There is an abundance of evidence waiting to be discovered which points to Crist having catered heavily to private enterprise (ostensibly for the lucrative kick-backs), setting up an expensive and wasteful situation which allowed more and more business establishments to feed their wares into the prison which had to be paid for with public funds. This philosophy of inmate-idleness, waste, erroneous judgment, schemes and connivances (stretched out over a decade or two of time) had its ultimate result — the legislature is now faced with the problem of correcting it from the core out.

As it is now, approximately five percent of that fortysix thousand acres is under some kind of production, with about three percent of the prison population participating in work programs. The Crist doctrine virtually eliminated all of the economical features of what that fortysix thousand acres was originally intended for. And there is no doubt whatsoever that it was intended to be not only a self-supporting prison but its potential was to be utilized to provide produce for all other institutional units.

As time progressed, Crist found himself saddled with the problem of an increased prison population, and the attendant problem of inmate-idleness — an unhealthy situation not only from the standpoint of discontent and emotional upheaval between the inmates, but one that called for continual increases of public funds in the effort to retard the inmate-unrest resulting from idleness and the constant harassment resulting from a voluminous set of prison regulations. Here again came more mismanagement. Instead of seeing the ultimate "handwriting on the wall" and accelerating production and inmate employment, Crist simply called for exercising facilities — a gymnasium equipped with basketball court, weight-lifting machines, punching bags, musical instruments, etc., and eventually acquiring television sets for the "day-rooms" between cellblocks. With the gymnasium came a SNACK BAR which is packed with softdrinks, crunchies, and a variety of goodies to whet the inmates' appetites during "gym-call." One of the special features of the snackbar is the sale of fresh fruit — a money-making scheme which explains why no fresh fruits are ever served during regular meal-times at the food service. Payment for the snackbar commodities are deducted from the individual inmate's financial account by the accounting office. For some inmates, the money in their account comes from supporting relatives. For others (and ironically so), payments for snackbar goodies come from the wages earned by participating in work programs — some inmates earn 50¢ a day, others

receive 75¢, and some others are allotted the maximum wage of \$1.00 a day, depending on the several 'categories' of qualifications which are spelled-out in the prison regulations. Only recently established, some dairy-working inmates receive \$3.00 a day (those who are assigned to the so-called dairy "school" — another farce which would merit a separate and lengthy analysis).

In this area of conjunctive thought, here you have inmates who, by virtue of their incarcerated status, are total wards of the state — but by unique institutional manipulation the state sucks up money for the inmate's keep from his supporting relatives, and receives back into the prison substantially all of the money earned by the working inmates — all this amounting to what we commonly understand to be a systematic ripoff technique. The CANTEEN SERVICE is another profit-making scheme at the expense of the supporting relatives and the inmates' earned wages. From this outlet the inmates are "privileged" to draw from a long list of merchandise (toiletries, cigarettes, tobacco, shaving gear and materials, confectioneries, cookies, crunchies, articles of clothing, stationery, postage-fixed envelopes, radios, television sets, etc. This warehouse-distribution type of enterprise is supplied by wholesale business establishments in the city of Deer Lodge (who also supply the gymnasium SNACKBAR), distributing the merchandise to inmates at retail prices (prices in excess of over-the-counter cost in Deer Lodge stores). The canteen is managed by a salaried civilian supervisor and all work is performed by inmates.

Returning momentarily now to the Roger Crist system of management. For him, the kind of activity needed to generate a productive institution (as well as providing various forms of vocational training for the inmates) was too cumbersome. He found it much more convenient and uncomplicated by simply applying to the state treasury for more money as he needed it. And considering the ease with which he succeeded, the legislature itself must share part of the responsibility for the continuation of prison mismanagement. As a consequence, the major portion of fortysix thousand acres went to pot — and some 700 inmates milled around twentyfour hours a day, playing cards, watching television, working out at the gymnasium, yakety-yaking with each other, eating and sleeping. After Crist left, acting warden Blodgett followed through in the same style of management — mostly non-productive. In the spring of '81, for example, Blodgett asked for (and received) an amount just short of ONE MILLION DOLLARS to cover a budget deficit until the end of the fiscal year. With South's expertise and

engineering, the legislature just smiled on him sweetly and acquiesced without so much as a whimper of opposition. It's anybody's guess what an audit-and-accounting sheet would reveal on layouts of public funds for the prison establishment over the past decade or two. Among other hair-raising factors, it would reflect the build-up of what the present state expense is to accomodate the prison population — TWELVE THOUSAND DOLLARS PER INMATE PER YEAR! Man — that is some kind of jurisprudence. One must realize, however, that a substantial percentage of that amount is sucked up by the bureaucratic Department of Institutions long before it is applicable to the per-capita cost of incarceration. It would be analytically safe to estimate that the actual cost per-capita would range somewhere between \$5,000 and \$6,000. From this it should not be difficult for anyone with a conceptual education to envision what is fed out to the institutional bureaucracy. So in measures of fairness, while we're lambasting WASTE at the prison level, we cannot escape the element of "legislative waste." After all, South and his coadjutors are only doing what any "dedicated" group of bureaucrats would do — building an oligarchal empire. And it should come as no surprise that they will keep on building it for as long as the legislature is willing to provide the funding.

The blame for the eventual "overcrowding" which resulted in the so-called CRISIS of March 24th cannot be attributed totally to prison faults. It is far from being that simple. One must project his mind and thought into the whole structure of the state's institutionalizing system with far-reaching comprehension. It is a many-tenacled monster of such design that it defies description. It consists of many parts — each part nourished and supported by a counterpart. Foremost is the body-politic (people, collectively) constantly crying out for protection from themselves. This activates the law-givers, the administering agencies, the monitors, the enforcement arms, the court system and all its paraphernalia, the deliver-uppers of those convicted and committed, the jailers, custodians of the institutionalized, the quasi-judicials, etc., not to mention the Montana Bar and a host of professionals (psychologists, psychiatrists, counsellors, etc.) who derive their income and livelihood from the activities of the over-all institutional establishment. All the above references are merely samples to stimulate thought — the list goes on and on. As previously stated, the vested-interest system as a whole defies description.

Much serious thought would be in good order with respect to the geographical location of the state's penal establishment. With respect to Deer Lodge, it's simply a matter of time-honored tradition — the prison is a conventional part of the community. The presence of the state prison is as commonplace to the atmosphere and environment of the Deer Lodge locale as the universities are to Missoula and Bozeman. The prison activity is not only an acknowledged way-of-life for the Deer Lodge people, it's an integral part of their daily lives and a major factor in the Deer Lodge economy. Individually and collectively their thought patterns regarding the prison are compatible and mutually understood. Whether or not they are assessed by outsiders as a peculiar breed of people would make little difference — and whether or not they are satisfied with their prison-oriented community remains a moot matter. Obviously they have no qualms about it — otherwise they would not have chosen to live there nor would they be employed at the prison. The fact still persists that for about one and a half centuries Deer Lodge has been known to be where the state prison is located.

Any political attempt to establish a prison activity elsewhere in the state will always be met with stiff opposition from the people of that particular community. For them, even the word "prison" is frightening and cause for alarm — they want no part of it. I can just imagine the public furor that would be forthcoming if, for example, word leaked out that the state government was planning to purchase the Boylan farm to set up another state prison. Conversely, if the state advertised its intent to expand on the Deer Lodge prison facilities, it would not cause so much as a raised eyebrow.

It is not difficult to see that past moves to spread echelons of the prison throughout the state have been political and bureaucratic in nature — halfway houses, probationary camps, rehabilitation centers, and the like, all of which have added to the Department of Institutions bureaucracy; not to mention the tremendous public expense involved. Keep this up and Montana will have a penal subsidiary in every major community. Take a look at what this does in costs of administering, staffing, provisioning, furnishing, guarding, transportation between units, etc. Undoubtedly, the foremost factor in originally acquiring that vast acreage in Deer Lodge valley was to avoid the scattering of penal establishments anywhere else in the state. But — when the cat's away the mice will play. Thus, while the legislature has been napping, the mice have taken over.

Now let's explore the depths of sensible reasoning — the individual with himself and individuals with each other. Initially, pose the question of why the prison is "overcrowded." No one (I repeat, no one) is capable of even coming close to providing an accurate answer to the question. Consequently, we must settle for the fact of the matter — IT IS OVERCROWDED! And, lest we forget, every part of the whole vested-interest system of institutionalizing has a stake in it somewhere, all the way from the governor on down to the most inferior employee.

Any attempt by the legislature to reduce the prison population will be met with all kinds of opposition and argument. A reduction in the number of inmates will cut into so many areas of interest that we couldn't even begin to list them — the number of prison officials on the state's payroll, the staff, the construction industry, the business establishments and entrepreneurs who sell their merchandise to the prison, etc. etc. etc. — not forgetting for a moment the many tenacled Department of Institutions. So, here again, we must settle for a proposition — find some way of reducing it in spite of the opposition or keep on building prisons. And it's in this area of entanglement that the legislature has its option — either deal with the situation with determination and vigor or fold up your tents and go home. No doubt, you will be encouraged by devious means to do the latter — the quasi-judicials will see to that.

Let us now think in terms of actually reducing the number of prison inmates by some means of an early-release program — consequently reducing the cost of providing for them. There is no doubt that a substantial percentage of the prison population could be released into any community today, and that community would be as safe tomorrow and the next day as it was yesterday and the day before — every bit as safe as its people are now from their next door neighbor. Certainly, there will continue to be crimes committed (where, in the world, are they not committed?). The world of crime didn't start yesterday, and the prospects of it stopping tomorrow are indeed remote.

Some of this year's crop of candidates for public office have advocated this very proposition. The libertarians, for example, have suggested a SIXTY PERCENT reduction by early release. My own percentage is EIGHTY — but let's work on the sixty figure and get a mental picture of the results that would come from it. In round figures, let's set the prison population now at 800. Sixty percent of 800 is 480. Subtract 480 from 800 and we get a remaining population of 320 — a

figure which falls well below that which the new prison was designed to handle. For those who may think that the sixty percent reduction is too great a risk, let's see what a FIFTY percent decrease would do — we'll have a remaining prison population of 400. Even if we get down to a FORTY percent reduction, we'll have a remainder of 480, which is still below the 500 mark of the prison's maximum capacity.

In the area of thought relative to prison population reduction, the legislature is faced with a two-proposition decision — either reduce the prison population and leave the prison establishment pretty much status-quo, or spend Schwinden's figure of some TWELVE MILLION DOLLARS for prison expansion (which, actually, will be chickenfeed compared to what the CONTINUING costs will be from year to year.

So as not to be misleading, it's a safe guess that of the FIFTY or FORTY percent discharged on an early-release program, some ten percent will be back in prison again somewhere on either new crime convictions or the well-known "pv bust" (parole or probation violation) — some inmates never will learn what it takes to stay out of prison.

Any way it's looked at, any move to reduce the prison population will be met with considerable "heat" — as previously stated, the whole vested-interest institutionalizing system is never geared to reduce anything. On the contrary, the general bureaucratic attitude of all parts of the system is to constantly increase — never to decrease. But, forsaking all else, it must be kept in mind that of the total prison population, some are basically good men and some are basically bad men. The general idea would be to do some serious and painstaking sifting and give the basically good men a reasonable chance to become useful citizens.

In a general way of thinking, this special legislative session should bring to light the urgent need for the State of Montana to establish a whole new concept of prison policy and management. It is essential that some kind of a legislative monitoring arm be established for the future — a committee which would be empowered to move freely around the prison (consistent with security) throughout the year, making timely reports to the legislature, thereby serving notice to the warden and his coadjutors that they are being watched. They, too, must be given to understand that they are subservient to law-and-order just like any other segment of societal activity.

While we're on the fringes of "law-and-order," it may come as some kind of a seismic shock that prison officials themselves violate more law in one day than some of the inmates violated in their whole lives prior to being sentenced to prison. This, of course, would be a voluminous subject all by itself — but here's how the prison establishment thumbs its nose at the state laws on nepotism:

While Blodgett was deputy warden (and acting warden after Crist left), his sister (Mrs. Munden) was employed as a clerk in the Records-and-Accounting department. Mrs. Munden is still so employed. Her husband is a book-keeper on the Superintendent-of-Ranches staff.

Captain Davies (Captain-of-the-Guard) — his wife is employed in the Records-and-Accounting department.

Warren Weer (ranch manager) is a cousin to Deputy Warden Gary Weer.

Lieutenant DeOtt — his wife is a supervisor at the food service.

Sergeant Cox — his wife is employed in the Records-and-Accounting department. Her father is a supervisor at the food service.

Bud Bruno (supervisor at the food service) — his son is a guard.

Guard Ebel — his daughter is a supervisor at the food service. His son-in-law is a guard. His wife works in the motor vehicle licensing department. His brother-in-law is a guard.

Dairy manager Bozlee (now retired) — his son is a Ranch Supervisor (hired on long before his father retired).

Sergeant McCalliston — his son is a guard.

Dick Wallace (supervisor at the DMC — vehicle maintenance shop) — his nephew is also a supervisor in the same shop. Another nephew (Logan) was formerly a supervisor at the hog farm and became a supervisor at the dairy after the hog farm was closed. Logan (no longer employed) is guard Stone's cousin. Stone's father was formerly a supervisor at the hog farm (now retired).

Three members of the Scharf family — Ed is the canteen manager, George is the physician's assistant at the infirmary, Cheryl is a secretary in the stenographer pool.

Two members of the Ridley family — Jan is employed in the Records-and-Accounting department, Debbie is employed at the food service.

Two members of the Davidson family — Noel is a Captain, Linda works in the business office.

Four members of the Jones family — Dan is a guard in the Reception Section of the maximum security unit; John is a supervisor in the bakery; Maggie is a records clerk; Sheila works in the mailroom.

Two members of the Munden family (Mrs. Munden's children) — Dale is an accountant for the Superintendent of Ranches; Dolores is a Records-and-Accounting department supervisor.

Paul Hultgren (a guard) — his brother, Gordon, is a supervisor at the dairy.

The above are merely samples — not a complete listing.

In addition to the outright and deliberate violations of the state's nepotism laws, the "bennies" system prevails in equal proportion — the "bennies" is that unique professional system of stealing which, under the law, constitutes theft. Here again, we have another voluminous subject all by itself.

And, briefly, therein lies the crux of one of the major points of attitudinal contention existing between prison officials and the inmates (the officials being there, ironically, to correct the inmates' way of life!). The officials simply remind the inmates (outspokenly or by innuendo) that they (the inmates) have violated the law, have been convicted and sentenced to serve prison terms. But when the officials violate the law it's none of the inmates business. And any "unruly" inmate who attempts to expose their corruptive practices — well, there are "ways and means" to discourage him from so doing. Here, we must interject some stark reality. Inmates are not anatomical "things" — they are people who observe and think. Maybe their thinking faculties are not as adept and intelligent as they should have been before being sentenced to prison — but they are people right on. The general idea with respect to the above is to pose a relevant question — who is telling who to "clean up their act."????

Now we come to the question of what-to-do and how-to-do-it when the special session assembles to resolve the so-called CRISIS situation. I will repeat again, IF the legislators really are willing to clash head-on with the prison establishment, the Governor, and the Department of Institutions, those legislators who are mindful of their mandated commitment to serve in the best interests of the body-politic, should commit themselves to a MEANINGFUL session — a special session that will stay a special session for as long as it takes to comprehensively overhaul one of the state's most horrendous monstrosities.

At the outset, it would serve Schwinden and South properly if a motion were passed to DENY any new money for the prison establishment . Serve notice that there will not be any new prisons, nor will there be an expansion of existing facilities — simply because what we have now is plenty adequate with proficient planning, management and administration. The message? — CLEAN IT UP FROM TOP TO BOTTOM!

In one complete package, order the following to be done:

1. Reduce the present new prison population (by an early-release program) to a level well below its structurized capability.
2. Re-open the old prison and designate it to serve as the the over-all prison's maximum security unit. This facility would also serve as the "Reception Center," and as a sifting and clearing-house for transfers to the new prison facilities.
3. Permanently establish the new prison as the state's medium and minimum security facilities.
4. Designate one of the CLOSE units at the new prison as the state's prison for women — thereby permanently solving a very expensive problem of having to incarcerate women-inmates in the prisons of adjoining states.
5. Permanently the new prison as housing and accomodations for working inmates — and get with it in putting that fortysix thousand acres to work.

The above proposals, of course, are basic and skeleton in nature — each one will require extensive thinking and amplification. The "early-release" idea will be met with stiff opposition from the parole board — with accusations that you are usurping their duties. The old prison must not be permitted to function under the principle of "lock 'em up and throw the key away." There must be productive activities there too and not just a lot of cells for the inmates to look through bars twentyfour hours a day. Remember, a whole new policy of prison purpose and management needs to be set.

Here's a list of "whistle-blowers" who are capable of furnishing reliable information that should be listened to:

Don Smith — former Superintendent of Ranches. Don resigned and left the prison at the end of August, 1981. He has his own ranching operation somewhere upstate. Don will reveal, in specific terms, just how impossible it is to buck the Helena bureaucracy insofar as agricultural production on the prison acreage is concerned.

Ron Baylis — former Ranch Manager and Feedlot Manager at the slaughterhouse. Ron resigned and left the prison at the end of August, 1981. He now manages a large ranch outside of Missoula. His address is 7700 Old Grant Creek Road, Missoula, 59802 — telephone (406) 721-1210. Ron was also acting Dairy Manager after Bozlee retired. Ron will supplement many things that Don Smith has to say about prison management and practices.

James E. Ball (A015309), an inmate with about a year yet to serve. James is an ordained reverend of the American Fellowship Church. He is also a jail-house lawyer. He is well versed on all prison activities.

Bill Jackson, an inmate, and a long-term prisoner. Bill possesses a wealth of accurate knowledge of what goes on in all phases of prison doings.

Charley Millard, an inmate. Charley is the dairy's engineer — a long-term prisoner with 17 years yet to serve. Charley can talk long and loud on substantially everything that encompasses the prison management.

Some serious thought should be given to the prison's mail-handling system, especially the censoring and confiscation of inmates' mail. This is a major bone of contention with the inmates. Here again we find the prison engaged in illegal doings and in violation of the law. Mail censoring is illegal anywhere — but the postoffice department looks the other way and lets it alone as "untouchable." Mail surveillance is one thing, mail censoring is another, and mail confiscation is still another. AND WHAT IS DONE IN CONJUNCTION with the mail processing system is skulduggery of the worst order. Subpoena the mail room personnel, put them under oath for their testimony, and get the facts for yourselves.

If it is not possible to totally abolish the Department of Institutions at this session, at least take a step in that direction by giving the prison an autonomous status, separate and apart from the Helena bureaucracy, and you will soon see a marked change in the prison establishment.

In conclusion, I have only to remind you that by his very action the governor has opened the way for much to be done. That which I have written in the preceding pages would barely scratch the surface.


JOHN L. PRICE

June 6, 1982.

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MONTANA SESSION LAWS

	Fiscal Year 1980		Fiscal Year 1981	
	General Fund	Other Appropriated Funds	General Fund	Other Appropriated Funds
Total Pine Hills School	1,893,426	203,526	1,931,013	203,526
STATE PRISON				
1. General Operations	5,381,565	477,026	5,266,327	477,026
2. Kitchen Equipment	44,000			
3. Ranch		980,626		1,013,780
Total State Prison	5,425,565	1,457,652	5,266,327	1,490,806

The intent of the legislature is to continue operation of the prison ranch on a probationary basis through the 1981 biennium. Capital expenditures for minor replacement only are appropriated. The proposed irrigation system is not funded. The department shall develop an accounting system for the ranch by July 1, 1979, which accurately portrays the revenues, costs, profits, and losses of each operating component of the ranch. Any funds generated from reducing the livestock inventory shall be held in reserve. Unless the ranch operation clearly demonstrates that it can operate profitably, the operation should be terminated and the land leased.

The department shall present a plan to provide work opportunities for prison inmates to the 1981 legislature.

The department shall immediately deposit all money received in connection with oil and gas exploration and drilling activities and timber sales in the general fund.

SWAN RIVER YOUTH FOREST CAMP	541,254	31,600	544,379	31,600
VETERANS' HOME	126,624	664,655	106,893	697,915
WARM SPRINGS STATE HOSPITAL	9,415,133	236,028	9,155,433	236,028
BOARD OF PARDONS	78,970		78,982	
Board members shall receive \$150 per month compensation.				
MENTAL DISABILITIES BOARD OF VISITORS	38,837		39,165	
TOTAL DEPARTMENT OF INSTITUTIONS	41,562,302	7,984,108	39,033,045	6,429,237