MINUTES OF THE JUDICIARY COMMITTEE
January 31, 1983

The meeting of the House Judiciary Committee was called to order by Chairman Dave Brown in Room 224A of the Capitol. All members were present except Representative Hannah, who was excused. Brenda Desmond, Legislative Council, was present.

HOUSE BILL 403

REPRESENTATIVE HAND, sponsor, stated House Bill 403 would revise the sentences for possession of dangerous drugs. REPRESENTATIVE HAND asked the committee to table the bill as another bill that has been introduced covers this area.

JOHN SCULLY, Montana Sheriffs and Peace Officers Association, was in favor of the bill being tabled.

There were no other proponents. There were no opponents.

The committee did not ask any questions.

The hearing on the bill closed.

HOUSE BILL 453

REPRESENTATIVE STELLA HANSEN, sponsor, stated this bill would award litigation costs to a health care provider prevailing in a civil malpractice action following a determination by the medical malpractice panel that an injury was not caused by the malpractice of the provider. REPRESENTATIVE HANSEN asked the committee to table the bill because there are too many amendments that would have to be added to solve all the bill's problems.

CHAD SMITH, Montana Hospital Association, was in favor of the bill. This bill will give some real support to the operation of the medical malpractice panel. The medical malpractice panel is set up to review malpractice claims or potential claims against health care providers before a claim is brought to court.

There were no further proponents.

KARLA GRAY, Montana Trial Lawyers Association, was opposed to the bill. The panel is a screening panel. Claimants are required to appear before the panel, who then decides if the claimant has a valid case. The panel's decision is not binding and they have no real authority.

There were no further opponents.

In closing, the sponsor stated the reason the bill was introduced was because a Missoula doctor who recently died, had 18 malpractice suits filed against his estate. While practicing he was never charged with malpractice. Ultimately, none of the claimants were successful, although the estate had to pay the court costs.

REPRESENTATIVE BERGENE was concerned with line 12 of the bill "health care provider based upon a malpractice claim for which the panel has determined".

The sponsor stated she did have some proposed amendments for that section of the bill; however, she did not feel the amendments would help the bill either.

HOUSE BILL 471

REPRESENTATIVE ADDY, sponsor, stated House Bill 471 will establish the position of a referee in certain judicial districts. The bill would also provide for the appointment, qualifications, term and salary of the referee. The referee would be prohibited from being a participant in the judges' retirement system. Implementation of a referee system would cut down on delay in the courts because the referee would assume some of the judge's workload.

The court reporter and clerical staff assigned to a particular case would work under the referee in this capacity. Many of the judicial districts in which a referee system would be instituted under this bill do not have additional space for another judge and staff. However, a referee can "float" from office space to office space to do his work and thus, it would not be necessary for the local governments to build a new courtroom for the referee.

REPRESENTATIVE ADDY felt that this bill and Senate Bill 203, allowing retired judges to assist in hearing cases, would both save the taxpayers money.

SENATOR TOWE spoke as a proponent of the bill. He stated House Bill 471 and Senate Bill 203 will benefit the people of Montana more than the judicial redistricting bills. Senate Bill 203 is a retired judge program. Under present law, a retired judge may be called back into service on a case-by-case basis. This works well. The problem is it is limited to those judges eligible for retirement. If any of the present judges in the 13th Judicial District retire, he/she could not serve as a fill-in judge because none of the judges has either served for 12 years or has reached the age of 65. This bill would allow a retired judge to serve without having reached age 65. EXHIBIT A. This would relieve some of the workload. The judges would be paid 1/20 of the monthly salary applicable to the judicial position in which the temporary service is rendered minus an amount equal to 1/20 of the monthly retirement allowance the retired judge is receiving. This amount would be paid for each day of service.

SENATOR TOWE stated House Bill 471 would provide additional assistance. both bills allow for additional judicial assistance without the extra cost of setting aside courtrooms, secretaries, court reporters, et. If the judicial redistricting bill is

passed, Yellowstone County will obtain another judge and additional space would have to be made available for the judge. These bills would not require the allocation of additional space as the referee would either work full or part-time in presently available office space. Additional space would not be needed for clerical help, as the help assigned to the judge whose case it is would also be assigned to the referee.

SENATOR TOWE suggested the bill be amended on page 2, lines 12-14 striking "person to serve full time or two" and "to collectively serve the equivalent of full time". On line 22, page 2, the bill would be amended to read: "If a referee is appointed to serve part-time, he is entitled to receive an annual salary equal to that portion of 80% of the annual salary of a district court judge that corresponds to the portion of full time he serves."

The state of Ohio has a referee system that works well. The referees do the work on the case. The work is then subject to review and approval by the judge after the findings and recommendations are made.

The Federal Magistrate that has been appointed in Billings will serve the same capacity as a referee. Iowa has a full-time, Federal Magistrate.

SENATOR TOWE stated the wording "the supreme court shall order the establishment" could be changed to "may order the establishment"..

JUDGE WILSON of Billings was in favor of the bill. JUDGE WILSON submitted EXHIBITS B through F. The 13th Judicial District presently has five counties. Since 1969 they have had the same number of judges. EXHIBIT C reflects the population of Yellowstone County from 1954 up to the projection of 1990. The trend is moving steadily upward. At the present time it is estimated that three to four families move into Yellowstone County each day. That is the basis for the continual increase in the district court caseload.

JUDGE WILSON was disappointed in the redistricting bill because it does not provide sufficiently for the 13th Judicial District's present population.

EXHIBIT D indicates the caseload per judge from 1954 to 1981. The year before the chart began the caseload per judge reaches approximately 900; an additional judge was then added dropping the caseload to 600 per judge. In 1974 an additional judge was requested but denied by the legislature by one vote. In 1976

an additional judge was approved by the legislature. In 1978 the judge assumed his duties and the caseload, therefore, dropped. Since 1978 there has been a very rapid growth in the caseload. In 1981 the caseload per judge is shown by the line with x's. The x's below the line represent the caseloads of all the other judges within the state. Most of the x's are considerably below what the caseloads are for judges in the 13th Judicial District. The two x's close to the line represent judges in Missoula and Glendive. The red x's represent the caseload per judge in the various districts as they will be if the redistricting plan is passed. Most of the caseloads will be below present levels, but there is still a considerable discrepancy between the loads from one district to another.

JUDGE WILSON referred to a letter from NEIL S. KEEFER, which indicates support of this bill. EXHIBIT E.

JUDGE WILSON felt both House Bill 471 and Senate Bill 203 attempt to address the problem of caseloads. He did not think more people could be continually added to the courthouse in Billings. The taxpayers could not support making additional space. Courtrooms in Billings are always scheduled. However, often times the parties settle before appearing in court. The referee could use the courtroom that is available for his work. A retired judge would use the same procedure.

JUDGE WILSON was also in favor of Senate Bill 203. The present policy of not allowing the use of judges until they are of age 65 would be amended. Some of the present judges that are "up in years" are not available for working an extensive period of time, but would be able to work on a case-by-case basis. Some of the retired judges would be able to move in and out of counties to where the workload is.

HAROLD HANSER, Yellowstone County Attorney, was in favor of the bill. EXHIBIT F is an article from the Billings Gazette concerning the court crisis. He really felt that the headline "County attorney moves to county court 'crisis'" was an understatement. The redistricting plan does not approach a solution to the problem. The legislature must do something more positive to make court time available. The bill before the committee is an effort to do this. Under the constitution, the public is entitled to a speedy trial. He did not know if the referee bill would answer the need, but it has the opportunity. He felt it would be better than to have a fifth judge. If the population continues to expand, then the state must supply service to meet those needs. Yellowstone County makes up 1/6 of the state's population. As Yellowstone County is in a total crisis from the standpoint of available courtroom time, he asked the committee to help the 13 judicial district.

There were no further proponents.

There were no opponents.

In closing, REPRESENTATIVE ADDY stated there is a serious problem in Billings. This same problem might arise in other urban areas of the state. It is a question of available court time. Before redistricting the caseload is 1500, after redistricting the caseload will still be 1400. Under the redistricting plan, Carbon and Stillwater Counties will be taken out of the 13th Judicial District and attached to Park County. This will result in a small reduction in the caseload. However, Carbon County wants to stay in the 13th Judicial District. Columbus, Stillwater County also want to stay in the Billings judicial district. A letter REPRESENTATIVE ADDY received from the Park County Attorney in Livingston indicates they do not want Carbon or Stillwater counties in their district. Livingston wants a judge in Livingston instead of one that will travel back and forth to Red Lodge.

REPRESENTATIVE ADDY stated justice delayed is justice denied. The little cases often take as much time as the larger cases. These two proposals allow the judge to concentrate his talents on the matters before him. The judge would be in charge of all the criminal cases and all civil matters requiring a jury.

REPRESENTATIVE DAILY asked if each judge hears the same amount of cases in that district, or if some judges carry the workload. WILSON replied the caseload is distributed evenly. The cases are filed on a random selection basis. The clerk of the court draws a capsule which has one of the judge's names in it. That judge is then assigned the case. The same procedure is used when substituting a judge. There are an equal number of capsules for each judge. WILSON stated that criminal cases take precedence over civil cases.

REPRESENTATIVE EUDAILY asked if there was a fiscal note for the bill. It was replied no. REPRESENTATIVE EUDAILY asked if under the referee bill a retired judge could be hired. REPRESENTATIVE ADDY stated no, these are two different bills. It would be silly for the state to use a retired judge as a referee because the retired judge's pay is much greater than the pay of a referee, under this bill.

REPRESENTATIVE RAMIREZ asked if this bill were adopted would the judges be willing to retain Carbon and Stillwater counties in the 13th Judicial District. JUDGE WILSON replied yes. The time span of travel in Carbon and Stillwater counties is not so great compared to the overall case load. The judges would be happy to keep these two counties if the referee system were used.

REPRESENTATIVE SPAETH asked if JUDGE WILSON would prefer another judge or a referee if he had his choice. JUDGE WILSON replied the use of a referee would be a cost saving mechanism. The courthouse does not have adequate room for another judge at the present time. He would like to have the referee system tried in Yellowstone County.

REPRESENTATIVE JENSEN asked if there has been consideration of funding this program through the users. JUDGE WILSON replied that has not been discussed. He did not know if that would be feasible.

The hearing on House Bill 471 closed.

HOUSE BILL 350

REPRESENTATIVE HAMMOND, sponsor, stated House Bill 350 would change the time at which the Board of Pardons must investigate a prisoner to determine his suitability for parole.

H.E. BURGESS, Board of Pardons, was in favor of the bill. The nature of the bill is to change in the statute what has been normally done by the board. BURGESS read to the committee, section 46-23-202:

> Investigation of prisoner by board. (1) Within 2 months after his admission and at such intervals thereafter as it determines, the board shall consider all pertinent information regarding each prisoner, including the circumstances of his offense, his previous social history, and criminal record, his conduct, employment, and attitude in prison, and the reports of any physical and mental examination which have been made.

When this original language was written, there was a concern over rehabilitation. Each inmate was to be looked at very carefully. This was to better help the inmate at the time of parole. Over the years, however, the board has not had the staff to do a complete job of reviewing each inmate when he is brought to the prison. It would be nice if the board did have the staff. To avoid the problems, this law should be changed as the bill indicates. An inmate should be given orientation before being paroled, which the board tries to do. The board takes a whole day to meet with the inmate and deal with any problems he might have upon being paroled.

CURT CHISHOLM, Department of Institutions, was in favor of the bill. The Board of Pardons is a division of the Department of Institutions. The board is responsible and decides when an inmate may be paroled. This bill reflects their current policy of reviewing an inmate.

There were no further proponents.

There were no opponents.

The committee did not ask any questions.

The hearing on the bill closed.

HOUSE BILL 370

REPRESENTATIVE SANDS, sponsor, stated House Bill 370 is at the request of the Task Force on Corrections. The purpose of the bill is to declare a correctional policy for the state. The basic changes are to protect the society by rehabilitating and punishing the convicted. The bill indicates factors to consider in the sentencing of the convicted that are not in the current policy such as: the nature of the crime committed, the circumstances under which the crime was committed, and the individual's history. Dangerous offenders who habitually violate the law and victimize the public will be removed from society and treated in custody. Restitution will be provided to the victims whenever possible. Educational programs aimed at permanent rehabilitation of the offender will be offered.

REPRESENTATIVE SANDS recommended the committee amend the bill to include "occur" after "offenses" on line 1, page 2; and after "and" insert "that".

JOHN MATSKO, a member of the Corrections Task Force, was in favor of the bill. MATSKO stated there is little direction given by the state to govern corrections in Montana. This bill is the result of the Task Force's efforts. It was designed to give a solid foundation to the sentencing process. The original language that was proposed by the committee was later amended because it was felt that language was too vague.

There were no further proponents.

There were no opponents.

The sponsor closed.

REPRESENTATIVE RAMIREZ asked about subsection 4, concerning the policy of the state to make available without discrimination a diversivied range of treatment and educational programs to rehabilitate the offender. The bill states the programs must be voluntary. REPRESENTATIVE RAMIREZ asked if they should be voluntary in every case. MATSKO stated the state cannot force anyone to be rehabilitated. If the offender is not interested in becoming rehabilitated, nothing will happen. The original idea was to provide a program that would be available. The offender

should not be forced to sit through a program and then receive good time benefits.

REPRESENTATIVE BERGENE asked if there might be times that an inmates' judgement would be poor and that he would choose not to do something that would actually be beneficial to him. CHISHOLM replied the Department of Institutions has work training programs and work programs that they ask the inmates to participate in. Inmates can refuse to participate. The Department can enforce disciplinary measures.

REPRESENTATIVE DARKO indicated the statement in the bill that there is a diversified range of treatment in the education of inmates. She asked who makes the determination? She also stated that the women's prison does not have a diversified program. CHISHOLM replied the Department has a broad range of programs when all the institutions are taken as a whole. The women do not necessarily have every program because of the wide range of programs available at the men's prison. He was not sure of the sponsor's intent concerning this.

The hearing on the bill ended.

HOUSE BILL 362

REPRESENTATIVE SANDS, sponsor, stated this bill was requested by the Task Force on Corrections. The purpose of this bill is to amend the statute to provide that a person who was voluntarily intoxicated or drugged when he committed an offense may not claim an impairment to mental capacity for the purpose of obtaining a deferral of a mandatory sentence. People who are voluntarily intoxicated should not be excused from the actions they take when intoxicated.

A federal survey has indicated that 1/3 of all the inmates in prison committed their crime while intoxicated or drugged.

RITA CABRIN, Wolf Creek, was in favor of the bill. CABRIN stated last year her daughter was raped. The accused admitted his guilt but the judge gave him a deferred sentence. He was sent to an alcohol rehabilitation program. CABRIN felt any violent crime should carry a mandatory sentence. We all know what happens when we drink too much. That, however, should not excuse us from our actions. The average person does not have a chance for equal justice when he is a victim of a crime.

CHRIS PALMER, Wolf Creek, was also in favor of the bill. She stated the girl that was raped is a member of her family. Women who are raped and assaulted will not report the crime if they know nothing will be done. If rape cases are to be reported, the judges must stop this type of action. If a person is too

drunk to know what he is doing, he would probably be too drunk to do the crime in the first place.

JOHN MATSKO, Task Force on Corrections, was in favor of the bill. He felt the bill would fill a loophole. He has seen many cases where defendants have pleaded not guilty because their judgement was impaired. This is not a legitimate defense. This type of excuse could be stretched to the drunk driver who was too drunk to know he was in the car. A person who intentionally goes out and drinks should be responsible for his actions.

There were no further proponents.

LARRY ANDERSON spoke as an opponent of the bill. He stated he has spent some of his time helping those accused of crimes. He felt this bill is a modern prohibition statute. Prohibition did not work in the 1930's and it will not work today. He thought present law does what the criminal law is suppose to do. That is, it individualizes the offense and the offender and requires the offender to respond in an individual way to his conviction. The present legislation is an effort to do that. This bill seems to just punish the evil and not inquire into the person's state of mind. The bill is in conflict with Article 2, Section 8 of the Constitution.

KARLA GRAY, Montana Trial Lawyers Association, was against the bill. The Trial Lawyers are against mandatory sentencing, GRAY stated.

There were no further opponents.

REPRESENTATIVE SANDS stated in closing, the issue is not minimum mandatory sentencing but whether we should allow excuses for voluntary intoxication. Montanans do not want intoxicated people to go free.

REPRESENTATIVE SPAETH asked if the bill would take away some of the discretion of the judges. Yes.

REPRESENTATIVE DAILY asked if a judge gave a defendant a deferred sentence, would that defendant still serve time. It was replied that the person could be sentenced to up to 90 days of jail time as a condition of a deferred sentence.

REPRESENTATIVE BERGENE asked if there was such a thing as involuntary induced intoxication. REPRESENTATIVE SANDS replied yes, if someone slipped drugs into your drink that would be involuntary. The burden of proof would be on the prosecution as to whether the intoxication was voluntary or involuntary.

REPRESENTATIVE FARRIS asked if the Task Force had reached an opinion on whether alcoholism is a disease. REPRESENTATIVE SANDS, although not on the Task Force, personally thought it is a disease. REPRESENTATIVE FARRIS asked what about the alcoholic who is in remission. REPRESENTATIVE SANDS would presume that would be determined on a case-by-case matter.

REPRESENTATIVE ADDY felt that DUI crimes are usually voluntary intoxication. If someone crashes into another car while intoxicated, he should be punished and be held liable for punitive damages. ANDERSON replied the bill fails to take into consideration a situation in which people have their mental state disturbed because of their body chemistry due to the consequences of the alcohol. What do you do in the case of a young adult who has never had a drink, consumes alcohol and then suffers from a breakdown or seizure? Under this bill the courts would not look at him as an individual.

MATSKO stated the question of whether the Task Force felt alcoholism is a disease never came up. Some members did consider it a disease. That, however, does not give an alcoholic the right to do anything and be excused for it. MATSKO stated many of these people have gone into remission, for which he gave them credit. Those who have not, however, should not be absolved of the crime they committee while intoxicated.

REPRESENTATIVE FARRIS did not feel the bill addressed the problem. MATSKO replied the bill was designed to address the problem of using the defense of "I was too drunk to know what I was doing". The person who continues to break the law should be treated perhaps in the same way as a mentally incompetent person is treated. Perhaps he should be placed in a state hospital until he is able to cope and shows definite improvement. MATSKO stated up to 10% of the people in the United States are alcoholics. There is a difference between a person who is drunk and an alcoholic.

The hearing on the bill closed.

HOUSE BILL 398

REPRESENTATIVE JENSEN, sponsor, stated this bill is to clarify the test for responsibility for conduct engaged in while intoxicated or drugged. The sponsor gave the committee EXHIBIT G, the bill with his proposed amendments.

JOHN MAYNARD, Attorney General's Office, was in support of the bill as amended. The 1973 legislature enacted a new criminal code that states certain prescribed conduct is proscribed and made criminal by virtue of an act committed either purposely or knowingly. In 1979 the United State Supreme Court in Sandstrom

v. Montana declared unconstitutional a jury instruction that had been used in criminal prosecutions for 100 years. That instruction was that the law presumes that a person intends the ordinary consequences of his voluntary acts.

The insanity verdict was abolished in 1979. However, a person who is suffering from a mental disease or defect may still be found guilty when his illness prevents him from forming the required mental state. The Montana Supreme Court has ruled that alcoholism does not prevent a person from taking voluntary action.

The distinction between voluntary and involuntary intoxication really misses what is essential in terms of this area of the law. We have suggested that language be struck and "state of mind" be inserted. This law then would become similar to the law on mental disease or defect insanity. MAYNARD would suggest that with respect to the insanity defense, there are certain questions that our criminal courts cannot answer. The important part of the bill is that it eliminates the test as it has been eliminated in the insanity area. A crime can be committed with the required mental state even though the offender may not remember committing the act.

MARC RACICOT was in favor of the bill. He read the underlined material from EXHIBIT H. That material summarized RACICOT's feelings. Unfortunately, that material was from a dissent of the case. As the bill is written, it would probably be unconstitutional. As the bill is amended, however, he felt it would not be unconstitutional. A few states in the south have different standards. Alcoholism is not considered as voluntary intoxication. It is a valid consideration that comes into criminal cases that it is a mental disease or defect.

KARLA GRAY, Montana Trial Lawyers Association, was in support of the bill as amended.

LARRY ANDERSON was in favor of the bill as amended. He pointed out that this is practically a diminished capacity defense. It has been tried on a number of occasions but it is rarely successful.

JOHN MATSKO stated he was in favor of the bill as it was originally proposed. After reviewing the proposed amendment, MATSKO felt the bill was somewhat bettered with the amendment.

KAREN MIKOTA, League of Women Voters, supported the bill as amended.

There were no further proponents.

There were no opponents.

REPRESENTATIVE ADDY asked what was the functional difference between voluntary and involuntary intoxication as far as the trial attorneys are concerned. GRAY stated she could not answer that question.

REPRESENTATIVE DAILY asked if the original bill has any validation. RACICOT stated yes, Lines 18-20 is the old test of insanity. It is inconsistent with present law.

REPRESENTATIVE ADDY asked why there is a distinction between voluntary and involuntary intoxication. It was replied the theory is that involuntary intoxication does not excuse the crime but that the crime really did not exist. Voluntary is the choice to commit the crime.

The hearing on the bill closed.

EXECUTIVE SESSION

HOUSE BILL 403

REPRESENTATIVE EUDAILY moved to TABLE the bill, seconded by REPRESENTATIVE SEIFERT. All were in favor of the motion.

HOUSE BILL 453

REPRESENTATIVE BERGENE moved to TABLE the bill, seconded by REPRESENTATIVE EUDAILY. All were in favor of the motion.

HOUSE BILL 332

REPRESENTATIVE KEYSER moved DO NOT PASS, seconded by REPRESENTATIVE BERGENE.

REPRESENTATIVE KEYSER stated the Department indicated the problem rarely exists now. They can commit these people now if they want to as long as it falls within the act. If judges begin to abuse this and begin to send many people out of state, then the legislature should look into it. REPRESENTATIVE KEYSER disagreed with the proposed amendments of the bill.

All were in favor of the motion DO NOT PASS.

HOUSE BILL 327

REPRESENTATIVE BERGENE moved DO PASS, seconded by REPRESENTATIVE FARRIS. REPRESENTATIVE BERGENE gave the committee EXHIBIT I, amendments to the bill.

REPRESENTATIVE BERGENE moved the adoption of the second amendment that would strike "or has been concealed from full" on line 25, and inserting "and is in full".

REPRESENTATIVE JENSEN asked if the bill meant that a person who is shopping and picks up an item could be charged with shoplifting while carrying the items around the store in full view. REPRESENTATIVE JENSEN stated he witnessed a shopper place a steak inside his coat. He informed the manager who confronted the man. When the man saw the manager approaching him he withdrew the merchandise from his coat. The store had films that demonstrated that the man had done the same thing 30 times in the last two months. What would stop him from just walking out with merchandise? REPRESENTATIVE JENSEN stated it seems the store must have to find the merchandise on the person in order to arrest him.

REPRESENTATIVE ADDY stated he was not sure a crime is committed until the person leaves the checkout counter and is outside of the store.

REPRESENTATIVE FARRIS stated the bill as amended does not refer to searching of the person. REPRESENTATIVE BERGENE stated the store personnel could detain the person by a citizens arrest until a police officer came and did the search.

REPRESENTATIVE KEYSER was against the amendment. He felt the present law was working well. REPRESENTATIVE KEYSER stated the merchant under present law can take possession of the item. The suspect can only be detained for a reasonable period.

REPRESENTATIVE JENSEN stated what about merchandise that is apt to spoil while the person is being detained such as ice cream.

REPRESENTATIVE BERGENE withdrew the amendment.

CHAIRMAN BROWN moved to strike the new language on page 1, line 21 of the bill. REPRESENTATIVE KEYSER seconded the motion. All were in favor of the amendment.

REPRESENTATIVE BERGENE moved DO PASS AS AMENDED, seconded by REPRESENTATIVE ADDY.

REPRESENTATIVE KEYSER moved a severability clause and an immediate effective date be amended to the bill. All were in favor.

REPRESENTATIVE BERGENE moved DO PASS AS AMENDED, seconded by REPRESENTATIVE ADDY. All were in favor of the motion.

HOUSE BILL 350

REPRESENTATIVE KEYSER moved DO PASS, seconded by REPRESENTATIVE EUDAILY. All were in favor of the motion.

HOUSE BILL 370

REPRESENTATIVE KEYSER moved DO PASS, seconded by REPRESENTATIVE SEIFERT.

REPRESENTATIVE KEYSER moved the adoption of the amendments presented by the sponsor. All were in favor of the motion.

REPRESENTATIVE RAMIREZ moved to amend the bill on page 2, lines 25, striking "a diversified range of treatment and"; and on page 3, line 2, striking "to further enhance the concept of individual responsibility, participation in any such program must be voluntary." REPRESENTATIVE RAMIREZ stated it seems it is complicated when the Department can force an inmate to attend classes and when they cannot.

Therefore, this determiniation should not be in the policy statement. This would not make it mandatory but available. The corrections people would then be able to decide what they need to do. If everything has to be on a voluntary basis that might not be good.

REPRESENTATIVE ADDY stated he would like to leave some discretion with the department.

REPRESENTATIVE CURTISS stated 85-90% of the problems are alcohol related. Yet on June 23, 1981 only three people were taking advantage of the alcohol programs at the prison. There is peer pressure at the prison to not attend classes.

All were in favor of the amendment.

REPRESENTATIVE ADDY moved DO PASS AS AMENDED, seconded by REPRESENTATIVE IVERSON.

All were in favor of the motion. REPRESENTATIVE KEYSER voted yes by proxy.

HOUSE BILL 238

CHAIRMAN BROWN appointed REPRESENTATIVES ADDY, EUDAILY, and DARKO as a subcommittee to research and come back to the committee with recommendations on House Bill 238.

The meeting adjourned at 11:40 a.m.

DAVE BROWN, Chairman

Maureen Richardson, Secretary

STANDING COMMITTEE REPORT

January 31, 19 83

MR. SPEAKER:

We, your committee on JUDICIARY

having had under consideration HOUSE Bill No. 332

First reading copy (White color)

A BILL FOR AN ACT ENTITLED: "AN ACT TO REMOVE THE STATE'S LIABILITY FOR THE COST OF A MENTAL EVALUATION OR COMMITMENT OF A CRIMINAL DEFENDANT AND THE RELATED TRANSPORTATION COSTS IF THE EVALUATION OR COMMITMENT IS DONE AT A FACILITY OTHER THAN A STATE INSTITUTION; AMENDING SECTION 46-14-202, MCA."

Respectfully report as follows: That HOUSE Bill No. 332

DO NOT PASS

~~DO PASS~~

DAVE BROWN, Chairman.

STATE PUB. CO.
Helena, Mont.

COMMITTEE SECRETARY

STANDING COMMITTEE REPORT

January 31, 83
19

MR. SPEAKER:

We, your committee on JUDICIARY

having had under consideration HOUSE Bill No. 327

First reading copy (White color)

A BILL FOR AN ACT ENTITLED: "AN ACT TO CHANGE THE RIGHTS OF AND RESTRICTIONS ON A MERCHANT DETAINING A SUSPECTED SHOPLIFTER; AMENDING SECTION 46-6-503, MCA."

Respectfully report as follows: That HOUSE Bill No. 327

BE AMENDED AS FOLLOWS:

1. Title: line 6.
Following: "MCA"
Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

2. Page 1, line 21.
Following: "shoplifting"
Strike: ", and may request a voluntary statement from him"

3. Page 3,
Following: line 5.
Insert: "Section 2. Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.
Section 3. Effective date. This act is effective on passage and approval."

~~DO PASS~~

AND AS AMENDED
DO PASS

DAVE BROWN, Chairman.

STATE PUB. CO.
Helena, Mont.

STANDING COMMITTEE REPORT

January 31, 19 83

MR. SPEAKER:

We, your committee on JUDICIARY

having had under consideration HOUSE Bill No. 359

First reading copy (White color)

A BILL FOR AN ACT ENTITLED: "AN ACT SPECIFYING THE TIME PERIOD DURING WHICH THE BOARD OF PARDONS SHALL INVESTIGATE A PRISONER TO DETERMINE HIS SUITABILITY FOR PAROLE; AMENDING SECTION 46-23-303, MCA."

Respectfully report as follows: That HOUSE Bill No. 359

DO PASS

DAVE BROWN, Chairman.

STATE PUB. CO.
Helena, Mont.

STANDING COMMITTEE REPORT

January 31, 19 83

MR. SPEAKER:

We, your committee on JUDICIARY

having had under consideration HOUSE Bill No. 370

First reading copy (White Color)

A BILL FOR AN ACT ENTITLED: "AN ACT TO DEFINE A CORRECTIONAL POLICY FOR THE STATE OF MONTANA; AMENDING SECTION 46-18-101, MCA."

Respectfully report as follows: That HOUSE Bill No. 370

BE AMENDED AS FOLLOWS:

1. Page 2, line 1.
Following: "offenses"
Insert: "occurs"
Following: "and"
Insert: "that"

2. Page 2, line 25.
Following: "discrimination"
Strike: "a diversified range of treatment and"

3. Page 3, line 2.
Following: "offender."
Strike: "To further enhance the concept of individual responsibility, participation in any such program must be voluntary."

AND AS AMENDED

DO PASS

DAVE BROWN, Chairman.

STATE PUB. CO.
Helena, Mont.

Senate BILL NO. 203

INTRODUCED BY Dan Haylock Hager

Crippen Addy Sands Keating Ramirez

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION 19-5-103, MCA, TO REQUIRE A JUDGE OR JUSTICE WITH 12 YEARS OR MORE OF SERVICE WHO RETIRES BEFORE AGE 65 TO ASSIST THE SUPREME COURT, A DISTRICT COURT, OR A WATER COURT UPON REQUEST OF THE SUPREME COURT OR THE CHIEF JUSTICE OF THE SUPREME COURT."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 19-5-103, MCA, is amended to read:

"19-5-103. Call of retired judge for duty. (1) Every judge or justice receiving retirement pay under the provisions of this chapter or voluntarily retiring before 65 years of age after completing 12 years or more of service shall, if physically and mentally able, be subject to call by the supreme court or the chief justice thereof to aid and assist the supreme court, any district court, or any water court under such directions as the supreme court may give, including the examination of the facts, cases, and authorities cited, and the preparation of opinions for and on behalf of the supreme court, district court, or water court, or to serve as water judge. The opinions, when and if and to the extent approved by the court, may by the court be

ordered to constitute the opinion of such court. Such court and such retired judge or justice may, subject to any rule which the supreme court may adopt, perform any and all duties preliminary to the final disposition of cases insofar as not inconsistent with the constitution of the state.

(2) Such retired judge or justice, when called to service as herein provided, shall be reimbursed for his actual expenses, if any, in responding to such call. In addition, for each day of temporary service a retired justice or judge is entitled to receive compensation in an amount equal to one-twentieth of the monthly salary then currently applicable to the judicial position in which the temporary service is rendered minus an amount equal to one-twentieth of the monthly retirement allowance the retired justice or judge is receiving, if any, for each day of service rendered."

-End-

HB 471
Exhibit A
1/31/83

INTRODUCED BILL

SB 203

Exhibit B
HB 471
1/31/83

Robert H. Wilson
District Judge
P.O. Box 35028
Billings, Montana 59107

THIRTEENTH JUDICIAL DISTRICT

COUNTIES:
BIG HORN
CARBON
STILLWATER
TREASURE
YELLOWSTONE

* N O T E *

Gentlemen:

The graph showing the caseload per judge in the Thirteenth District previously forwarded to you was in error in respect to the 1981 figures. Attached is a corrected graph and on this graph we have placed an "x" indicating the caseload per judge for the year 1981 in each of the other judicial districts in the State.

RHW

Exhibit B_2
NB 471
1/31/83

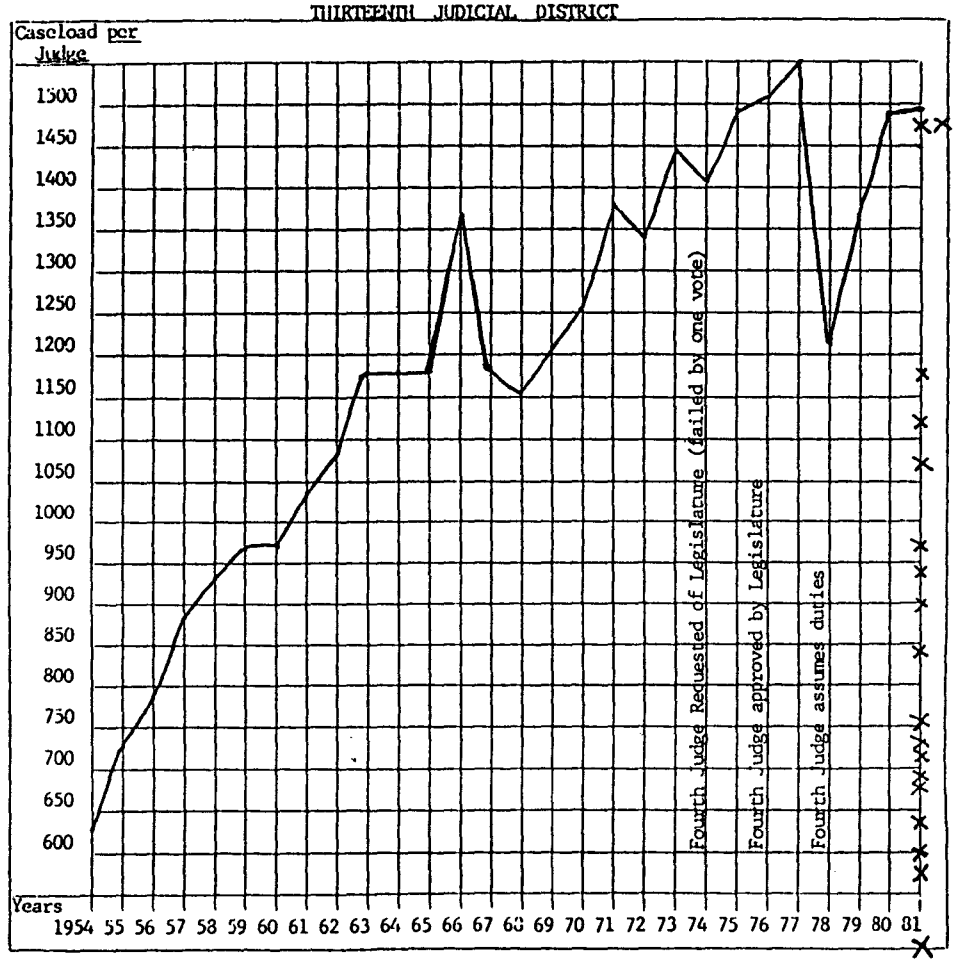
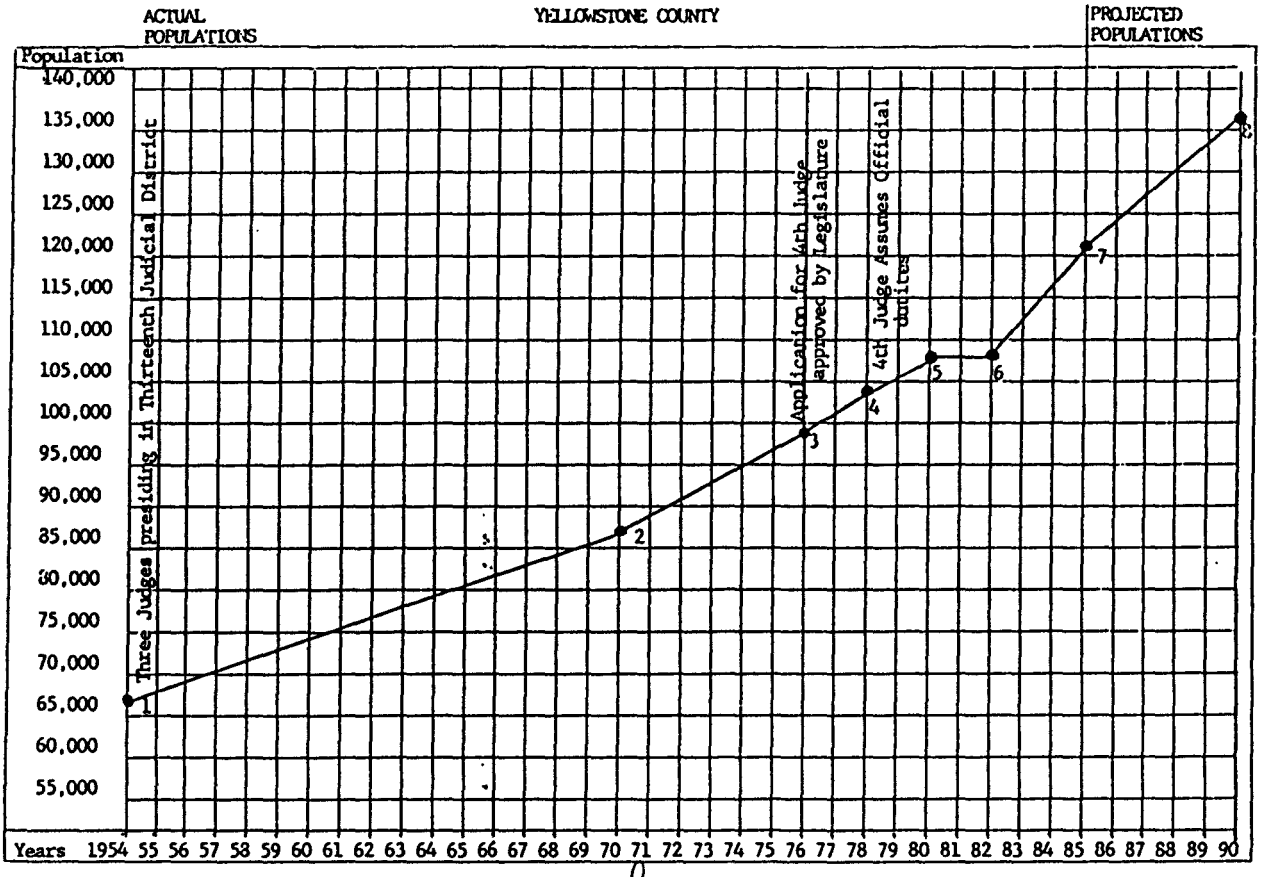


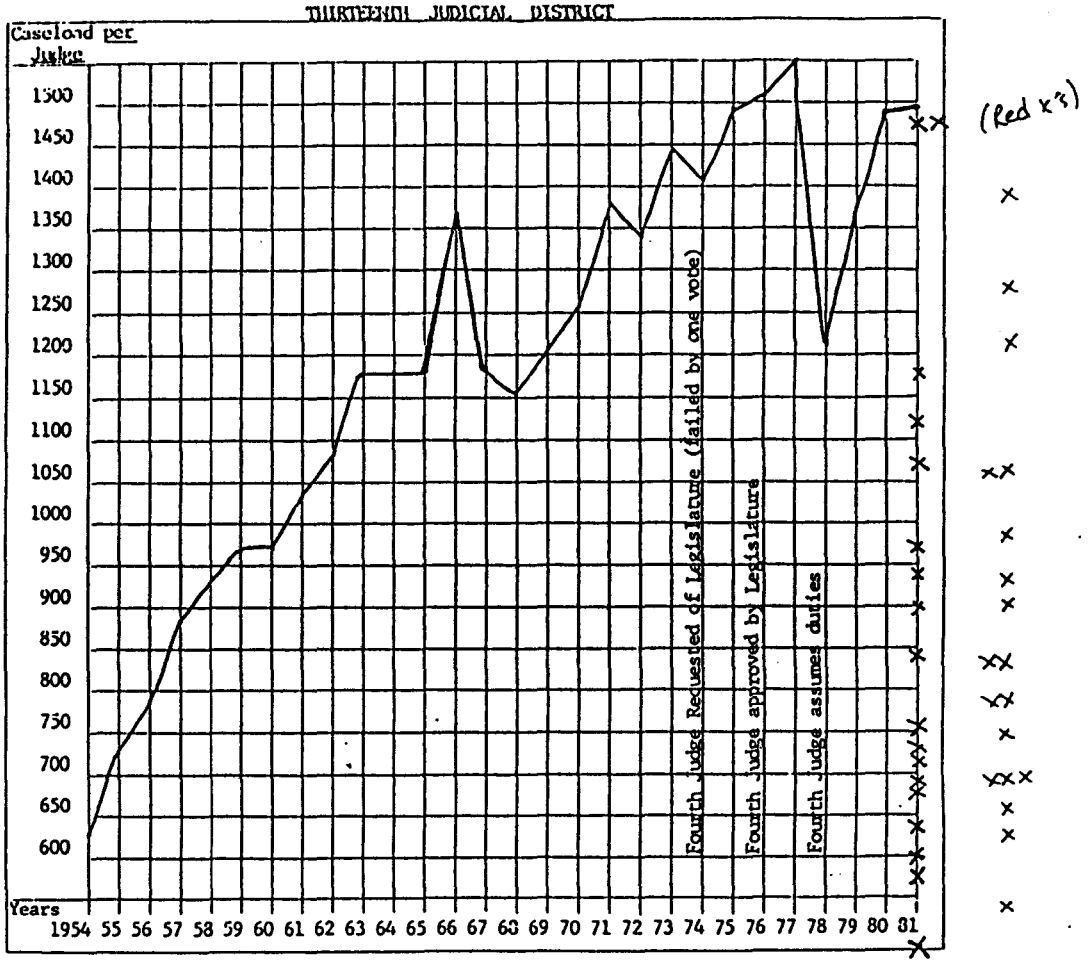
Exhibit C
HB 471
1/31/83



KEY:
1. City of Billings
2. U. S. Census Bureau
3. Billings Chamber of Commerce
4. Billings Chamber of Commerce
5. U. S. Census Bureau
6. Billings Chamber of Commerce
7. Billings Chamber of Commerce
8. Billings Chamber of Commerce

Submitted by Judge Wilson of Billings

Exhibit D
HB 471
1/31/83



KEEFER, ROYBAL, HANSON, STACEY & JARUSSI
ATTORNEYS AT LAW
P.O. BOX 1475
SUITE 412 HART ALBIN BUILDING
BILLINGS, MONTANA 59103

NEIL G. KEEFER
J. DWAINE ROYBAL
EARL J. HANSON
CALVIN J. STACEY
GENE E. JARUSSI

PHONE 259-4648
AREA CODE 406

Exhibit E
HB 471
1/31/83

January 10, 1983

Senate Judiciary Committee
Montana State Senate
State Capitol
Helena, Montana 59601

Gentlemen:

I am writing this letter in my capacity as Vice-President of the Yellowstone County Bar Association. The letter is written to set forth for the benefit of the Committee the position of the Yellowstone County Bar Association upon Senate Bill No. 26 entitled:

> "An Act to Alter Certain Judicial District Boundaries and to Change the Number of Judges in Certain Judicial Districts; providing for the Election of New Judges; providing Abbreviated Terms of Office for Certain Judges; Amending §§ 3-5-101, 3-5-102, and 3-5-203, MCA; and providing a Termination Date and Effective Dates."

I have been advised that Senate Bill 26 has been set for hearing on Friday, January 14, 1983, at 10:00 a.m. Please file this letter with the Committee records as setting forth the official position of the Yellowstone County Bar Association.

The Yellowstone County Bar Association opposes Senate Bill No. 26 as presently constituted, for the reason that the proposed Bill simply does not address the judicial case load problem faced by the 13th Judicial District, principally Yellowstone County. I made the position of the Yellowstone County Bar Association clear to the Legislative Council, by letter of October 15, 1982, a copy of which is enclosed.

The judicial case load problem in Yellowstone County is very bad and is getting worse each year. Last year there were 5,065 case filings in Yellowstone County. There were 362 case filings in Big Horn County. This totals 5,427 case filings. This means that each one of the four existing district judges has a case load of 1,356.75 cases.

The case load is becoming greater. The economic growth of the Yellowstone County area means that case filings increase each year. In addition, the type of case that economic growth and population growth generate, are cases that require an in-

ordinate amount of judicial time. This is true for both Yellowstone and Big Horn Counties.

The proposal of the redistricting Bill to remove Stillwater County (187 case filings) and Carbon County, (299 case filings) and add these counties to the 6th Judicial District, and give that district one additional judge, does not solve the case load of 1,356 cases per judge that would be left in the 13th Judicial District. It likewise does not address the problem of a rapidly expanding case load over the next several years in the 13th Judicial District occasioned by economic activity and population growth.

This is a matter of great concern to the Yellowstone County Bar Association. Our four district judges are working at capacity. They are likewise faced with an expanding case load that will inevitably arise from expanding population and increased economic activity. This is of great concern to the Yellowstone County Bar Association as the Association is deeply concerned about maintaining a viable district court system in the 13th Judicial District.

The Yellowstone County Bar Association takes no position on the removal of Treasure County from the 13th Judicial District, because of the very low case load. Treasure County can no doubt be handled much better from the 16th Judicial District. Stillwater County and Carbon County do not have a large case load in any event. There is considerable feeling that since these two counties are in the Billings economic orbit, that they could be served much better by Billings judges, than by a judge living in Livingston.

The basic problem remains. Yellowstone County alone has over 5,000 case filings per year and that is increasing. Likewise, Big Horn County currently has 362 case filings, and these cases are of a nature that take considerable judicial time. The recommendation of the Yellowstone County Bar Association is as follows:

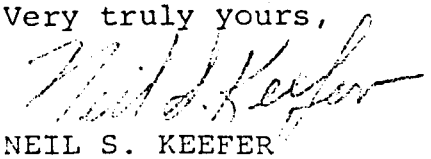
Retain Stillwater and Carbon Counties in District 13. Delete the proposed extra judge in District 6. Do one of two things in District 13 - either add an additional district judge for this district as currently constituted, or make provision to ease the case load. There are two Bills that have been proposed that would accomplish this. One Bill would add a referee to hear family, youth and probate court matters. This referee would be under the supervision of the district court. A great deal of judicial time would be saved. The second proposal is a bill for greater utilization of retired district judges. This Bill would apply to retired judges or those who had voluntarily retired after 12 years service. There are a number of these judges in the area at this time and properly utilized they could handle a large number of excess cases.

The basic problem is the large judicial case load per judge in Yellowstone County. The solution is not to add a judge in the 6th Judicial District and remove two counties with relatively

minor case loads from the 13th Judicial District and add those counties to the 6th Judicial District. The most cost effective interim solution would be to enact the referee Bill and enact the Bill allowing greater utilization of retired judges. The alternate solution would be simply to add an additional judge to the existing 13th Judicial District.

I am certain that the Legislative Council gave this matter considerable thought on a state wide basis. However, it is the unanimous position of the Yellowstone County Bar Association that the problems faced by the judiciary in Yellowstone County were simply not addressed. The Yellowstone County Bar Association accordingly opposes the judicial redistricting plan as presently constituted, insofar as it affects the 13th Judicial District. The Yellowstone County Bar Association likewise will go on record as supporting the referee Bill and the greater utilization of retired judges Bill. Both of these Bills, if passed, will go a long way toward easing the judicial time required with the current case load. It would likewise seem that both of these proposals are cost effective and would be much cheaper than the creation of an additional district judge in the 6th Judicial District. It would be appreciated if the Committee would take note of our position and give our position consideration.

Very truly yours,



NEIL S. KEEFER

NSK/pw
cc: Yellowstone County District Judges
Yellowstone County Senators

Exhibit F
NB 471
1/31/83

County attorney moves to counter court 'crisis'

By PATRICIA ELICH
Of The Gazette Staff

The busiest prosecutor in the state has declared an emergency.

County Attorney Harold Hanser says his office is so overburdened he must apply a priority system to his workload, even if it means sacrificing some cases in favor of others.

In a memo earlier this year, Hanser informed his staff that he would concentrate on only about 20 of the most crucial cases to come into his office.

With 10 lawyers to handle more than 1,600 felony and misdemeanor cases a year, Hanser's office has a much larger caseload per lawyer than any other firm in Billings, according to local lawyers.

To streamline operations, Hanser has arranged bi-monthly meetings with the county's public defenders to discuss which cases should go to trial and which cases should be disposed of with deferred sentencing or prosecution.

This might seem like inviting the enemy into your camp. But public defenders and prosecutors always consult on cases. By heightening the cooperation, Hanser hopes to make a clogged court system flow more freely.

But Hanser has also instructed his staff to avoid plea bargaining for defendants who have committed a prior felony.

Such a stance will probably force more defendants to trial, which may seem to work in opposition to the prosecutor's goal of trimming the fat off the court calendar. But Hanser predicts the additional caseload will be minimal and he maintains the plan will put repeat offenders in prison instead out on the streets to commit more crimes.

Hanser hopes his new procedures will alleviate crowding, not only in his office, but in Yellowstone County's court system as a whole. The district judges of this county

(More on Courts, Page 10A)

Wednesday
January 26, 1983
Billings, Montana
99th Year, No. 270
Single Copy 25¢

Courts

From Page One

have a higher caseload than those in any other district in the state, he said.

With the county's population projected to climb higher in the next few years, Hanser warns that this area's court system is in a "crisis."

The county attorney has also come up with a potentially controversial measure to lessen crowding in the County Jail. With any sentence exceeding 30 days, the prosecution will recommend sending the defendant to Montana State Prison. Up until now, a convicted felon could serve sentences of as much as 90 days in the jail.

Despite some reservations, the public defenders who must contend with Hanser's new policies say they are grateful that someone has decided to do something about the frustrations of the county's court system.

"I agree with what he is trying to do very much," public defender Allen Beck said. "He is trying to organize the flow of cases. His office handles more filings than any office in town."

According to Beck, if Hanser can improve the handling of criminal cases, the benefits will extend beyond the world of felons and defense attorneys. As Beck pointed out, a change in how criminal cases are handled could improve the current problems of the civil-case schedule.

At present, a judge may have as many as six or eight cases scheduled on a particular day. Cases are scheduled in bunches, because invariably a trial or hearing will have to be delayed for one reason or another. Criminal cases are always given precedence, with civil cases scheduled afterward.

If a lawyer has a trial listed, say, fourth on the calendar, he has little idea whether the trial will actually take place on that day or not.

"What do we tell our witnesses?" Beck asked. In civil matters such as accident claims, he said, technical experts from out-of-state often have to be called.

"People are waiting years to settle insurance claims," he said. "The longer the case is delayed, the smaller the settlement becomes, because people get desperate."

Hanser hopes he can dispose of marginal criminal cases and devote the necessary time and attention to more crucial crimes. In return, he said, he will demand that his priority cases receive hard-and fast court dates.

In the past year or so, many cases, including rape and homicide trials, have dragged on for months because of various motions and continuances. Again, Hanser said, this places a sometimes impossible burden on witnesses, especially if they are reluctant to testify in the first place.

Hanser contends, and the defense lawyers agree, that by consulting with one another earlier in the proceedings, the two sides will be able to predict what delays might develop in the case.

Hanser said his plan is but the first step in what he hopes will be a total revamping of this county's court system. Hanser proposes splitting criminal matters from civil matters, which include divorces, contract disputes and damage suits. He said a district judge should be appointed solely to handle this area's criminal cases.

But that takes money, and Hanser is not optimistic about getting help from this year's Legislature.

"I wish for once the Legislature would look beyond politics and do what needs to be done," he said.

House BILL NO. 398

INTRODUCED BY T. Jensen Hannah J. Brown Keenan Nelson

BY REQUEST OF THE TASK FORCE ON CORRECTIONS Eck Del Brown Brand Menahan Strang

A BILL FOR AN ACT ENTITLED: "AN ACT TO ~~PROVIDE THAT VOLUNTARY INTOXICATION OR DRUGGED CONDITION IS NOT A DEFENSE TO ANY CRIMINAL OFFENSE AND CANNOT NEGATE A MENTAL STATE WHICH IS AN ELEMENT OF A CRIMINAL OFFENSE AND~~ TO CLARIFY THE TEST FOR RESPONSIBILITY FOR CONDUCT ENGAGED IN WHILE ~~INVOLUNTARILY~~ INTOXICATED OR DRUGGED; AMENDING SECTION 45-2-203, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 45-2-203, MCA, is amended to read:

"45-2-203. Responsibility — intoxicated or drugged condition. A person who is in an intoxicated or drugged condition is criminally responsible for conduct unless ~~such~~ condition is involuntarily produced ~~and deprives him of his capacity to appreciate the criminality of his conduct or to conform his conduct to the requirements of law.~~ An intoxicated or drugged condition may be taken into consideration in determining the existence of a mental state ~~which~~ that is an element of the offense only when the condition is involuntarily produced. A voluntarily induced intoxicated or drugged condition is not a defense to any ~~offense and may not be considered in determining the existence of a mental state that is an element of an offense.~~"

-End-

such condition deprives the person of the ability to have a particular state of mind that is an element of the offense charged.

INTRODUCED BILL

HB 398 gw

THM yes

HB 398 Exhibit G 1/31/83

the case under a theory of felony-murder, the finding of murder in the first degree must also be overturned.

Accordingly, the judgments of sentence are reversed and a new trial awarded.

EAGEN, J., filed a dissenting opinion in which JONES, C. J., and O'BRIEN, J., join.

EAGEN, Justice (dissenting).

In the past, this Court has never deviated from the position that voluntary intoxication, no matter how gross or long continued, neither exonerates nor excuses a person from his criminal acts. Commonwealth v. Tarver, 446 Pa. 233, 284 A.2d 739 (1971); Commonwealth v. Reid, 432 Pa. 319, 247 A.2d 783 (1968); Commonwealth v. Simmons, 361 Pa. 391, 65 A.2d 353 (1949); Commonwealth v. Cleary, 135 Pa. 64, 19 A. 1017 (1890). "If it were [so], all crimes would, in a great measure, depend for their criminality on the pleasure of their perpetrators, since they may pass into that state when they will." Keenan v. Commonwealth, 44 Pa. 55, 58 (1862). Today, however, the majority has adopted a new position which, in effect, will allow voluntary intoxication to serve as an excuse for criminal responsibility.

The rationale behind our long-standing rule as to voluntary ingestion of intoxicants and drugs is apparent. An individual who places himself in a position to have no control over his actions must be held to intend the consequences. Such a principle is absolutely essential to the protection of life and property. There is, in truth, no injustice in holding a person responsible for his acts committed in a state of voluntary intoxication. It is a duty which everyone owes to his fellowmen and to society, to preserve, so far as it lies in his own power, the inestimable gift of reason. If such reason is perverted or destroyed by fixed disease, though brought on by his own vices, the law holds him not accountable. But if by a voluntary act he temporarily casts off the restraints of reason and conscience, no wrong is done him if he is considered answerable for any injury which he, in that state, may do to others or to society. See generally, People v. Rogers, 18 N.Y. 9; 21 Am.Jur.2d, Criminal Law § 107.

While adhering to the above-mentioned rule, this Court has recognized there may be instances where an individual has voluntarily placed himself in a state of intoxication so as to be incapable of conceiving any intent. In those instances, we have permitted evidence of such intoxication to lower the *degree of guilt* within a crime, but only where the Legislature has specifically provided for varying degrees of guilt within a crime. Commonwealth v. Tarver, supra; Commonwealth v. Ingram, 440 Pa. 239, 270 A.2d 190 (1970); Commonwealth v. Brown, 436 Pa. 423, 260 A.2d 742 (1970); Commonwealth v. Walker, 283 Pa. 468, 129 A. 453 (1925); Commonwealth v. Eyler, 217 Pa. 512, 66 A. 746 (1907). Thus "[i]f the charge is *felonious* homicide, intoxication, which is so great as to render the accused incapable of forming a wilful, deliberate and premeditated design to kill or incapable of judging his acts and their consequences, may properly influence a finding by the trial court that no specific intent to kill existed, and hence to conclude the killing was murder in the second degree." [Emphasis in original.] Commonwealth v. Tarver, supra 446 Pa. at 239, 284 A.2d at 762. As the *Tarver* Court recognized, this exception to the general rule does not change the nature of the crime. Murder still remains murder. Only the degree of the crime has been affected. Because there exist no analogous degrees of robbery (and instantly burglary), the *Tarver* Court refused to extend this exception beyond the homicide area. To hold otherwise, and allow evidence of voluntary intoxication to negate the necessary specific intent required of both robbery and burglary, would permit an individual's voluntary intoxication to serve as a complete exoneration for all criminal acts committed while in that state. This cannot be tolerated.

The majority, while paying lip-service to the fundamental rule that voluntary intoxication is no defense to an individual's criminal acts, nevertheless sanctions such a defense. In ruling that evidence of voluntary intoxication can be offered for the purpose of negating the presence of the required specific intent in both robbery and burglary, the majority has, without good reason, discarded the traditional rule. It matters little that the majority regards such evidence as only bearing upon an element of the crime, the specific intent of the perpetrator, rather than serving as a defense to such crime. The end result is the same and no amount of legal jargon will make it otherwise. If a criminal defendant, charged with either robbery or burglary, is found by the jury, because of voluntary intoxication, not to have had the requisite specific intent, he must be found not guilty. Only a person blind to reality could fail to perceive that there is no practical difference between the admission of evidence to negate an element of the crime and the admission of evidence to constitute a defense. The end result is that human life and property would hardly be considered any longer as being under legal protection. An individual will, henceforth, be permitted to avail himself of his voluntary intoxication to exempt him from any legal responsibility which would attach to him, if sober. As one noted annotator said in speaking of voluntary intoxication as a defense to criminal responsibility, ". . . all that the crafty criminal would require for a well-planned . . . [robbery or burglary] would be a revolver in one hand to commit the deed, and a quart of intoxicating liquor in the other . . . ." 8 A.L.R.3d 1236, 1245 (1966). See also Commonwealth v. Ingram, supra 440 Pa. at 247, 270 A.2d at 194.

Today, all too many murderers, robbers, burglars, rapists and other felons escape the imposition of justice for unsound and unrealistic reasons. The present ruling of this Court widens that avenue of escape.

I emphatically dissent.

JONES, C. J. and O'BRIEN, J., join in this dissenting opinion.

KEY NUMBER SYSTEM

COMMONWEALTH of Pennsylvania

v.

Donald C. GRAVER, Appellant, et al.

Supreme Court of Pennsylvania.

March 18, 1975.

Commonwealth sought to enjoin the operation of a bar as a nuisance. The Court of Common Pleas, Civil Action-Equity for the County of Lancaster at Equity Docket No. 15, Page 189, William G. Johnstone, Jr., J., granted a preliminary injunction, and bar owner appealed. The Supreme Court, No. 360 January Term, 1973, Nix, J., held that the evidence was sufficient to support the decree continuing the preliminary injunction, and that the trial court did not err in permitting the admission of testimony of police officer who read from daily police logs listing various police officers' observations of conduct in the area of the bar.

Affirmed.

Eagen and Roberts, JJ., concurred in the result.

Manderino, J., filed a concurring opinion.

Exhibit I
HB 327
1/31/83

HB327/BCDII

Proposed Amendments to HB 327

1. Page 1, following line 22,

   Insert: "(c) may make a search limited to a package, briefcase, or other container carried by the person;"

   Renumber subsequent subsections."

2. Page 1, line 25

   Following: "person"

   Strike: "or has been concealed from full"

   Insert: "and is in full"

VISITOR'S REGISTER

HOUSE JUDICIARY COMMITTEE

BILL House Bill 350 DATE 1/31/83

SPONSOR Rep. Hammond

NAME	RESIDENCE	REPRESENTING	SUP-PORT	OP-POSE
H E Burgess	Helena	Board of Pardons	✓	
Curt Chisholm	"	DCRT Info	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITOR'S REGISTER

HOUSE JUDICIARY COMMITTEE

BILL House Bill 362 DATE 1/31/83

SPONSOR Rep. Sands

NAME	RESIDENCE	REPRESENTING	SUP-PORT	OP-POSE
Karla Gray		MTLA		X
Jack Sands		HD 68	✓	
L. A. Anderson				X
John G. Matsko		Self / Corr. Task Force	✓	
Rita Cabrini	Wolf Creek		✓	
Chris Palmer	Wolf Creek		✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITOR'S REGISTER

HOUSE JUDICIARY COMMITTEE

BILL House Bill 370 DATE 1/31/83

SPONSOR Rep. Sands

NAME	RESIDENCE	REPRESENTING	SUP-PORT	OP-POSE
Jack Sands		HD 68	✓	
John G. Mayer		Self/Com. Task Force	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITOR'S REGISTER

HOUSE JUDICIARY COMMITTEE

BILL House Bill 398 DATE 1/31/83

SPONSOR Rep. J. Jensen

NAME	RESIDENCE	REPRESENTING	SUP-PORT	OP-POSE
Karla Gray		MTLA	X as amended	
L.A. Anderson	Great Falls	"	X against 1/31/83	X
Rita Cabrin	Wolf Creek			
Chris Palmer	Wolf Creek			
John Maynard	A.G.		✓ as amended	
Karen Mikota	League of Women Voters		✓	
John G. Matsko		Self/Coal. Task Force	✓	
Rita Cabrin	Wolf Creek		✓	
Chris Palmer	Wolf Creek		✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

FORM CS-23

VISITOR'S REGISTER

HOUSE JUDICIARY COMMITTEE

BILL House Bill 403 DATE 1/31/83

SPONSOR Rep. Hand

NAME	RESIDENCE	REPRESENTING	SUP-PORT	OP-POSE
Sully, J.	Bozeman	S.P. Officers - Retired		

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITOR'S REGISTER

HOUSE JUDICIARY COMMITTEE

BILL House Bill 453 DATE 1/31/83

SPONSOR Rep. Hansen

NAME	RESIDENCE	REPRESENTING	SUP-PORT	OP-POSE
Karla Gray		MTLA		X
CHAD SMITH	Helena Box 604	Mont Hosp Assn	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITOR'S REGISTER

HOUSE JUDICIARY COMMITTEE

BILL House Bill 471 DATE January 31, 1983

SPONSOR Rep. Addy

NAME	RESIDENCE	REPRESENTING	SUP-PORT	OP-POSE
Robt. H. Wilson	Billings, MT	13th Judicial District	✓	
Harold Hanser	Billings	Yell County atty	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.