

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
February 17, 1983

The thirtieth meeting of the Senate Judiciary Committee was called to order by Chairman Jean A. Turnage on February 17, 1983 at 10:07 a.m. in Room 325, State Capitol.

ROLL CALL: All members were present.

CONSIDERATION OF SENATE BILL 170: SB170 was re-referred from State Administration. It was initially introduced to repeal sections 70-30-321 and 70-30-322, but the State Administration Committee found the need to include additional sections which specify that if an eminent domain situation existed the property would revert. Senator Marbut explained the intent of the 1981 legislature when adopting these laws. Senator Towe reviewed two possible legal theories to explain the interest taken by eminent domain: (1) you take a fee simple interest, or (2) you don't get a fee simple interest. He advised that SB170 in its amended form attempts to clear up the situation in which the state attempts to retain property even though it is no longer used for a highway. In this situation, the bill will give the landowner his property back. The last two sections of the amended version of SB170 will not interfere with sections 1 and 2. Sections 1 and 2 show what the legislature intended in 1981. Section 4 assures that the landowner will get his land back if eminent domain procedure is used.

OPPONENTS: Mike Zimmerman, representing the Montana Power Company, supported the bill in its introduced form as a repealer, but opposed the amended form. He stated that it now intends to unfairly take the condemnee's property interest (see witness statement Exhibit "A").

PROPOSERS: John Holter, representing the Montana Farm Bureau Federation, strongly supported the bill and recommended that the Committee give it a do pass recommendation (see witness statement Exhibit "B").

There being no further proponents or opponents, the hearing was opened to questions from the Committee.

The Committee discussed the addition of the new sections and did not feel there had been a violation of the constitutional prohibition against changing the purpose of a bill, as the amended bill appeared to do what the introduced bill intended. Senator Marbut advised that the Montana courts are holding decisions for this legislation. Senator Towe stated that the amendments merely clarify the law and make technical corrections to accomplish what was intended by the 1981 legislature. Chairman Turnage

was concerned with the constitutionality that no property shall be taken without just compensation but advised this would be discussed at a later time.

There being no further discussion, the hearing was closed.

CONSIDERATION OF SENATE BILL 393: Senator Daniels advised that his witness was still not available and requested that the hearing be deferred until February 18. The Committee acknowledged this request.

CONSIDERATION OF SENATE BILL 409: Senator Berg advised that he was sponsoring this bill at the request of the Department of Justice and introduced Margaret Johnson who would present the bill.

PROPOSERS: Margaret Johnson, an Assistant Attorney General, advised that SB409 will amend Section 46-18-203 by removing the phrase "during the period of the suspended sentence or deferred imposition of sentence." It will also add a new subsection which will permit the court to retain jurisdiction even after the suspended or deferred imposition has run, if a petition is filed within the period of the suspension or deferral. This bill will clarify the law in regards to requiring a petition. (See written testimony Exhibit "C") A proposed amendment was also distributed which would amend the title to reflect the changes in the bill.

There being no further proponents, no opponents, and no questions from the Committee, the hearing was closed and moved into executive session.

ACTION ON SENATE BILL 409: Senator Galt moved to adopt the amendments as proposed. This motion passed unanimously. Senator Mazurek moved SB409 DO PASS AS AMENDED. This motion also passed unanimously.

CONSIDERATION OF SENATE BILL 433: Senator Brown, sponsor of this bill, advised that it revises the laws concerning property exempt from execution. Professor McDonald at the Law School felt there was a need to update these laws and therefore has rewritten this section of the Code. Because of the short notice given for the hearing, Professor McDonald was unable to be present to testify. Therefore, Senator Brown requested that the hearing be deferred until February 18. The Committee acknowledged this request.

The Chairman announced that the Committee was ready to consider executive action on several bills previously heard.

FURTHER CONSIDERATION OF SENATE BILL 348: Senator Mazurek moved to TABLE SB348. Senator Shaw stated that he felt the bill was broad, but that it did have merit. Senator Daniels agreed with the merit of SB348, but felt the dust should settle on Judge Bennett's decision before any action is taken. The Committee agreed with this assessment and deferred any action.

ACTION ON HOUSE BILL 323: Senator Mazurek was concerned with how a judge's vacancy would be filled if the no vote wins. Senator Daniels advised that some cities appoint their judges. Senator Daniels didn't see the need for this legislation and moved HB323 BE NOT CONCURRED IN. This motion passed unanimously.

ACTION ON SENATE BILL 348: The Committee agreed that this bill should be laid to rest in order to eliminate polarization of interest groups. Senator Mazurek again moved to TABLE SB348. This motion passed with Senators Galt and Shaw voting in opposition.

ACTION ON SENATE BILL 155: Counsel distributed and reviewed the proposed amendments with the Committee. The bill in its amended form would address the issue of true abandonment by the state of highway property. Senator Crippen moved to adopt the amendments. Chairman Turnage suggested including a definition of abandonment. Committee counsel explained the effect this change would have on the Department's ability to sell the property. Senator Crippen moved to adopt the prepared amendments and to include a definition for abandonment as follows: "for the purposes of this section, abandoned shall include a determination by the commission that the property is no longer necessary for highway purposes whether or not it has been offered for sale." This motion passed unanimously. Senator Crippen then moved SB155 DO PASS AS AMENDED. This motion also passed unanimously.

ACTION ON SENATE BILL 366: Counsel distributed two amendment proposals. Option 1 would eliminate the waiver from mandatory requirement for uninsured motorist coverage. Option 2 is a compromise between Option 1 and the bill as originally introduced. It would eliminate the waiver provision, but include language similar to that as introduced (see proposed amendments, Exhibits "D" and "E"). The Committee debated the two options at length and finally concluded that Option 1 was the most appropriate as it would coincide with the mandatory requirement for liability. Senator Crippen moved to amend the bill as proposed in Option 1. This motion passed with Senators Halligan and Berg voting in opposition. Senator Crippen then moved that SB366 DO PASS AS AMENDED. This motion resulted in a tie.

Senator Berg then moved SB366 DO NOT PASS. This motion carried with Senators Galt, Mazurek, Crippen and Turnage voting in opposition.

ACTION ON SENATE BILL 385: The Committee discussed the need for this bill and how requiring inspection of vehicles for identification numbers would cause additional work and expense for innocent owners. Senator Halligan moved SB385 DO NOT PASS. This motion carried unanimously.

ACTION ON SENATE BILL 388: Counsel distributed amendments and reviewed how the amendment would take the power away from the commission for it to act upon its own motion. Senator Berg moved to adopt the proposed amendment. This motion passed unanimously. Senator Berg then moved SB388 DO PASS AS AMENDED. This motion also passed unanimously.

ACTION ON HOUSE BILL 327: The Committee agreed that shoplifting is a problem, but felt this was a bad bill. The idea that a merchant could frisk a person in private concerned the Committee. It was the consensus of the Committee that it would take too much work to reword the bill; therefore, Senator Berg moved SB327 BE NOT CONCURRED IN. This motion carried with Senator Crippen voting in opposition.

ACTION ON HOUSE BILL 452: Amendments were distributed that would assure the results of a polygraph test could not be admitted into evidence during the course of a trial. The bill would still provide that a polygraph examiner must be licensed and subject to continuing education. Senator Crippen moved to adopt the proposed amendments. This motion carried unanimously. Senator Crippen then moved that HB452 BE CONCURRED IN AS AMENDED. This motion carried with Senators Shaw, Mazurek, Daniels and Galt voting in opposition.

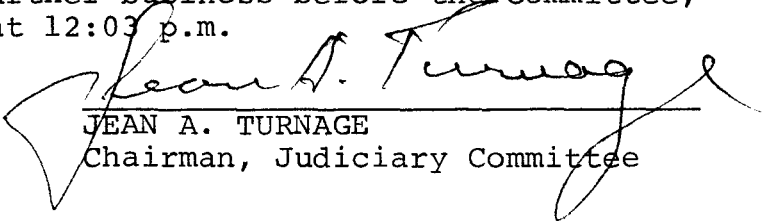
ACTION ON HOUSE BILL 143: It was the consensus of the Committee that this was not a good bill. Senator Berg moved HB143 BE NOT CONCURRED IN. This motion carried with Senator Hazelbaker voting in opposition.

ACTION ON SENATE BILL 313: Senator Mazurek moved that SB313 BE TAKEN FROM THE TABLE. This motion passed unanimously. The Committee then amended the bill to remove the authority from the arresting officer to revoke or suspend the license and to decrease the period of suspension and revocation. Senator Halligan moved to adopt the amendments. This motion passed unanimously. Senator Halligan then moved SB313 DO PASS AS AMENDED. This motion passed unanimously.

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RECONSIDERATION OF SENATE BILL 366: The Committee felt they should reconsider their action on SB366. Senator Crippen moved to TABLE SB366. This motion carried unanimously.

ADJOURN: There being no further business before the Committee, the meeting was adjourned at 12:03 p.m.



JEAN A. TURNAGE
Chairman, Judiciary Committee

JUDICIARY COMMITTEE

Date 2-17-83

[illegible]

DATE 2-17-83

COMMITTEE ON Judiciary

VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretary)

EXHIBIT "A"
February 17, 1983

WITNESS STATEMENT

Name Michael E. Zimmerman Committee On Judiciary
Address 40 E. Broadway Date 2-17-83
Representing The Montana Power Company Support _____
Bill No. SB 170 - Amended Oppose X
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. The focus of the MPPC's objection to SB 170 is the new sections 3 and 4 added by the Senate State Administration Committee. We believe these amendments
2. ignore an important fact. Unless the compensation paid to the condowner reflects an adjustment for the reversionary interest, the condowner's property interest will be unfairly taken in the operation of this
3. law. We believe §§ 3 & 4 ignore the fact that the condowner paid FMV for the property interest he acquired.
- 4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

EXHIBIT "B"
February 17, 1983

NAME: John Holter DATE: 17 Feb 83

ADDRESS: Bozeman

PHONE: _____

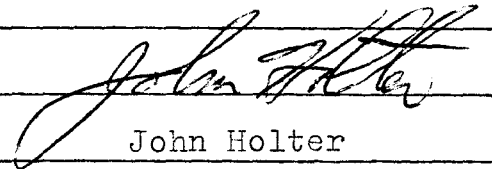
REPRESENTING WHOM? Montana Farm Bureau Federation

APPEARING ON WHICH PROPOSAL: SB-170

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

COMMENTS: Mr. Chairman ,

The Montana Farm Bureau Federation was made aware for the
need for this kind of legislation last fall. MFBF has policy
which SB-170 addresses. MFBF recommends a do pass report
on SB-170.



John Holter

Montana Farm Bureau

Federation

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

EXHIBIT "C"
February 17, 1983

TESTIMONY OF MARGARET M. JOYCE JOHNSON

ASSISTANT ATTORNEY GENERAL

REGARDING SENATE BILL 409

Section 46-18-203 of the Montana Code Annotated in its present form permits a judge to revoke a suspended or deferred sentence "during the period of the suspended sentence or deferred imposition of sentence." That phrase was interpreted by the Montana Supreme Court in the 1981 case of FELIX v. MOHLER, 636 P.2d 830 (copy attached). The Court held that the filing of a petition to revoke the sentence during the period of the suspension or deferral was insufficient to vest the sentencing court with jurisdiction to revoke if the court was unable to act and hold a hearing before the sentence had run. Although that interpretation of the statute certainly accords with the literal wording of the statute, brief analysis shows that that could not have been the intent of the legislature in enacting that provision. Such an interpretation effectively gives probationers serving a suspended sentence or for whom imposition of sentence was deferred, a carte blanche to violate the conditions of their probation at any time during the final days of their probation because the court will be unable to hold a hearing on the petition

"C"
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even if a petition to revoke is filed during the period of suspension or deferral.

To rectify that situation, the Department of Justice has requested that Senate Bill 409 be introduced to amend Section 46-18-203 and remove from the statute the phrase "during the period of the suspended sentence or deferred imposition of sentence" which the Court interpreted in *FELIX v. MOHLER*. The bill also adds a new subsection (2) to the statute specifically permitting a sentencing court to act upon a petition to revoke either a suspended sentence or a deferred imposition of sentence even after the period of suspension or deferral has run as long as the petition is filed within the period of suspension or deferral.

The proposed amendment is made applicable to all petitions filed after the effective date of the act and the act is made effective upon passage and approval by the Governor. As originally proposed, the title to this bill began, "AN ACT TO CLARIFY THE LAW REGARDING THE REVOCATION OF A DEFERRED OR SUSPENDED SENTENCE . . . etc." We would propose that the title again be amended to reflect that this bill is intended to clarify what has always been the only reasonable intent of the legislature regarding revocation of a deferred or suspended sentence, i. e. (1) that anytime a probationer

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violates the conditions of his probation during the period of deferral or suspension, he is subject to having that sentence revoked, whether or not the court in question is able to hold a hearing on the petition to revoke during the period of suspension or probation and (2) that a probationer cannot with impunity violate the conditions of his probation in its final days simply because the sentencing court's calendar and the requirements of due process do not permit the holding of a hearing on the petition during the remaining days of the period of suspension of deferral or suspension. Failure to comply with the conditions of probation and prompt action by the State in petitioning the sentencing court to revoke the suspension or deferred imposition of sentence should suffice to permit the sentencing court to act on the merits of that petition and revoke the sentence if the claimed violations of probation are found to have occurred.

Aaron FELIX, Petitioner,

v.

Mel MOHLER, Director, Swan River
Youth Forest Camp, for the State
of Montana, Respondent.

No. 81-340.

Supreme Court of Montana.

Submitted on Briefs Oct. 22, 1981.

Decided Nov. 12, 1981.

Habeas corpus proceeding was brought to secure release of petitioner from restraint under district court order revoking a three-year deferred sentence and imposing a three and one-half-year sentence. The Supreme Court, Morrison, J., held that statute governing revocation of suspended or deferred sentence grants jurisdiction to courts to revoke suspended or deferred sentences only during the period of such sentences.

Writ granted.

1. Criminal Law \S 982.9(2)

Action by judge, magistrate, or justice of the peace to revoke suspended or deferred sentence outside the provisions of statute governing revocation of suspended or deferred sentence is without jurisdiction. MCA 46-18-203.

2. Statutes \S 190

If statute is plain, unambiguous, direct and certain, statute speaks for itself and there is nothing left for court to construe.

3. Criminal Law \S 982.9(2)

Statute governing revocation of suspended or deferred sentence grants jurisdiction to judges, magistrates, or justices of the peace to revoke suspended sentences or impose sentences following deferred sentences only during period of suspended or deferred sentences, regardless of whether petition for revocation has been filed prior to termination of such sentence. MCA 46-18-203.

Patterson, Marsillo, Tornabene & Schuyler, Missoula, for petitioner.

Mike Greely, Atty. Gen., Helena, Edward P. McLean, Deputy County Atty., Missoula, for respondent.

11-1-83
MORRISON, Justice.

Petitioner, Aaron Felix, applies for a writ of habeas corpus stemming from an order of the Fourth Judicial District Court entered on May 27, 1981. This order revoked a three year deferred sentence given petitioner on May 22, 1978 and imposed a three and one-half year sentence at the Montana State Prison upon petitioner.

Petitioner was convicted of theft, a felony, in the District Court of the Fourth Judicial District, Missoula County. On May 22, 1978, he was given a three year deferred imposition of sentence on the condition that restitution be made.

On August 20, 1979, this deferred sentence was continued and petitioner was ordered to complete restitution by November 5, 1980. Petitioner failed to comply with this order by November 5, 1980, and a petition to revoke petitioner's deferred sentence was filed on January 16, 1981. A hearing on this petition was held May 27, 1981, three years and five days after the initial deferral.

At this hearing, petitioner moved to dismiss the proceeding on the grounds that the District Court was without jurisdiction. The District Court overruled petitioner's objection concluding that the Court retains "... jurisdiction (when) the petition is filed within the (deferral) time."

The District Court sentenced petitioner to three and one-half years in the Montana State Prison. Petitioner has been incarcerated since, either at the Montana State Prison or the Swan River Youth Forest Camp.

Petitioner raises the following issue:

1) Whether a District Court retains jurisdiction to revoke a deferred imposition of sentence beyond the time period of deferral if a petition to revoke is timely filed?

In *State v. Porter* (1964), 143 Mont. 528, 540, 541, 391 P.2d 704, 711, this Court stated that:

"[t]his state is committed to the doctrine that once a valid sentence has been pronounced, the court imposing the same is lacking in jurisdiction to vacate or modify the sentence, *except as otherwise provided by statute* ..." (Emphasis added.)

[1] Section 46-18-203, MCA, is a specific procedural statute granting judges, magistrates, or justices of the peace authority to revoke a suspended sentence or impose sen-

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tence following a deferred imposition of sentence. Section 46-18-203, MCA, provides:

"Revocation of suspended or deferred sentence. A judge, magistrate, or justice of the peace who has suspended the execution of a sentence or deferred the imposition of a sentence of imprisonment under 46-18-201 or his successor is authorized, *during the period of the suspended sentence or deferred imposition of sentence, in his discretion, to revoke the suspension or impose sentence and order the person committed.* He may also, in his discretion, order the prisoner placed under the jurisdiction of the board of pardons as provided by law or retain such jurisdiction with his court. Prior to the revocation of an order suspending or deferring the imposition of sentence, the person affected shall be given a hearing." (Emphasis added.)

This authority must be exercised in accordance with the precise provisions of this section; action by a judge, magistrate, or justice of the peace outside the provisions of

Section 46-18-203, MCA, is without jurisdiction. *State v. Porter*, supra.

The controlling language in Section 46-18-203, MCA, is "... during the period of such suspended sentence or deferred imposition of sentence..." Determining the meaning of this phrase disposes of this petition.

[2, 3] It is well settled that if a "... statute is plain, unambiguous, direct and certain, the statute speaks for itself and there is nothing left for the court to construe." *Shannon v. Keller* (1980), Mont., 612 P.2d 1293, 1294, 37 St.Rep. 1079, 1081. Such is the case before this Court. The words "during the period" are extremely plain and unambiguous. The clear import is that a court is vested with jurisdiction to revoke a suspended or deferred sentence *only* during the running of the suspended or deferred sentence. Once such time has expired a court is without jurisdiction to decide petitions for revocation filed by the State.

The State requests this Court to construe Section 46-18-203, MCA, to mean that a timely filed petition for revocation vests jurisdiction in the Court, regardless whether the hearing on such petition is held after the suspended or deferred sentence has ex-

pired. The State relies on decisions from Nevada and Oklahoma in support of this contention. See *Sherman v. Warden, Nevada State Prison* (1978), Nev., 581 P.2d 1278; *Degraffenreid v. State* (1979), Okl.Cr., 599 P.2d 1107.

These authorities are not in point. Nevada and Oklahoma have statutory provisions which vest jurisdiction in the courts for purposes of revocation of suspended or deferred sentences upon the filing of a petition for revocation. Therefore a timely filed petition of revocation in these states vests jurisdiction in courts when the time of the suspended or deferred sentence has run.

Montana's statute pertaining to revocations of suspended or deferred sentences, Section 46-18-203, MCA, contains no language stating that a timely filed petition for revocation invokes a court's jurisdiction over these matters. It is axiomatic that this Court cannot insert what the legislature has not statutorily included. Section 1-2-101, MCA.

In conclusion, we hold that Section 46-18-203, MCA, grants jurisdiction to judges, magistrates, or justices of the peace to revoke suspended sentences or impose sentences following deferred sentences *only* during the period of the suspended or deferred sentences. This jurisdiction extends *only* through the running of the suspended or deferred sentence, regardless of whether a petition for revocation has been filed prior to the termination of the suspended or deferred sentence.

Therefore, petitioner's request for a Writ of Habeas Corpus is granted. It is hereby ordered that such writ issue immediately and that petitioner be discharged from the custody of the Swan River Youth Forest Camp.

HASWELL, C. J., and DALY, HARRISON and SHEA, JJ., concur.

EXHIBIT "D"
February 17, 1983

Amendments to SB 366

Option 1

1. 1 Title, lines 4 through 9.

Following: "AN ACT"

Strike: lines 4 through 9 in their entirety

Insert: "DELETING THE CURRENT PROVISION FOR WAIVER OF
UNINSECURED MOTORIST COVERAGE; AMENDING SECTION 33-23-201,
MCA."

2. Pages 1 and 2.

Strike: all of the bill following the enacting clause

Insert: "Section 1. Section 33-23-201, MCA, is amended to read:

"33-23-201. Motor vehicle liability policies to include uninsured motorist coverage -- rejection by insured. ~~{1}~~ No automobile liability or motor vehicle liability policy insuring against loss resulting from liability imposed by law for bodily injury or death suffered by any person arising out of the ownership, maintenance, or use of a motor vehicle shall be delivered or issued for delivery in this state, with respect to any motor vehicle registered or principally garaged in this state, unless coverage is provided therein or supplemental thereto, in limits for bodily injury or death set forth in 61-6-103, under provisions filed with and approved by the commissioner, for the protection of persons insured thereunder who are legally entitled to recover damages from owners or operators of uninsured motor vehicles because of bodily injury, sickness, or disease, including death, resulting therefrom.

(2) ~~The--named--insured--shall--have--the--right--to--reject--such coverage---Unless--the--named--insured--requests--such--coverage in--writing,--such--coverage--need--not--be--provided--in--or supplemental--to--a--renewal--policy--where--the--named--insured--had rejected--the--coverage--in--connection--with--the--policy previously--issued--to--him--by--the--same--insurer--"~~

EXHIBIT "E"
February 17, 1983

Amendments to SB 366

Option 2

1. Title, line 8.

Following: "VEHICLES"

Insert: "DELETING THE CURRENT PROVISION FOR WAIVER OF UNINSURED MOTORIST COVERAGE;"

2. Title, line 9.

Strike: "33-23-203"

Insert: "33-23-201"

3. Page 1, line 12.

Strike: "33-23-203"

Insert: "33-23-201"

4. Page 1, lines 13 through line 19 on page 2.

Strike: lines 13 through 19 in their entirety

Insert: "33-23-201. Motor vehicle liability policies to include uninsured motorist coverage -- ~~rejection-by-insured exception.~~ (1) No Except as provided in subsection (2), no automobile liability or motor vehicle liability policy insuring against loss resulting from liability imposed by law for bodily injury or death suffered by any person arising out of the ownership, maintenance, or use of a motor vehicle shall be delivered or issued for delivery in this state, with respect to any motor vehicle registered or principally garaged in this state, unless coverage is provided therein or supplemental thereto, in limits for bodily injury or death set forth in 61-6-103, under provisions filed with and approved by the commissioner, for the protection of persons insured thereunder who are legally entitled to recover damages from owners or operators of uninsured motor vehicles because of bodily injury, sickness, or disease, including death, resulting therefrom.

(2) ~~The--named--insured--shall--have--the--right--to--reject--such coverage---Unless--the--named--insured--requests--such coverage in--writing,--such coverage need not be provided in or supplemental to a renewal policy where the named--insured had rejected--the--coverage--in--connection with the policy previously issued to him by the same insurer.~~ A motor vehicle liability policy may exclude from uninsured motorist coverage injuries arising out of an accident involving a motor vehicle, owned by a person insured under such policy, for which no uninsured motorist premium has been paid."

STANDING COMMITTEE REPORT

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PRESIDENT

MR.

We, your committee on Judiciary

having had under consideration Senate Bill No. 409

Berg

Respectfully report as follows: That Senate Bill No. 409

introduced bill, be amended as follows:

1. Title, line 5.

Following: "AN ACT"

Insert: "CLARIFYING THE LAW REGARDING THE REVOCATION OF A DEFERRED
OR SUSPENDED SENTENCE;"

And, as so amended,

DO PASS

STANDING COMMITTEE REPORT

February 17 19 83

PRESIDENT

MR.

We, your committee on **Judiciary**

having had under consideration **House** Bill No. **323**

Veleber (Daniels)

Respectfully report as follows: That **House** Bill No. **323**
third reading bill,

BE NOT CONCURRED IN

~~D&XXXX~~

STANDING COMMITTEE REPORT

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MR. **PRESIDENT**

We, your committee on **Judiciary**

having had under consideration **Senate** Bill No. **155**

McCallum

Respectfully report as follows: That **Senate** Bill No. **155**

introduced bill, be amended as follows:

1. Title, line 4.
Strike: "GIVING"
Insert: "VESTING"
2. Title, lines 5 through 7.
Following: "PROPERTY"
Strike: the remainder of line 5 and lines 6 and 7 in their entirety.
3. Title line 7.
Following: "MCA."
Insert: "WITH ANY INTEREST ABANDONED BY THE STATE IN PROPERTY
ACQUIRED FOR ESTABLISHMENT OF A HIGHWAY."

Continued on Page 2

And, as so amended,

DO PASS

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4. Page 1, line 10.

Strike: section 1 in its entirety.

Insert: "Section 1. Abandoned highway property -- title vests in contiguous owner. (1) Upon abandonment by the state in the manner provided in subsection (2), of an interest in real property acquired for the purpose of establishment of a highway, the owner of contiguous real property or his successor in interest is vested with the abandoned interest to the extent provided in subsection (3).
(2) For the purposes of this section:
(a) a fee simple interest may be abandoned only by the proper order of the commission; and
(b) an interest of less than fee simple may be abandoned in the manner provided in subsection (a), by operation of law, and by judgment of a court of competent jurisdiction.
(3) The interest acquired by the contiguous property owner under subsection (1) is the abandoned interest or portion of such interest:
(a) if there are different contiguous property owners on each side of the abandoned interest, bounded on one side by the contiguous property, and on the remaining 2 opposite sides by lines following the shortest distance from the extreme ends of the contiguous property to the center of the abandoned interest; and
(b) if the owners of the contiguous property on each side of the abandoned interest is one and the same, bounded on two opposite sides by the contiguous properties and on the two remaining opposite sides by lines following the shortest distance from the extreme ends of the contiguous property on one side of the abandoned interest to the extreme ends of the contiguous property on the other side of the abandoned interest.
(4) For the purpose of this section, an interest in property abandoned by a proper order of the commission includes an interest in property which the commission determines to be not necessary to the laying out, altering, construction, improvement, or maintenance of a highway, whether or not the commission determines to sell such interest."

And, as amended,

DO PASS

STANDING COMMITTEE REPORT

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MR. **PRESIDENT**

We, your committee on **Judiciary**

having had under consideration **Senate** Bill No. **385**

Stimatz

Respectfully report as follows: That **Senate** Bill No. **385**

DO NOT PASS

~~DO NOT PASS~~

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STANDING COMMITTEE REPORT

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MR. PRESIDENT

We, your committee on Judiciary

having had under consideration Senate Bill No. 388

Blgylock

Respectfully report as follows: That Senate Bill No. 388

introduced bill, be amended as follows:

1. Page 1, line 13.
Strike: "on its own motion or"
2. Page 1, line 21.
Strike: "adopt a verified written complaint or"
3. Page 2, line 1.
Strike: "commission's motion or the"
4. Page 2, line 4.
Strike: "adopted or"

And, as so amended,

DO PASS

4/c

STANDING COMMITTEE REPORT

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MR. **PRESIDENT**

Judiciary

We, your committee on

having had under consideration **House** Bill No. **327**

Bergene (Berg)

Respectfully report as follows: That **House** Bill No. **327**

third reading bill,

BE NOT CONCURRED IN

~~DO PASS~~

He

STANDING COMMITTEE REPORT

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MR. **PRESIDENT**

We, your committee on **Judiciary**

having had under consideration **House** Bill No. **452**

Daily (Crippen)

Respectfully report as follows: That **House** Bill No. **452**

third reading bill, be amended as follows:

1. Title, line 13.
Following: "COMMERCE;"
Insert: "PROHIBITING THE RESULTS OF A POLYGRAPH EXAMINATION FROM
BEING INTRODUCED OR ADMITTED INTO EVIDENCE;"
2. Page 8, line 5.
Strike: "Admissibility"
Insert: "Inadmissibility"
3. Page 3, line 6.
Strike: "Nothing in [sections 1 through 15] permits the"
4. Page 8, line 8.
Strike: "to"
Insert: "may not"

And, as so amended,

~~CONCURRED~~ BE CONCURRED IN

J/c

STANDING COMMITTEE REPORT

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MR. PRESIDENT

We, your committee on Judiciary

having had under consideration House Bill No. 143

Ernst (Turnage)

Respectfully report as follows: That House Bill No. 143

third reading bill,

BE NOT CONCURRED IN

~~DOXASSX~~

J.C.

STANDING COMMITTEE REPORT

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MR. PRESIDENT

We, your committee on Judiciary

having had under consideration Senate Bill No. 313

Halligan

Respectfully report as follows: That Senate Bill No. 313

introduced bill, be amended as follows:

1. Title, line 6.
Strike: "SUSPEND OR REVOKE"
Insert: "SEIZE"
2. Title, line 8.
Strike: "A PERIOD OF REVOCATION AND"
Insert: "FOR SUSPENSION OR REVOCATION OF THE LICENSE BY THE MOTOR
VEHICLE DIVISION;"
3. Page 2, lines 14 and 15.
Strike: "suspend" through "driver by"
4. Page 2, line 15.
Strike: "seizing"
Insert: "seize"

Continued on Page 2
And, as so amended,

DO PASS

He

5. Page 2, line 25,
Following: "~~60-days~~"
Insert: "Upon receipt of the report, the division shall suspend
the license for the period provided in subsection (5)"
6. Page 3, line 3.
Strike: "notice of suspension or revocation and a"
7. Page 3, line 8.
Strike: "6 months"
Insert: "90 days"
8. Page 3, line 12.
Strike: "1 year"
Insert: "6 months"
9. Page 3, line 14.
Strike: "have been served"
10. Page 3, line 17.
Strike: "notice and temporary"

And, as so amended,

DO PASS