

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
March 24, 1983

The fifty-first meeting of the Senate Judiciary Committee was called to order by Chairman Jean A. Turnage at 10:06 a.m., on March 24, 1983, in Room 325, State Capitol, Helena, Montana.

ROLL CALL: All members were present.

CONSIDERATION OF HOUSE BILL 609: Representative Spaeth testified that he has introduced this bill at the request of the Department of Justice. At the present time, there are two ways in which to identify a dead body--by fingerprints or dental records. Representative Spaeth stated that since many people have not been fingerprinted, especially women and children, and since fingerprints are not useful if a body has decomposed, dental records are often the only means by which a body can be identified. Representative Spaeth stated that other states have similar legislation as that proposed in HB609. Representative Spaeth introduced Mr. John Maynard, Assistant Attorney General.

PROPOSERS: Mr. John Maynard submitted a magazine article from FBI Law Enforcement Bulletin (see attached Exhibit "A") and testified that at the present time, there is no nationwide system to locate missing persons and no system by which records can be kept to try and identify a body. Mr. Maynard feels this system would be especially useful in a situation where an elderly or transient person has wandered off and is found in an area other than one near his home.

Mr. Roger Tippy, representing the Montana Dental Association, testified that HB609 was amended in the House to provide that when a missing person is located, all dental charts will be returned to the dentist. Mr. Tippy supports HB609 as amended.

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

CONSIDERATION OF HOUSE BILL 608: Representative Spaeth, sponsor of this bill, stated that he is sponsoring this bill at the request of the Department of Justice.

PROPOSERS: Mr. John Maynard, Assistant Attorney General, submitted written testimony from Margaret Johnson, Assistant Attorney General, (see attached Exhibit "B") supporting HB608. Mr. Maynard testified that the Supreme Court of the State of Montana would like to see the passage of HB608.

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

CONSIDERATION OF SENATE JOINT RESOLUTION 24: Senator Mazurek explained that Senate Joint Resolution 24 requests the Montana Supreme Court to establish a special committee to evaluate the existing venue statutes. This committee will be established by the Supreme Court and the State Bar. They will study the rules and see if they need to be updated to reflect reality. Senator Mazurek stated this study will not cost the State any money and will be done by people who deal with this subject on a daily basis. This Committee will report back to the Legislature with their findings. Senator Turnage reminded the Committee that this study will not be done by the Legislature.

There being no questions from the Committee, the hearing was closed.

CONSIDERATION OF HOUSE BILL 565: Representative Vinger testified that this bill has been introduced in previous sessions but has been unsuccessful. Representative Vinger pointed out that the date on page 1, line 12, is 1984, not 1934. He brought this to the attention of the Committee because the printing on the bill is not clear. Representative Vinger testified that this bill is proposed because of the number of documents being submitted to Clerks and Recorders for recordation that are illegible.

PROPOSERS: Mr. Bill Romine, representing the Clerks and Recorders Association, submitted written testimony (see attached Exhibit "C"), and circulated copies of documents which have been recorded to illustrate to the Committee the necessity of HB565. (See attached Exhibit "D"). Mr. Romine testified that the illegibility of recorded documents has caused many problems in attempting to clear titles. Mr. Romine also stated that many people come from out of town to the county seat and are frustrated when they can't read a document. Mr. Romine feels that since a notary can refuse to notarize an illegible document, a Clerk and Recorder should be allowed to refuse to record an illegible document. Mr. Romine testified that being required to record illegible documents is a primary problem for Clerks and Recorders of Montana.

Ms. Jeanne B. McFarlane, Jefferson County Clerk and Recorder, submitted written testimony (see attached Exhibit "E") and testified that much of the problem with documents comes from persons making copies from copies until the document is illegible. Ms. McFarlane feels that HB565 will help future landowners.

Ms. Lorraine Molitor of the Madison County Clerk and Recorder's Office, submitted written testimony (see attached Exhibit "F") and testified that many documents are recorded on microfilm and used in courts of law. Ms. Molitor testified that she is reluctant

to certify a poor copy. Ms. Molitor also testified that many times a document is resubmitted for recording and this results in error. This error then has a "snowball effect" by causing a larger problem and can often result in a lawsuit. Ms. Molitor submitted copies of illegible documents submitted to her office for recording (see attached Exhibit "G"). Ms. Molitor testified that she believes HB565 is a good bill and is necessary to protect public interest and enable the Clerks and Recorders to do a better job.

Ethel M. Harding, Lake County Clerk and Recorder, submitted written testimony (see attached Exhibit "H") and submitted examples of poor-quality documents submitted to her office for recordation (see attached Exhibit "I"), and stated that she believes HB565 is better than any previous bills because of the deadline date provided. Ms. Harding urged the Committee to give the bill favorable recommendation.

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

Senator Mazurek questioned how the Clerks and Recorders would handle the practical problem of recording an illegible document when that copy is the only one available. He was told that the Clerks and Recorders would record the document if it is labeled illegible or stated on the document that this is the only copy available.

There being no further questions from the Committee, the hearing was closed.

CONSIDERATION OF HOUSE BILL 715: There being no proponents or opponents to HB715, the Committee decided it would confer with the Committee on State Administration and the Human Rights Commission about the proposed amendments. The hearing was then closed on HB715.

ACTION ON HOUSE BILL 609: Senator Berg moved that HB609 BE CONCURRED IN. This motion carried with Senator Daniels voting in opposition.

ACTION ON SENATE JOINT RESOLUTION 24: Senator Mazurek moved to DO PASS SJR24. This motion carried unanimously.

ACTION ON HOUSE BILL 608: Senator Halligan moved that HB608 BE CONCURRED IN. This motion carried unanimously.

FURTHER CONSIDERATION OF HOUSE BILL 565: Senator Daniels had questions as to who decides what is legible and what is illegible. The Committee decided that HB565 should be amended to provide that the Clerks and Recorders must attach a note to the recorded document stating that this document is illegible and the only copy available.

ACTION ON HOUSE BILL 565: Senator Crippen moved that HB362 BE RECONSIDERED. This motion carried unanimously. Senator Shaw moved that the proposed amendments BE ADOPTED. This motion carried unanimously. Senator Mazurek moved that HB362 BE CONCURRED IN AS AMENDED. This motion carried with Senators Daniels and Shaw voting in opposition.

FURTHER CONSIDERATION OF HOUSE BILL 191: Senator Turnage questioned the tax implications of HB191. He questioned the use of the word "common." Senator Mazurek did not like the use of the word "disposition."

ACTION ON HOUSE BILL 191: Senator Daniels moved that HB191 BE TABLED. This motion carried unanimously.

ACTION ON HOUSE BILL 856: Senator Mazurek moved that the proposed amendment to HB856 BE ADOPTED. This motion carried unanimously. Senator Berg moved that HB856 BE CONCURRED IN AS AMENDED. This motion carried unanimously.

ACTION ON HOUSE BILL 880: Senator Mazurek moved that a severability clause to HB880 BE ADOPTED. This motion carried unanimously. Senator Berg moved that HB880 BE CONCURRED IN AS AMENDED. This motion carried unanimously.

ACTION ON HOUSE BILL 357: Proposed amendments to HB357 were submitted to the Committee, and Senator Mazurek moved that these amendments BE ADOPTED. This motion carried unanimously. Senator Mazurek then moved that HB357 BE CONCURRED IN AS AMENDED. This motion carried unanimously.

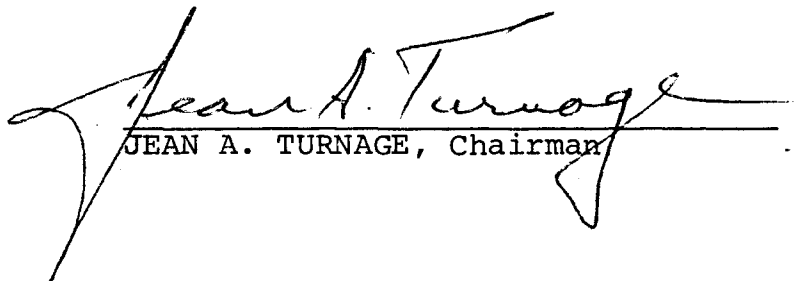
ACTION ON HOUSE BILL 540: Senator Shaw moved that HB540 BE TABLED. This motion failed. Senator Berg moved that the proposed amendments to HB540 BE ADOPTED. This motion carried with Senator Daniels voting in opposition. Senator Mazurek moved that HB540 BE CONCURRED IN AS AMENDED. This motion carried with Senators Galt, Shaw and Daniels voting in opposition.

ACTION ON HOUSE BILL 677: Senator Daniels moved that HB677 BE CONCURRED IN. This motion failed. Senator Daniels moved that

Senate Judiciary Committee
March 24, 1983
Page 5

the amendments proposed by Senator VanValkenburg BE ADOPTED. This motion failed on a roll call vote. Senator Galt moved that the amendments proposed by Senator Turnage BE ADOPTED. This motion carried unanimously. Senator Halligan moved that HB677 BE CONCURRED IN AS AMENDED. This motion failed on a tie roll call vote.

There being no further business to come before the Committee, the meeting was adjourned.


JEAN A. TURNAGE, Chairman

ROLL CALL

JUDICIARY COMMITTEE

48th LEGISLATIVE SESSION - - 1983

Date 032583

NAME	PRESENT	ABSENT	EXCUSED
Berg, Harry K. (D)	✓		
Brown, Bob (R)	✓		
Crippen, Bruce D. (R)	✓		
Daniels, M. K. (D)	✓		
Galt, Jack E. (R)	✓		
Halligan, Mike (D)	✓		
Hazelbaker, Frank W. (R)	✓		
Mazurek, Joseph P. (D)	✓		
Shaw, James N. (R)	✓		
Turnage, Jean A. (R)	✓		

DATE _____

COMMITTEE ON _____

VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretary)

SENATE COMMITTEE JUDICIARY

Date 032483 HOUSE Bill No. 677 Time 11:30

NAME	YES	NO
Berg, Harry K.		✓
Brown, Bob		✓
Crippen, Bruce D.		✓
Daniels, M.K.	✓	
Galt, Jack E.	✓	
Halligan, Mike		✓
Hazelbaker, Frank W.		✓
Mazurek, Joseph P.		✓
Shaw, James N.	✓	
Turnage, Jean A.		✓

Cynthia A. Peterson
Secretary

Turnage
Chairman

Motion: To Table HB 540

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

SENATE COMMITTEE JUDICIARY

Date 032483 House Bill No. 677 Time 11:35

NAME	YES	NO
Berg, Harry K.	✓	
Brown, Bob		✓
Crippen, Bruce D.		✓
Daniels, M.K.	✓	
Galt, Jack E.		✓
Halligan, Mike	✓	
Hazelbaker, Frank W.		✓
Mazurek, Joseph P.	✓	
Shaw, James N.		✓
Turnage, Jean A.		✓

Cynthia A. Peterson
Secretary

Turnage
Chairman

Motion: TO ADOPT § VAN VALKENBERG'S AMENDMENTS

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

SENATE COMMITTEE JUDICIARY

Date 032483 House Bill No. 677 Time 11:40

NAME	YES	NO
Berg, Harry K.	✓	
Brown, Bob		✓
Crippen, Bruce D.		✓
Daniels, M.K.	✓	
Galt, Jack E.	✓	
Halligan, Mike	✓	
Hazelbaker, Frank W.		✓
Mazurek, Joseph P.	✓	
Shaw, James N.		✓
Turnage, Jean A.		✓

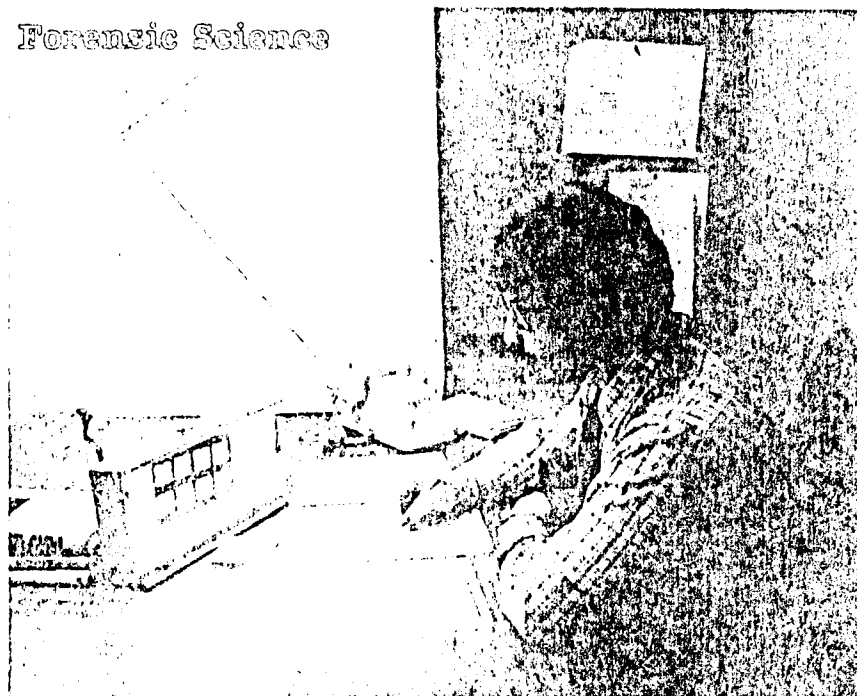
Cynthia A. Peterson
Secretary

Turnage
Chairman

Motion: Move Bill be concurred in as
amended.

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

Forensic Science



By
PAUL PANE

*Criminal Identification Specialist
Bureau of Criminal Statistics and
Special Services
California Department of Justice
Sacramento, Calif.*

Dental Identification Program: An Overview

Skeletal remains are unearthed in a desert. A woman's body is washed up on shore. The mutilated and scorched body of a man is found in a vacant field. Many times, in cases such as these, the identity of the body is never known. To enhance the probability of identification, California implemented in 1979 the first statewide dental identification program in the United States. The program, which is administered by the California Department of Justice (DOJ), assists law enforcement agencies and coroners in identifying unidentified deceased persons by comparing their dental charts with the charts of persons reported missing by law enforcement agencies throughout the western United States.

Case Histories

On February 25, 1979, the San Diego County Coroner's Office was notified of an unidentified deceased person who was a victim of the "Freeway Killer" in southern California. The dental charts of this homicide victim were

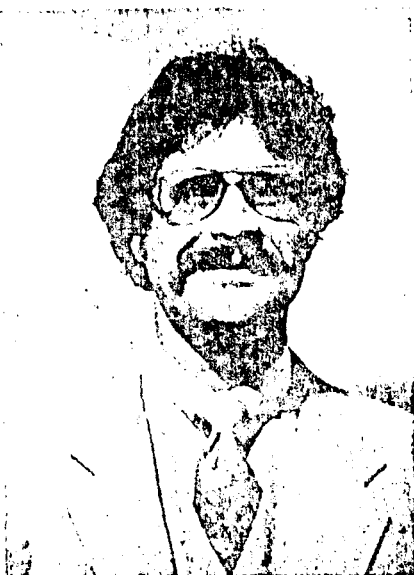
submitted to the DOJ dental identification program for comparison against the dental charts of missing persons. The search resulted in a possible match with records of an individual reported missing by the Milpitas Police Department, 450 miles north of San Diego. The deceased person was positively identified by the San Diego County Coroner's Office as the missing person from Milpitas.

On January 25, 1981, the San Bernardino County Coroner's Office was notified that two human legs had been found. A female torso, with head, legs, and hands severed, was discovered on January 28th, 30 miles from the location of the legs. The hands were not located, but the head was eventually found a month later, 200 feet from where the legs were found. A forensic anthropologist confirmed that all body parts were from the same victim. The dental chart of the victim was submit-

ted to the dental identification program. A search of program files resulted in a probable match with dental records of an individual reported missing by the Santa Ana Police Department in Orange County, which is southwest of San Bernardino County. The deceased person was positively identified by the San Bernardino County Coroner's Office as the missing person from Orange County.

Program Implementation

The idea for the California program was initiated by two San Diego dentists, Dr. Norman "Skip" Sperber and Dr. Robert Siegal, who specialize in forensic odontology—the scientific study of teeth. Their enthusiasm resulted in support and passage of legislation which became effective January 1,



Mr. Pana



George Deukmejian
California Attorney
General

1979. The law requires local law enforcement agencies and coroners to supply dental records for missing persons and unidentified deceased persons to the California Department of Justice.

In accordance with the new law, the local law enforcement agency completes a DOJ missing persons report and provides the immediate family or next of kin with a DOJ release form requesting that they obtain the missing person's dental records. After conferring with the county coroner about unidentified deceased persons that may be the missing person, the law enforcement agency forwards the DOJ missing persons report and dental records to the dental identification program.

Dental charts of unidentified deceased persons are submitted to the program by county coroners after they have exhausted all attempts to identify the individuals. These dental charts are compiled for the specific purpose of comparison with dental records of missing persons. If a match occurs, the coroner who submitted the dental chart is notified and sent the dental records of the missing person for positive identification.

Prior to implementation of the program, DOJ maintained separate files on missing persons and unidentified deceased persons which contained physical descriptors that were compared for possible matches. However, in many cases, it was difficult to obtain physical descriptors of fingerprints needed for identification because the bodies were badly mutilated or decomposed. With the use of dental charts and records, positive identification is facilitated since most people have had some type of dental work done while there are many people who have not been fingerprinted.

To date, the program has identified 29 unidentified deceased persons. In many cases, unidentified deceased persons were positively identified as missing persons reported by California agencies hundreds of miles away from where the bodies were discovered. A majority of the persons identified—25 of the 29—were victims of homicide. This included homicide victims in Nevada and Arizona who were identified through the program as missing persons from California. This was possible because law enforcement agencies and coroners throughout the western United States may use the program.

Through the program, positive identification was also made for an additional 17 unidentified deceased individuals for whom coroners had possible names. In such cases, the program was able to furnish a missing persons report and dental records to the coroners to assist in establishing the identity of the deceased.

The current file includes dental records of 600 missing persons and 300 unidentified deceased persons. Dental records and charts of missing and unidentified deceased persons are maintained for as long as the submitting agency wishes and are continually compared against incoming reports.

The dental identification program has saved law enforcement agencies and coroners valuable time in their investigations by providing a means to make positive identifications through the use of dental records and charts. Most importantly, however, the program has aided the families of missing and unidentified deceased persons by clearing some of the uncertainties confronting them.

FBI

TESTIMONY OF MARGARET M. JOYCE JOHNSON

ASSISTANT ATTORNEY GENERAL

REGARDING HOUSE BILL 608

Article VII, Section 2(3) of Montana's 1972 Constitution gives the Montana Supreme Court jurisdiction "to make rules governing . . . admission to the bar and the conduct of its members." Additionally, Title 37, Chapter 61, Montana Code Annotated, grants the Supreme Court authority to "establish rules for the admission of attorneys and counselors" (§37-61-101, MCA) as well as "exclusive jurisdiction to remove or suspend attorneys and counselors at law" (§37-61-301, MCA).

The Supreme Court has acted pursuant to its constitutional and statutory authority and has issued orders dated January 5, 1965, February 8, 1979, August 22, 1979, and March 16, 1981, establishing a Commission on Practice with Local Grievance Committees to permit investigation and processing of complaints against members of the bar. On May 1, 1965, The Commission on Practice adopted Rules of Procedure in accordance with the authority granted it by the Montana Supreme Court.

Certain statutes which predate the 1972 Constitution and the orders of the Montana Supreme Court, specifically

Sections 37-61-304, 37-61-305, and 37-61-306, are inconsistent with those orders and establish other procedures for investigating and processing complaints against members of the state bar.

As a housekeeping matter, the Department of Justice has requested that House Bill 608 be introduced to repeal these superfluous and inconsistent sections. I have attached for the benefit of this committee a copy of the orders which the Montana Supreme Court has issued regarding these matters and of the Rules adopted by the Commission on Practice.

THE
CONSTITUTION
OF THE
STATE OF MONTANA

AS ADOPTED BY THE CONSTITUTIONAL CONVENTION
MARCH 22, 1972 AND AS RATIFIED BY THE PEOPLE, JUNE 6, 1972

ARTICLE VII
THE JUDICIARY

Section 2. Supreme court jurisdiction. (1) The supreme court has appellate jurisdiction and may issue, hear, and determine writs appropriate thereto. It has original jurisdiction to issue, hear, and determine writs of habeas corpus and such other writs as may be provided by law.

(2) It has general supervisory control over all other courts.

(3) It may make rules governing appellate procedure, practice and procedure for all other courts, admission to the bar and the conduct of its members. Rules of procedure shall be subject to disapproval by the legislature in either of the two sessions following promulgation.

(4) Supreme court process shall extend to all parts of the state.

TITLE 37
PROFESSIONS AND OCCUPATIONS
CHAPTER 61
ATTORNEYS AT LAW

37-61-101. Supreme court may establish rules. The supreme court may establish rules for the admission of attorneys and counselors not inconsistent with this chapter.

History: En. Sec. 396, C. Civ. Proc. 1895; re-en. Sec. 6387, Rev. C. 1907; re-en. Sec. 8942, R.C.M. 1921; re-en. Sec. 8942, R.C.M. 1935; R.C.M. 1947, 93-2007.

37-61-301. Disbarment. (1) The supreme court of the state shall have exclusive jurisdiction to remove or suspend attorneys and counselors at law.

(2) An attorney and counselor may be removed or suspended for any of the following causes arising after his admission to practice:

(a) his conviction of a felony or misdemeanor involving moral turpitude in which case the record of conviction is conclusive evidence;

(b) willful disobedience or violation of an order of the court requiring him to do or forbear an act connected with or in the course of his profession which he ought in good faith to do or forbear and any violation of the oath taken by him or of his duties as such attorney and counselor;

(c) corruptly or willfully and without authority appearing as attorney for a party to an action or proceeding;

(d) lending his name to be used as attorney and counselor by another person who is not an attorney and counselor;

(e) being guilty of deceit, malpractice, crime, or misdemeanor involving moral turpitude.

History: En. Sec. 402, C. Civ. Proc. 1895; amd. Sec. 1, Ch. 36, L. 1903; re-en. Sec. 6393, Rev. C. 1907; re-en. Sec. 8961, R.C.M. 1921; Cal. C. Civ. Proc. Sec. 287; re-en. Sec. 8961, R.C.M. 1935; R.C.M. 1947, 93-2026(part).

37-61-304. Complaints filed in office of clerk. Whenever any verified complaint is filed in the office of the clerk of the supreme court charging any attorney or counselor at law with having violated his oath as an attorney or counselor or with having otherwise been guilty of conduct authorizing or justifying his suspension from practice or disbarment, it shall be the duty of the attorney general to represent such complaint in such action or proceeding and to prosecute the same. He shall first investigate the charges made and determine whether or not a trial thereof should be had and report the results of his investigation to the justices of the supreme court. If in his judgment or in the judgment of the justices of the supreme court a trial should be had, the clerk of the supreme court shall, upon the direction of the attorney general or any justice of the supreme court, issue a summons in the form of a summons in a civil action, setting forth, in brief, the charges contained in the complaint and requiring said attorney to appear and answer said complaint within such time as the court may designate.

History: En. Sec. 8, Ch. 90, L. 1917; re-en. Sec. 8951, R.C.M. 1921; re-en. Sec. 8951, R.C.M. 1935; R.C.M. 1947, 93-2016.

37-61-305. Complaints filed with attorney general or district judge. (1) Whenever any verified complaint is made in writing to the attorney general that any attorney has violated his oath or otherwise been guilty of professional misconduct or other conduct authorizing or justifying his suspension from practice or his disbarment, it shall be the duty of the attorney general to investigate the charges so made. If from such investigation, he shall determine that a complaint should be filed in the supreme court of such charges and a trial thereof had, he shall file in the office of the clerk of the supreme court a complaint against such attorney, setting forth in concise language the acts or conduct charged or complained of; whereupon, the clerk of said court shall issue a summons for the appearance and answer of the party

complained of, as provided in the last preceding section. Said summons and the summons as provided for in the preceding section shall be served in the same manner as provided for the service of summons in civil actions. In making such investigations, the attorney general or the special deputy or counsel appointed to act in such matter shall have power to subpoena witnesses and require the production of books, documents, and other instruments and to administer oaths.

(2) Whenever a complaint is made in writing to any judge of a district court or to the supreme court against any attorney charging him with misconduct or other acts as in parts 1 through 3 of this chapter specified, the same shall be immediately forwarded to the attorney general, with the certificate of the clerk of such court, setting forth the time of the filing of said complaint in said court and the name and residence of the complainant and the residence and post-office address of the accused, and it shall be the duty of the attorney general thereupon to investigate such charges in the manner provided in parts 1 through 3 of this chapter.

History: En. Sec. 9, Ch. 90, L. 1917; re-en. Sec. 8952, R.C.M. 1921; re-en. Sec. 8952, R.C.M. 1935; R.C.M. 1947, 93-2017.

37-61-306. Special investigator. The attorney general or the supreme court may, when deemed necessary, appoint some attorney as special counsel or deputy to investigate any such charges and to prosecute any disbarment proceedings instituted. The attorney so appointed shall be entitled to receive his necessary expenses therein and a reasonable compensation for his services to be fixed by the supreme court.

History: En. Sec. 10, Ch. 90, L. 1917; re-en. Sec. 8953, R.C.M. 1921; re-en. Sec. 8953, R.C.M. 1935; R.C.M. 1947, 93-2018.

IN THE SUPREME COURT OF THE STATE OF MONTANA

.....
No. 10910
.....

IN THE MATTER OF THE ESTABLISHMENT
OF THE
COMMISSION ON PRACTICE OF THE SUPREME
COURT OF THE STATE OF MONTANA

.....
O R D E R
.....

PER CURIAM:

PREAMBLE

This Court declares that it possesses original and exclusive jurisdiction under the provisions of Chapter 20 of Title 93, R.C.M. 1947 (Title 37, ch. 61, part 2, MCA), in addition to its inherent jurisdiction, in all matters involving admission of persons to practice law in this state and of the disciplining of such persons. In the exercise of that jurisdiction it adopts and promulgates the following rules which shall govern investigation of complaints, disciplinary proceedings, petitions for reinstatement and complaints involving the unauthorized practice of law.

Any acts committed by an attorney contrary to the highest standards of honesty, justice, or morality, including but not limited to those outlined in section 93-2026, R.C.M. 1947 (37-61-301, MCA), and the violations of the duties outlined in Chapter 21 of Title 93, R.C.M. 1947 (Title 37, ch. 61, part 4, MCA), whether committed in his capacity as attorney or otherwise, may constitute cause for discipline. Where such act constitutes a felony or misdemeanor, conviction thereof in a criminal proceeding shall not be a condition precedent to suspension or to the institution of disciplinary proceedings, nor shall acquittal necessarily constitute a bar thereto. Any violation of the Canons of Professional Ethics as adopted by this Court may also constitute cause for discipline.

[On August 22, 1979, the Supreme Court issued an order in cause number 10910, effecting certain amendments to Rule I. The substantive portions of the order amended that rule to read as follows:]

I. Establishment

There is hereby established a permanent Commission to be known as the "Commission on Practice of the Supreme Court of the State of Montana", which shall consist of eleven members as hereinafter set forth.

The attorney members shall be chosen, one from each of the areas herein-after provided and they shall serve for a term of four years, the term of two members to expire at the end of each calendar year. The areas shall be comprised of the various judicial districts of Montana and shall be designated by letter as follows:

- Area A, which comprises the 4th, 11th and 19th judicial districts;
- Area B, the 2nd, 3rd and 5th judicial districts;
- Area C, the 8th and 9th judicial districts;
- Area D, the 12th, 15th and 17th judicial districts;
- Area E, the 1st, 6th and 18th judicial districts;
- Area F, the 10th and 14th judicial districts;
- Area G, the 13th judicial district; and
- Area H, the 7th and 16th judicial districts.

The lawyer appointees to the Commission shall be made by the Supreme Court from a list of three licensed, practicing attorneys in each area submitted in the year of appointment as the result of an election by the resident members of the Bar therein residing. The Supreme Court shall issue its order designating the time, place and method for such election. In the event that said election is not held in any such area as ordered, the Supreme Court shall appoint a member of the Bar from that area to the Commission. In the event of a vacancy in the lawyer membership of the said Commission, a successor shall be appointed for the expired term of the lawyer member whose office is vacated in the manner set forth above. Lawyer members of the Commission may terminate their membership on the Commission at their pleasure and the membership may be terminated by the Supreme Court at its pleasure.

Three laymen members of the "Commission on Practice of the Supreme Court of the State of Montana" shall be appointed at large by the Supreme Court. Each laymen member shall serve a term of four years from and after the effective date of appointment.

The Supreme Court shall issue its Order designating the appointment, term and effective date of each such laymen member. In the event of a vacancy in the laymen membership of said Commission, a successor shall be appointed for the unexpired term of the laymen member whose office is vacated. Laymen members of the Commission may terminate their membership on the Commission at their pleasure and their membership may be terminated by the Supreme Court at its pleasure.

II. Rules

The Commission on Practice shall adopt rules providing for selection of a chairman and his term, time and place of meeting, and such other procedural rules, not in conflict with these Rules as may be necessary to expedite the conduct of its business. The membership of the Commission shall name a secretary who need not be a member of the Commission.

III. Duties

It shall be the duty of the Commission on Practice to receive and investigate complaints of alleged misconduct on the part of lawyers committed in the State of Montana. The Commission shall also have the responsibility for investigating and reporting on the merits of any petition for reinstatement to the practice of law referred to it by the Supreme Court. The Commission shall further have the responsibility to investigate complaints involving the unauthorized practice of law.

IV. Procedure

(a) To assist in the processing of complaints of alleged misconduct, a Grievance Committee of not less than three nor more than five licensed and practicing attorneys shall be appointed in each judicial district, to serve for a term of one year. Such committees shall be appointed in each judicial district by the district judge or judges from that judicial district, and if such appointments are not made as ordered by the Supreme Court, then the appointments will be made by the Supreme Court. The procedural rules for committee operation shall be established by the committee.

(b) All complaints arising in the State of Montana shall be denominated informal complaints and may be referred to the respective Grievance Committee of the judicial district, or as otherwise directed by the Commission on Practice, or its secretary, if so authorized by the Commission. Any district judge may refer such a complaint either to the Commission on Practice or directly to the local Grievance Committee or the Grievance Committee of a contiguous judicial district, with a copy of such grievance, if there be one, in writing, and if not his written explanation thereof and a copy of his letter of reference to the Commission on Practice.

(c) Upon preliminary consideration of a complaint which is in the hands of the Commission on Practice and has not yet been referred to a Grievance Committee, if it appears to the Commission on Practice that the facts do not support a charge of misconduct, and do not warrant disciplinary action, said Commission may dismiss the complaint and so notify the complainant. In those cases where the matter has been referred to a Grievance Committee either by the Commission or otherwise as herein provided, and upon preliminary consideration of the complaint it appears that the facts do not support a charge of misconduct and do not warrant disciplinary action, the Grievance Committee shall so report to the Commission on Practice, and if said Commission shall concur in said report, the Commission shall dismiss the complaint and so notify the complainant. If the Commission on Practice shall not concur in said report, it shall refer the matter back to the same or another Grievance Committee for further investigation or for such other action as it may deem appropriate. If it appears upon such preliminary consideration that the complaint may have merit and is worthy of a further investigation, the Grievance Committee shall cause the complaint to be reduced to writing, if it has not been done previously, and also to be signed by the complainant if practicable. A copy shall forthwith be sent by certified mail, return receipt requested, to, or personally served upon, the person complained of, herein called the "respondent." It shall be the respondent's duty to submit to the Grievance Committee within fifteen days after the date of mailing such complaint his written answer thereto, containing a full statement of the material facts in relation to the acts of misconduct alleged in the complaint; and it shall be the respondent's duty also, if required by the Grievance Committee to do so, to appear in person before the Grievance Committee and answer

oral or written interrogatories concerning the acts of misconduct alleged in the complaint; and any deliberate failure on the part of the respondent to submit to the Committee his written answer to a complaint, or to appear before the Grievance Committee and answer interrogatories when requested by the Grievance Committee to do so, and any willful misrepresentations or concealment of material facts in relation to the matter complained of, shall be grounds for disciplinary action. Before the investigation is concluded in any case, the respondent shall be afforded an opportunity to appear before the Grievance Committee and to present evidence on his behalf.

After investigation in any case, the Grievance Committee shall make a written report to the secretary of the Commission on Practice. If the Grievance Committee has found that the facts pertaining to the matter complained of do not merit disciplinary action, or that the respondent does merit admonition, and if the Commission on Practice concurs in that recommendation of the Grievance Committee, then the secretary of the Commission on Practice shall notify the complainant and the respondent of the action taken, and if a written admonition was ordered, shall, in the name of the Supreme Court, deliver such written admonition to the respondent, and there shall be no further proceedings.

If, after investigation in any case, the Grievance Committee concludes that the facts warrant a complaint by the Commission on Practice of the Supreme Court, the Grievance Committee shall make a report of its proceedings, including a summary of the material facts and its recommendations, and such report shall be filed with the secretary of the Commission on Practice.

(d) The Commission on Practice of the Supreme Court shall review the report of the Grievance Committee and if satisfied that the facts as reported warrant filing of a formal complaint with the Supreme Court shall promptly prepare and file the same, or if the informal complaint theretofore filed with the Commission on Practice be deemed by it to be sufficient, it may authorize it to be filed as a formal complaint. If the Commission feels that additional investigation shall be made, it shall refer the matter back to the originating Grievance Committee with directions indicating the further scope of investigations.

If the Commission on Practice of the Supreme Court upon review of the report of the Grievance Committee together with additional information provided as required shall conclude that a complaint is not warranted it shall notify the respondent, the complainant, and the Chairman of the originating Grievance Committee, and shall file the report.

If the Commission on Practice of the Supreme Court determines that the respondent merits admonition only, it shall do so in accordance with the procedure established herein.

V. Complaints, Process, Etc.

(a) All formal complaints seeking disciplinary action against an attorney shall be prepared or authorized by the Commission on Practice, filed in triplicate and signed by any interested person, provided, however, that on application of the Commission on Practice to the Supreme Court, or upon its own motion, the Court may authorize the filing of an unsigned complaint. A formal complaint shall set forth the charges with sufficient particularity as to inform the respondent attorney clearly and specifically of the acts of misconduct with which he is charged. Formal complaints shall be filed with the Commission on Practice for action as herein provided.

(b) When a formal complaint has been filed, and it has been determined that formal hearing be had thereon, the Commission on Practice shall file with the Clerk of the Supreme Court the original and one copy of said complaint, with a written request that a citation issue directed to the attorney complained of, to which shall be attached a copy of the complaint, requiring said attorney, within twenty days after the service thereof, to file with the Commission on Practice the original and one copy of a written answer to said complaint. Such citation, together with a copy of the complaint attached thereto, may be served by said clerk by registered or certified mail, return receipt requested, addressed to the attorney complained of at his last known Post Office address. "Return receipt" signed by the attorney complained of and returned to the Clerk shall be proof of the service thereof. In the event the attorney complained of shall refuse to accept said registered or certified mail and to sign a "return receipt" therefor, the citation and copy of complaint may be served upon him as other process and proof thereof made as provided in Rule 4, Montana Rules of Civil Procedure. Acceptance in writing of service and time to answer shall commence to run from the date of such acceptance. The original of said complaint shall be retained by the Clerk.

(c) It shall be the duty of the attorney served with such citation to file with the Commission on Practice, within the time specified, the original and one copy of his answer to said complaint, in which he shall admit or deny the material allegations thereof, and he may include in his answer a request for a more particular statement of the alleged acts of misconduct, or raise any other objections, including a plea that the complaint does not charge misconduct warranting the imposition of any discipline.

(d) If the attorney so charged, having been duly served with citation as above provided, shall fail to answer said complaint, as provided above, or fail to appear at any hearing, the time and place of which he has had due notice, he shall be deemed in default and the Commission on Practice shall proceed to hear the same and make its findings and recommendations as hereinafter provided.

VI. Hearings For Complaints

At formal hearings, the witnesses shall all be sworn and a complete record shall be made of all proceedings had and testimony taken. Only the Commission on Practice, a member of the Bar designated as a hearings officer, a hearings committee consisting of three or more members of the Bar, or a hearings committee composed of three or more members of the Commission on Practice, shall have the authority to conduct formal hearings on formal

complaints. All such hearings officers and hearings committees shall be appointed by the chairman of the Commission on Practice, and in appointing any such committee the chairman shall designate one of the members thereof to act as presiding officer. If the Commission on Practice conducts any hearing, the chairman thereof shall act as presiding officer. The presiding officer shall have authority to rule on all motions, objections, and other matters presented in connection with such formal hearing. Except as otherwise provided herein, hearings on formal complaints shall be conducted in conformity with the practice in the trial of civil actions.

VII. Witnesses

The Chairman of the Commission on Practice, any hearings officer, or the presiding officer of any hearings committee, acting pursuant to and in conformity with these rules, shall have the power to:

(a) Administer oaths and affirmations and hear evidence.

(b) Compel, by subpoena, the attendance of witnesses and the production of pertinent books, papers and documents.

Witnesses shall be entitled to receive fees and mileage as provided by law for witnesses in civil actions, payment thereof to be made as hereinafter provided. Depositions may be taken and used in the same manner as in civil actions. The attorney complained of shall be entitled to examine all witnesses, and upon request to have witnesses, books, papers, and documents subpoenaed and produced.

Any person subpoenaed to appear and give testimony, or to produce books, papers, or documents, who fails or refuses to appear or to produce such books, papers, or documents, or any person, having been sworn to testify, who refuses to answer any proper question may be cited for contempt of this Court.

The Commission on Practice shall report to this Court the facts relating to any such contempt. Thereupon proceedings before this Court shall be had as in cases of other civil contempts.

VIII. Reports, Findings, And Recommendations

At the conclusion of a formal hearing before a hearings officer or before a hearings committee, a report shall be made to the Commission on Practice setting forth findings and recommendations, which report shall be signed by the hearings officer or by a majority of the hearings committee and submitted to the Commission on Practice for its approval or disapproval. To warrant a finding of misconduct the charges must be established by substantial, clear, convincing, and satisfactory evidence. If the findings and recommendations are approved and signed by a majority of the Commission on Practice, it shall be and become the report of the Commission on Practice. Where hearing is had before the Commission on Practice, it shall make a report of its findings and recommendations, which shall be approved and signed by a majority of the Commission.

If it shall be found that the charges are unfounded and unproven, the Commission on Practice of the Supreme Court shall recommend dismissal of the complaint to the Supreme Court and present its report for the Court's consideration. Upon concurrence by the Court, the Commission on Practice of the Supreme Court shall enter its order dismissing the complaint, whereupon the matter shall be terminated. A copy of the report, findings, and recom-

mendations of the Commission on Practice shall be mailed to the respondent attorney and his counsel, if any, to the hearings committee members and the attorney, if such there is who has presented the case, and the complainant shall be advised of the action taken. If the Supreme Court shall not concur in the recommendation of the Commission on Practice, it shall request the Commission to proceed as provided for charges proven and to recommend discipline.

If the Commission on Practice finds the charges proven and recommends discipline, it shall also recommend the extent thereof as:

1. private censure,
2. public censure,
3. suspension for a definite or an indefinite period, or,
4. disbarment.

IX. Proceedings Before The Supreme Court

All disciplinary proceedings filed in the Supreme Court as herein provided shall be conducted in the name of the State of Montana and shall be prosecuted by the Attorney General of the State of Montana, with the aid and assistance of one or more members of the bar of Montana, selected by the chairman of the Commission on Practice of the Supreme Court to assist in the prosecution of the charges set forth in the complaint. The member selected to assist in such prosecution shall be entitled to receive reasonable compensation for services so rendered.

In cases where the Commission on Practice of the Supreme Court has recommended discipline, it shall promptly file with the Clerk of the Court the original complaint, unless previously filed under Sec. V(c), and a copy of respondent's answer together with two copies of its report, findings and recommendations; thereupon the matter shall be docketed by the Clerk as:

IN THE SUPREME COURT

THE STATE OF MONTANA

NO.

vs.

ORIGINAL
PROCEEDINGS IN
DISCIPLINE

.....
Attorney Respondent

and the copy of the complaint together with the answer, report, findings and recommendations of the Commission on Practice of the Supreme Court, shall constitute the record in the case.

(a) Upon the docketing of a case in the Supreme Court the Clerk shall issue a citation directing the respondent to appear within ten days and file his exceptions to said report, or his election not to do so as hereinafter provided. A copy of said report and citation shall be served on the respondent and proof thereof made in the manner as provided by the Rules of Civil Procedure.

(b) The respondent attorney shall, within ten days after acceptance of service, or service upon him of a copy of said citation and report, file with the Clerk of this Court in duplicate:

1. A statement that he does not wish to file exceptions to said report, findings, and recommendations, or
2. His exceptions to said report which exceptions may be supplemented by such portions of the records of the Commission on Practice, or the reporter's transcript as he may deem necessary to enable the Court to pass on his exceptions.

(c) Upon failure of the respondent to file within ten days a statement as provided or exceptions as provided, the Court shall proceed to consider the recommendations of the Commission on Practice and may impose discipline in accordance therewith and if the circumstances warrant, issue a citation for contempt, directing the respondent to show cause why he should not be adjudged in contempt and punished for failure to file a statement or exceptions as provided above.

(d) If the respondent attorney elects to file no exceptions, the Court shall fix a time and place for respondent's appearance for imposition of such discipline as the Court shall deem proper. The Clerk shall notify the attorney by registered mail or certified mail of the time and place of his appearance and the purpose thereof. The respondent shall appear in person and may be

accompanied by counsel and may make a statement with respect to the discipline to be imposed. Thereupon the Court shall impose such discipline as may be deemed proper and just.

(e) If the respondent files exceptions as above provided, the Attorney General shall, within ten days thereafter, lodge with the Clerk such additional parts of the records of the Commission on Practice, and the reporter's transcript as he deems necessary to enable the Court to pass upon such exceptions.

On the completion of the record as above provided, the respondent attorney shall have ten days within which to file a brief, the Attorney General shall have ten days after receipt of respondent's brief in which to file an answer brief, and the respondent shall have five days after receipt of the brief of the Attorney General to file a reply brief.

Thereafter the matter shall stand submitted and shall be promptly determined by the Court by an order dismissing the complaint or imposing discipline.

The Commission on Practice, on request of the respondent, shall give to him an estimate of the cost of an original transcript of the record, or such portion thereof as he may designate, and on deposit with the Clerk of the Supreme Court of the estimated cost thereof, the Commission on Practice shall promptly certify to the Court the record or parts thereof so designated.

X. Reinstatement Procedure

Any attorney who shall have been disbarred or suspended may by verified petition apply for:

- (a) an order of reinstatement,
- (b) an order shortening the term of a fixed period of suspension, or
- (c) an order modifying an order of indefinite suspension by fixing a definite period of suspension.

Such petition shall bear the case number and caption appearing in the order of discipline, and an original and one copy thereof shall be filed with the Clerk of this Court and by him filed and made a part of the record in said case. Such petition shall set forth facts showing that the attorney has rehabilitated himself, or that he is entitled to have the order of discipline vacated, terminated, or modified.

On receipt of such petition, the Clerk shall immediately forward a copy thereof to the Commission on Practice, which shall consider the same and report to the Court in duplicate its findings, conclusions, and recommendation. The proceedings before the Commission relating to such petition shall be governed by the applicable provisions of these rules governing hearings in disciplinary proceedings, and the burden shall be upon an applicant seeking reinstatement to establish the averments of his application. The Clerk, on receipt of such report, shall mail a copy thereof to the respondent attorney.

If the report of the Commission on Practice recommends denial of the petition, the attorney shall have fifteen days from the date of mailing of such recommendations to file with the Clerk exceptions thereto, whereupon, the matter shall stand submitted. If the report recommends reinstatement, termination, or modification of suspension, the matter shall stand submitted for consideration on the report alone. Neither briefs nor oral argument shall be permitted. The Commission on Practice, upon request of the petitioner and payment of the actual cost thereof, shall certify to the Court the complete record of the proceedings before the Commission on the application of reinstatement, which record will be considered by the Court in disposing of the petition. The Court shall make such order as it deems proper.

A lawyer who, pending investigation of misconduct or while charges of misconduct against him are pending, voluntarily surrenders his license to practice law in this state or elsewhere, shall have his name stricken from the roll of attorneys and the pending disciplinary proceedings shall terminate.

Whereupon the Clerk of this Court shall, by letter directed to the Clerks of the Supreme Courts of any other states or jurisdictions, in which it is known by the Clerk that the attorney is licensed to practice law, notify said clerks of the prior proceedings in discipline in this state and the fact that his name has been stricken from the roll of attorneys licensed to practice law in Montana. Similar notice shall also be given to the Clerk of the Federal District Court for the District of Montana, and to the Clerk of the 9th Circuit Court.

XI. General Provisions

None of the proceedings provided for herein shall be public and the records of all hearings officers, hearings committee, and the Commission on Practice of this Court, together with all proceedings had before such Com-

mission or grievance committees, shall be confidential and shall not be exhibited nor shall the contents thereof, or any proceedings had in connection therewith, be divulged or made public, except by order of Court. Upon final determination of proceedings before the Supreme Court wherein the respondent attorney is given a private reprimand or is exonerated, notice of the disposition of the matter shall be mailed by the Clerk of this Court to the complainant, the respondent attorney, and the chairman of the Commission on Practice, who shall notify members of the Commission, members of the hearings committee, and the attorney who presented the case, of the Supreme Court's disposition of the matter, and the Chairman of the Grievance Committee which conducted the original investigation, if any.

Any person having received notice that a private reprimand has been given shall treat such information as confidential and shall not make public or divulge the same to anyone, except by order of Court. Any person violating this provision shall be subject to punishment for contempt of court.

The Court may on its own motion issue a citation directing an attorney, against whom criminal charges are pending or against whom formal or informal disciplinary proceedings are pending, to appear before this Court and show cause why his license to practice law should not be suspended during the pendency of such proceedings, and, after hearing, this Court may enter an order suspending his license for a definite or indefinite period or may discharge the order to show cause.

In all cases where discipline is recommended by the Commission on Practice it shall certify to the Supreme Court the costs incurred in connection with the proceedings and the Court may, in the event discipline is imposed, assess against the respondent attorney the costs so certified. In the event of dismissal by the Commission on Practice of a formal complaint it shall certify to the Court the costs incurred in connection with the proceedings and the same may be assessed by the Court against the complainant. All costs so assessed shall be paid to the Clerk.

All costs and expenses incurred by the Commission on Practice in the conduct of proceedings, as herein provided, shall be paid from the appropriation for expenses of this Court upon approval by the Chief Justice.

The rules of professional conduct as adopted, supplemented or modified by pronouncements of this court from time to time shall be the standards governing the practice of law in this state.

[On March 16, 1981, the Supreme Court issued an order in cause number 10910, effecting amendments to Rule XI. The substantive portions of the order provided as follows:]

(2) No information of any kind concerning any disciplinary matter involving the Commission on Practice and filed in this Court shall be divulged by anyone to anyone. All requests for such information shall be referred to the Chief Justice or in his absence the Acting Chief Justice.

(3) All files and records pertaining to Commission on Practice matters shall be physically secured, marked "confidential" in large and unmistakable

letters on both sides of the file, and kept in a separate locked file in the office of the Clerk of the Supreme Court.

(4) All documents or other papers relating to disciplinary matters involving the Commission on Practice shall be clearly labeled "confidential" before being transmitted to the Office of the Clerk of this Court for filing.

XII. Proceedings Involving Absent Residents And Nonresidents

Whenever a charge of misconduct is made against a member of the Bar of this state who is absent from the state of Montana and cannot be found herein, or is made against a member of the Bar of any other state who was either temporarily or permanently authorized to practice in Montana, and who is likewise absent from the state and cannot be found herein, then the Commission on Practice is authorized to serve said charge of misconduct upon the respondent in the same manner as a summons in a civil action is served under the rules of this court, and the proceedings shall thereafter be processed in the same manner as provided in these rules.

XIII. Unauthorized Practice Of Law

As to complaints involving the unauthorized practice of law the Commission on Practice may adopt a form of procedure and rules governing the investigation and action to be taken in such matters as may be appropriate and proper, but such rules and procedure shall be first submitted to and approved by this Court.

IT IS ORDERED that the Commission on Practice as herein established shall enter upon its duties on the first day of April, 1965, and the Court will by separate orders provide for implementation of the elective and appointive procedures provided herein to determine the membership thereof.

DATED this 5th day of January 1965.

Rules of Commission on Practice: On May 1, 1965, the Commission on Practice, established pursuant to the Supreme Court order of January 5, 1965, in cause number 10910, adopted Rules of Procedure. The compiler has included the Rules here because they seem to fall under the authority of the Court to govern the conduct of the members of the bar set forth in Art. VII, sec. 2, subsection (3), Mont. Const.

Rules of Procedure
For Commission on Practice of the Supreme Court
of the State of Montana
Adopted May 1, 1965

PURSUANT to the Order of the Supreme Court, January 5, 1965, the Commission on Practice of the Supreme Court of the State of Montana promulgates and adopts the following rules for the conduct of its business:

RULE I

The official meeting place for the Commission shall be the chambers of the Montana Supreme Court at the State Capitol unless otherwise designated in the Notice of Meeting by the Chairman or Secretary.

Meetings shall be subject to the call of the Chairman on not less than ten days notice. In cases of extreme urgency, the ten day period shall be waived. In calling a meeting, the Chairman shall be guided by the amount or the apparent urgency of the business properly before the Commission, except that a meeting in April of each year shall be mandatory for organizational purposes. Should the necessity arise, the written request of five of the eight Commission members shall be sufficient to call a meeting by either the Chairman or Secretary, and in such case, the meeting shall be called not less than five or more than fifteen days from the date the written request has been received.

Five members of the Commission of eight shall constitute a legal quorum for the transaction of its official business, excepting in those instances set

forth in the Order of the Supreme Court creating the Commission which require action by a majority of the Commission.

Post Office Box No. 921, Helena, Montana, is adopted as the official mailing address for all matters pertaining to the business of the Commission.

RULE II

In the month of April each year, the Commission members shall elect a Chairman from its membership who shall serve for a term of one year, unless re-elected, and no limit is placed on the number of terms the Chairman may serve as such.

At the same time, a Secretary shall be elected annually for a term of one year—preferably from the Commission membership, but not limited thereto. He may likewise be re-elected to the position of secretary without limit as to the number of terms he serves as such.

RULE III

For each meeting called and attended by a Commission member, he shall be allowed mileage at the rate of eight cents per mile together with actual expenses necessarily incurred in attending the meeting. Claims for mileage and expenses in duplicate shall be executed and filed with the Chief Justice of the Montana Supreme Court for payment.

All office and kindred expenses, including the services of any special investigator that might be designated by the Commission, shall be subject to payment on claim executed and filed in duplicate with the Chief Justice.

RULE IV

All complaints and matters within the intendment of the Order establishing the Commission on Practice, which are brought to the attention of the Commission, shall, if agreeable to a majority of the Commission quorum—if not previously disposed of by the Chairman or Secretary—be referred to the area member of the Commission from which the complaint has arisen, and to either the local or contiguous District Grievance Committee for preliminary investigation and disposal, if possible. If satisfactory results are not thus accomplished, then the matter shall be handled in accordance with RULE VI herein.

RULE V

No procedural rules for the operation of local grievance committees are established at this time. The Commission, in what it deems to be the spirit and intent of the Supreme Court Order establishing the Commission, believes that in most, if not all cases, satisfactory results in the handling of matters referred to it can best be accomplished on an informal basis at the local District level, unless in the opinion of the local grievance committee, Commission intervention and participation is required.

Complaints to the Commission from local grievance committees or individuals must—where possible—be verified under oath of the complaining party. Complaints arising from local grievance committees or individuals not meeting this requirement, shall in the discretion of the Commission be disregarded and dismissed until the requirement has been met.

RULE VI

In addition to the rules hereinabove set forth, the Commission hereby adopts as its Rules of Procedure Paragraphs I to XIII inclusive as set forth in the January 5, 1965, Order of the Montana Supreme Court establishing the Commission on Practice, and said paragraphs are hereby specifically incorporated by this reference and collectively all such paragraphs shall be referred to in these Rules as RULE VI.

Nothing contained in the Rules adopted by this Commission or any subsequent amendments thereto shall abrogate or modify the aforementioned

Rules of Procedure established by the Supreme Court in its Order of January 5, 1965.

RULE VII

These Rules may be amended, supplemented or revoked without notice by the vote of *five members* of the Commission at any of its regularly called meetings.

The above Rules unanimously adopted May 1, 1965, by the Commission on Practice in regular session assembled at Helena, Montana.

Guidelines for Local Grievance Committee Procedure: On February 8, 1979, the Supreme Court issued a supplemental order in cause number 10910. The supplemental order sets forth certain recommended procedures to be used by local grievance committees in considering complaints against members of the bar. The compiler has included the rules here because they seem to fall under the authority of the Court to govern the conduct of the members of the bar set forth in Art. VII, sec. 2, subsection (3), Mont. Const.

IN THE SUPREME COURT OF THE STATE OF MONTANA

No. 10910

IN THE MATTER OF THE ESTABLISHMENT OF THE COMMISSION ON PRACTICE OF THE SUPREME COURT OF THE STATE OF MONTANA

SUPPLEMENTAL ORDER

The following procedural guidelines are adopted for the benefit of the Montana Supreme Court and its Commission on Practice together with its Local Grievance Committees established under Montana Supreme Court Order No. 10910, dated the 5th day of January, 1965:

The Commission on Practice in the past few years has received numerous inquiries from Local Grievance Committees as to their duties, their procedures and guidelines when a complaint has been referred to their Committee. The following guidelines are suggested to the Local Grievance Committees in their handling of a complaint:

I. AUTHORITY OF LOCAL GRIEVANCE COMMITTEE.

Supreme Court Order No. 10910 which established the Commission on Practice provides generally that the Local Grievance Committee is an investigating arm of the Commission on Practice with authority to investigate all complaints against members of the Bar submitted to the Committee, and make recommendations to the Commission on Practice. The Rules on the Commission on Practice are set forth in full in the Montana Lawyer's Desk Book, published by the State Bar of Montana. We would suggest that the members of the Local Grievance Committee read and study the Supreme Court Order as to duties and procedures.

The procedures of the Local Grievance Committees are set forth in Paragraph IV of the Order. You will note, in Sub-paragraph (a) thereof the Court allows the Local Grievance Committee to establish procedural rules for the Committee's operation. We think it important that the procedural rules be adopted by each Local Grievance Committee and filed with the District Court as permanent rules until amended.

The main point we wish to emphasize is that due process be afforded to members of the Bar and to the complainant when a complaint is being investigated or a hearing held. Investigations and hearings should be conducted fairly to all parties concerned. The complainant and the attorney should be

informed that they have a right to have an attorney represent them at all times during the investigation or the hearing.

II. HOW COMPLAINTS ARE REFERRED TO THE LOCAL GRIEVANCE COMMITTEE.

Local Grievance Committees will be confronted mainly with receiving complaints from two sources:

(a) Any district judge may refer a complaint either to the Commission on Practice or directly to the Local Grievance Committee. Immediately upon receipt of a complaint from a district judge, the Local Grievance Committee will notify the Secretary of the Commission on Practice and submit a copy of the complaint.

(b) A complaint may be referred by the Commission on Practice to the Local Grievance Committee.

In most cases the Local Grievance Committee will receive a written complaint, however, there is a possibility that in certain instances a district judge may refer a complaint to a Local Grievance Committee that has come to his attention which may not be in writing. We would suggest in all cases that a written complaint be obtained and verified. All complaints that are sent down by the Commission on Practice to a Local Grievance Committee will be in writing and verified.

III. PROCEDURES OF LOCAL GRIEVANCE COMMITTEES AFTER A COMPLAINT HAS BEEN REFERRED.

(a) Refer to Paragraph IV(c) of the Commission on Practice Rules. This paragraph provides that in those cases where the matter has been referred to a Grievance Committee either by the Commission on Practice or as otherwise provided, and upon preliminary consideration of the complaint it appears that the facts do not support a charge of misconduct and do not warrant disciplinary action, the Grievance Committee shall so report to the Commission on Practice.

(b) The Rules further provide that if it appears upon such preliminary consideration that the complaint may have merit and is worthy of a further investigation, the Grievance Committee shall cause the complaint to be reduced to writing, if it has not been done previously, and also to be signed by the complainant if practical.

(c) A copy of the complaint shall forthwith be sent by certified mail, return receipt requested, to or personally served upon the person complained of, herein called the respondent.

(d) It shall be the respondent's duty to submit to the Grievance Committee within fifteen days after the date of mailing said complaint, his written answer thereto, containing a full statement of the material facts in relation to the acts of misconduct alleged in the complaint.

(e) If there is a conflict between the complaint and the answer filed by the respondent, the Local Grievance Committee has the authority to require the respondent to appear in person before the Grievance Committee and answer oral or written interrogatories concerning the acts of misconduct alleged in the complaint. Adequate notice should be given to the respondent of the requirement of his personal appearance.

(f) If the facts or issues in the complaint cannot be resolved up to this point, it is suggested that the Local Grievance Committee hold a hearing on the matter giving the complainant and respondent attorney notice of the time and place of the hearing, and that they are entitled to have an attorney appear with them if they so desire. A record of the proceedings and the sworn testimony at the hearing should be made by a Court Reporter or a qualified stenographer and a transcript made thereof.

(g) Complainant or the respondent attorney should have the privilege of presenting evidence either oral or documentary relevant to the complaint, and the right to cross-examine witnesses.

(h) The cost of a court reporter and transcript of the testimony at any hearing should be submitted to the Commission on Practice together with the final report of the Local Grievance Committee.

IV. FINAL DISPOSITION OF A COMPLAINT.

(a) After investigation or meeting with respondent attorney or after a full hearing, the Local Grievance Committee shall then make its final written report on the complaint and immediately submit it to the Secretary of the Commission on Practice for further action, with a copy to the respondent attorney.

(b) The final written report should include a summary of the material facts and should set forth the recommendation of the Committee.

The recommendation can be one of the following:

1. The matter complained of does not merit disciplinary action.
2. The facts do merit an admonition to the respondent.
3. The facts warrant a complaint be filed by the Commission on Practice against the respondent.

This then ends the duties of the Local Grievance Committee unless the complaint is again submitted to them for further investigation.

V. CONFIDENTIAL NATURE OF THE PROCEEDINGS.

The Local Grievance Committee should note that Paragraph XI of the Supreme Court order specifically provides that all proceedings had before such Commission or Grievance Committee shall be confidential and shall not be exhibited nor shall the contents thereof, or any proceedings had in connection therewith, be divulged or made public. The Local Grievance Committee should admonish the complainant and the respondent attorney and all witnesses that all proceedings, evidence and testimony is confidential and should not be divulged to anyone.

DATED this 8th day of February, 1979.

[The following letter from the Secretary of the Commission on Practice of the Supreme Court of the State of Montana appeared on page 3 of the September 1980 publication of *The Montana Lawyer*.]

"The Commission on Practice was established for the purpose of receiving and investigating complaints of alleged misconduct on the part of lawyers committed in the State of Montana. We have been increasingly concerned about the number of complaints received from parties to a dissolution of marriage, which problems stem from alleged multiple representation of the two parties.

The Legislature is establishing so called "No Fault Divorce," provided in Section 40-4105, subsection 2, that either or both parties may initiate the proceeding. It is this provision authorizing the filing of a joint petition for dissolution of marriage that gives rise to the complaints being filed before the Commission. The complaints received allege violations of Disciplinary Rule 5-105-a, which deals with multiple employment and provides in substance that a lawyer should decline proffered employment if the exercise of his independent professional judgement in behalf of the client will be, or is likely to be, adversely affected by the acceptance of the proffered employment. In short, while the Legislature has authorized the filing of a joint petition for dissolution of marriage, the Canons of Ethics and the decisions and opinions of other states all indicate that separate and independent lawyers for each of the parties in a dissolution proceeding is almost a mandate.

In examining and investigating the complaints we have received we find that in most cases the attorney involved has conscientiously attempted to be fair to both parties, and in far too many cases, the client who was satisfied with the original property settlement or custody arrangements has now determined that he or she was not treated fairly and was taken advantage of by the attorney. Frequently, an investigation reveals that one of the parties has secured the services of an attorney, and the other party does not secure counsel and simply signs the agreement as prepared by the attorney. Again, all too often the other party, in hindsight, contends that he or she relied on the attorney for fair and equitable treatment, and considered that the attorney represented both parties.

The problems that can arise with multiple representation are vividly demonstrated in the Montana case of *Pilati v. Pilati*, cited in Volume 36, State Reporter, at Page 619.

With the legislative authorization of the filing of joint petitions and the mandates prohibiting multiple representation in most cases, what can the practitioner do to avoid being the subject of inquiry by the Commission? Our personal views are these:

1. Urge independent representation in all cases.
2. Avoid, if possible, the filing of joint petitions. (With the abolishment of cause for divorce, there is no particular stigma attached to being either a petitioner or a respondent).
3. If circumstances are such that a joint petition is used, secure a document in writing from the other party that you are only representing Client A, and that Client B is urged to seek independent counsel.
4. Sign a joint petition as "Attorney for Petitioner 'A'," rather than as attorney for both petitioners.
5. In framing a property settlement, use the proposed terminology in the Montana Legal Secretaries Handbook: "(Husband, wife) has retained and been represented by (name of attorney) in connection with the negotiations for the drafting of this agreement. (Husband, wife) is not represented by counsel, although (he, she) understands (his, her) right to be so represented, and has knowingly waived the services of counsel."

Lastly, it should be noted that decisions of other jurisdictions indicate that in advising that separate counsel be obtained for one of the parties, it is considered unethical to recommend a specific attorney for the other party's representation.

I am hopeful that by following these simple guidelines, Montana practitioners can avoid the embarrassment of receiving a letter from the Commission on Practice."

Canons of Professional Ethics: The Supreme Court adopted the Canons of Professional Ethics to govern the conduct of attorneys on May 1, 1973. The Canons were amended in an Order dated June 24, 1980, to be effective July 1, 1980. The compiler has incorporated the amendments into the Canons. Although the Canons are not designated as a Supreme Court rule, the compiler has included them here, as they seem to fall under the authority of the court to govern the conduct of the members of the bar set forth in Art. VII, sec. 2, subsection (3), Mont. Const.

(This sheet to be used by those testifying on a b

Exhibit "C"
March 24, 1983
HB565

NAME: Bill Romaine DATE: 3-24-83

ADDRESS: Helena

PHONE: 442-2220

REPRESENTING WHOM? Clerks & Recordors

APPEARING ON WHICH PROPOSAL: H.B. 565

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

COMMENT: If a document cannot be read, it makes no
sense to ~~record~~ record it with the clerk & recorder.
This bill applies only to documents prepared and executed
after Jan 1, 1984.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NOTICE OF PURCHASERS INTEREST

THIS AGREEMENT made and entered into this 1st day of March 1983 by and between FORREST L. KILES, of Puyallup, Washington, as SELLER and *Robert and Helen S. Kiles* whose post office address is *1785 Lincoln St. Puyallup, Washington 98142* WITNESSETH

That for a good and valuable consideration, SELLER has sold and the BUYERS agree to purchase hereinafter described, together with all appurtenances thereto.

Said real estate is described as follows:
Block 11 of the 1st Addition to the City of Puyallup, Washington, containing 1.00 acre, more or less, as shown on the official plat of the said block and subdivision of the same, recorded in the office of the Auditor of the State of Washington, and being a portion of the 1st Addition to the City of Puyallup, Washington, as shown on the official plat of the same, recorded in the office of the Auditor of the State of Washington.

That the BUYERS will pay to SELLER the purchase price of *\$10,000.00* in cash, the full amount of which the parties hereto, and bearing execution hereof, have agreed to pay to SELLER in full.

That the BUYERS will be in the possession of the premises as of the date of this agreement.

This NOTICE is an abstract of the Agreement made and entered into by and between the parties hereto, and is a true and correct copy of the document abstracted, with the names and signatures of the parties.

IN WITNESS WHEREOF, the parties hereto have signed their names and affixed their seals to the foregoing instrument above written.

SELLER

FORREST L. KILES

STATE OF MONTANA

County of

On this day of 1983, before me, the undersigned, a Notary Public in and for the State of Montana, personally appeared FORREST L. KILES, of the County of Puyallup, State of Washington, whose name is subscribed to the within instrument, and who acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of my Office, at the City of Helena, State of Montana, this 1st day of March, 1983.

above written

Notary Public in and for the State of Montana
Residence
My Commission Expires

STATE OF

County of

On this day of 1983, before me, the undersigned, a Notary Public in and for the State of Montana, personally appeared *Robert and Helen S. Kiles*, of the County of Puyallup, State of Washington, whose names are subscribed to the within instrument, and who acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of my Office, at the City of Helena, State of Montana, this 1st day of March, 1983.

above written

CS-111

Notary Public in and for the State of Montana
Residence
My Commission Expires

DON LARSON ASSESSOR
Jefferson County
Boulder, MT. 59632

*It is impossible to transfer
ownership when I receive deeds like
this. Don Larson*

111335

78 421 30 P Aug
109 dms 747 400
James P. McInerney
Carla a madhask
600 KH

Madison County, Mississippi

1. the common ground, i.e. the shared information between the speaker and the hearer;
2. the focus, i.e. the information that the speaker wants to highlight;
3. the rheme, i.e. the information that the speaker wants to emphasize.

100

page 143. The date of the report is August 1941. The report is dated August 1941. The report is dated August 1941.

LORRAINE P. WILSON

By William H. Baker
Deputy

IN SENATE, January 1, 1901.

In the matter of the Estate of

EDNA A. LANE, deceased

JOHN D. LANE, executor of the estate of EDNA A. LANE, deceased, on the 13th day of February, 1901, filed in the County of Cook, Illinois, a Petition for Distribution of said estate, and Petition for Distribution of said Account and Petition for Distribution of said Estate, and the Court, at its next term, on the 20th day of February, 1901, did order that the said Petition be given effect, and that no objections or exceptions be filed thereto within the time specified by the Court, and that no objections or exceptions be filed thereto within the time specified by the Court.

And the Court, at its next term, on the 27th day of February, 1901, did order that the said Petition be given effect, and that no objections or exceptions be filed thereto within the time specified by the Court, and that no objections or exceptions be filed thereto within the time specified by the Court.

And the Court, at its next term, on the 6th day of March, 1901, did order that the said Petition be given effect, and that no objections or exceptions be filed thereto within the time specified by the Court, and that no objections or exceptions be filed thereto within the time specified by the Court.

And the Court, at its next term, on the 13th day of March, 1901, did order that the said Petition be given effect, and that no objections or exceptions be filed thereto within the time specified by the Court, and that no objections or exceptions be filed thereto within the time specified by the Court.

And the Court, at its next term, on the 20th day of March, 1901, did order that the said Petition be given effect, and that no objections or exceptions be filed thereto within the time specified by the Court, and that no objections or exceptions be filed thereto within the time specified by the Court.

And the Court, at its next term, on the 27th day of March, 1901, did order that the said Petition be given effect, and that no objections or exceptions be filed thereto within the time specified by the Court, and that no objections or exceptions be filed thereto within the time specified by the Court.

And the Court, at its next term, on the 3rd day of April, 1901, did order that the said Petition be given effect, and that no objections or exceptions be filed thereto within the time specified by the Court, and that no objections or exceptions be filed thereto within the time specified by the Court.

And the Court, at its next term, on the 10th day of April, 1901, did order that the said Petition be given effect, and that no objections or exceptions be filed thereto within the time specified by the Court, and that no objections or exceptions be filed thereto within the time specified by the Court.

And the Court, at its next term, on the 17th day of April, 1901, did order that the said Petition be given effect, and that no objections or exceptions be filed thereto within the time specified by the Court, and that no objections or exceptions be filed thereto within the time specified by the Court.

page 164. Records of Madison County, Montana.
In Witness Whereof, I have hereunto set my hand and
the seal of Madison County, Montana this 24th day
of August A. D. 1978.

IV Another Column

111337

30
78 4:06 P
109- 1000 951-95
James P. ...
Carla a malink
you KH

NAME: Jouane P. McFarlane DATE: 3-23-

ADDRESS: P.O. Box 115, Boulder, Mont. 59632

PHONE: 225-3332

REPRESENTING WHOM? Clerks and Recorders

APPEARING ON WHICH PROPOSAL: 565

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

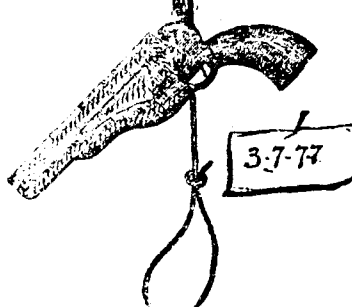
COMMENT: As a custodian of public records of land ownerships,
taxation, indebtedness, etc. - not only for the present, but for
future posterity - it appears to me that it is vital
for clear, legible documents to be available for all future
generations - in order that ownership records have no cloud
in the chain of title due to unreadable records. Presently
we must record documents which are reproductions of copy
machines which often show land descriptions and as a result,
we cannot make clear records from these for our own
use, let alone make clear copies for the public. We need
to have clear - distinct documents which will reproduce
on microfilm for the public. The assessors, appraisers &
legal profession

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Office of County Recorder

MADISON COUNTY, MONTANA

LORRAINE P. MOLITOR
County Recorder



Box 366
VIRGINIA CITY, MONTANA
59755

To: SENATE JUDICIARY COMMITTEE:
THE HONORABLE JEAN TURNAGE, CHAIRMAN, AND MEMBERS

FROM: Lorraine P. Molitor, Madison County Recorder

Re: H.B. No. 565

The Montana Association of Clerk and Recorders earnestly seek your support for H.B. 565. This bill, which would require that documents submitted for recording must be both legible and reproducible, is a bill that we have needed for a long time. We support this bill for the following reasons:


1. Almost all documents are now put on microfilm, copies are stored off premises for security backup, and others are held for public inspection in our offices. Lawyers, lending institutions, title companies and many other agencies and individuals consult these copies daily, and make copies, and copies of copies for use in their own businesses. Copies are often certified and used for documentation in courts of law, or in support of water rights, mining claim locations, annual representations, and for a multitude of other every day needs. It is one of our foremost frustrations, to be required to certify to poor copies and admit that they were made in our offices. County officials take pride in their work, but there is no satisfaction in handing out such copies.
2. Copies of documents are often recopied in other offices and portions of them, quite often land descriptions, are re-submitted for recording. Each copy is a little less clear than the last, finally resulting in a document that cannot be read or reproduced. Still such documents are being sent to us for recording. Land descriptions must be deciphered and drawn out in our Tract Index Books. This is a tedious, time consuming chore at best, resulting in headache, eye-strain and error. Errors made and copied, snow ball through the years leading to costly lawsuits and even loss of property.
3. This legislation would not effect existing documents, or those being held in escrow, since it applies only to instruments executed after 1 January, 1984.

4. Information in recorded documets is of vital importance since it pertains to property rights. We think that those rights should be protected.

5. Attached are the best possible copies that I could make of some of the records in our office. On some of them I have attached notices that the documents were not adequate for re-production. I think it quite apropos that the copy of H.B. 565 attached is a "SECOND PRINTING", the first print copy having been "UNCLEAR".

We think that this is a good bill, one that we have needed for a long time. Please help us to do a better job for our constituents, and yours, by supporting us in the passage of H.B. 565. Help us to protect the public interest by allowing us to refuse to record sloppy, slipshod work that can easily be corrected before being recorded. Generations to come will thank you for it.

Respectfully submitted


Lorraine P. Molitor, County Recorder
Madison County, Montana

cc Bill Romine

DEPARTMENT OF LAND AND MINES
SHERIDAN, MONTANA

BOOK 289 PAGE 8

A CERTAIN PARCEL OF LAND, BEING THE
SOUTHWEST 1/4 SECTION 35, TOWNSHIP 14 NORTH, RANGE 12 WEST,
SHERIDAN COUNTY, MONTANA, BEING THE
SOUTHWEST 1/4 SECTION 35, TOWNSHIP 14 NORTH, RANGE 12 WEST,
ON THE SOUTH LINE OF SECTION 35, TOWNSHIP 14 NORTH, RANGE 12 WEST,
OF 660.00 FEET TO A POINT ON THE SOUTHWEST CORNER OF
SAYED PARCEL, THE POINT OF BEGINNING, THENCE ON A BEARING OF
S89°01'12"E A DISTANCE OF 100.00 FEET TO A POINT ON THE
SOUTHWEST CORNER OF SAYED PARCEL, THE POINT OF BEGINNING, THENCE
ON A BEARING OF S89°01'12"E A DISTANCE OF 100.00 FEET TO A POINT
ON THE SOUTHWEST CORNER OF SAYED PARCEL, THE POINT OF BEGINNING,
THENCE ON A BEARING OF S89°01'12"E A DISTANCE OF 100.00 FEET TO A
POINT ON THE SOUTHWEST CORNER OF SAYED PARCEL, THE POINT OF
BEGINNING, THENCE ON A BEARING OF S89°01'12"E A DISTANCE OF
100.00 FEET TO A POINT ON THE SOUTHWEST CORNER OF SAYED PARCEL,
THE POINT OF BEGINNING, THENCE ON A BEARING OF S89°01'12"E A
DISTANCE OF 100.00 FEET TO A POINT ON THE SOUTHWEST CORNER OF
SAYED PARCEL, THE POINT OF BEGINNING, THENCE ON A BEARING OF
S89°01'12"E A DISTANCE OF 100.00 FEET TO A POINT ON THE
SOUTHWEST CORNER OF SAYED PARCEL, THE POINT OF BEGINNING,
THENCE ON A BEARING OF S89°01'12"E A DISTANCE OF 100.00 FEET
TO A POINT ON THE SOUTHWEST CORNER OF SAYED PARCEL, THE POINT
OF BEGINNING, THENCE ON A BEARING OF S89°01'12"E A DISTANCE
OF 100.00 FEET TO THE POINT OF BEGINNING.
SAYED PARCEL CONTAINS 10.25 ACRES.

Filed for record on the 9th day of
February A. D. 1983 at 11:12

o'clock A. M. and recorded in Volume 289
of RECORDS on Page 827 - 828,

Records of Madison County, Montana

By Jessie P. Mahlon
County Recorder

Fee \$ 4.00 Return to PHILIP P. SHACKLETON

Box 153

SHERIDAN, MT. - 59749

Survey filed in Book 7 of
Surveys, on Page 537

RECORDER'S MEMORANDUM

At the time of recordation we found
this instrument to be inadequate for
good photographic reproduction because
of illegibility or poor contrast.

NOTICE IS HEREBY GIVEN that on the 1st day of July 1981, ROBERT L. LEDBETTER, JR., a corporation, of 1797 New Getwell Road, Denver, Colorado, 80202, T9S, R1E, and Management Communication Consultants for the Professions, Inc., of 9311 N. Pioneer Dr., Parker, CO 80134, received the assignment of the contract for deed in Madison County, Montana:

Rising Sun Mountain Tracts, Tract 14-B, Section 28, T9S, R1E, Madison County, Montana, Book of Surveys, Page 133.

and all other rights, claims and interests therein belonging or in any way attaching to the same, including but not limited to, rents, and profits thereon.

and all water rights, ditches, canals and laterals, and rights-of-way, and all other interests in connection therewith.

This assignment of the contract for deed dated as of said date shall not be deemed to discharge or diminish the obligations or liabilities of the assignor under the said contract.

Management Communication Consultants for the Professions, Inc. will provide a full and complete copy of the assignment of the contract for deed to any person having a legitimate interest in the same.

It is further stated that the contract for deed has been executed on the

GENERAL STATES INVESTMENT COMPANY,
a Tennessee corporation

Robert L. Ledbetter, Jr.
Robert L. Ledbetter, Jr., President

Management Communication Consultants
for the Professions, Inc.

Oscar N. Ham
OSCAR N. HAM PRESIDENT

July 1981, the undersigned, a Notary Public for the State of Tennessee, known as LEDBETTER COMPANY, the corporation that executed the contract for deed that such corporation executed

the contract for deed affixed by Notarial Seal the

Deety C. Brown
Deety C. Brown
Notary Public
My Commission Expires Mar. 26, 1984



As the State of Colorado
Public of _____
(Signature) subscribed to the within instrument and acknowledged to be the
the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal on
the _____ day of _____ 1962.



Carol M. Bryant
Notary Public for the State of Colorado
Residing at Golden, Colorado
My Commission Expires January 24, 1966

Filed for record on the 12th day of
January A. D. 1962 at 9:01
o'clock A.M. and recorded in Volume 283
of RECORDS on Page 572 - 573,

Record of Madison County, Montana
James P. Walter
County Recorder

Fee \$ 4.00 Return to _____

FIRST SECURITY BANK
LIVINGSTON, MT. - 59047

RECORDER'S MEMORANDUM
At the time of recordation we found
this instrument to be inadequate for
good photographic reproduction because
of illegibility or poor contrast.

NAME: Ethel M Harding DATE: 3-25-83

ADDRESS: Box 25, Polson Montana

PHONE: 883-2323

REPRESENTING WHOM? Clerk and Records

APPEARING ON WHICH PROPOSAL: HB 565

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: We have presented legislation
in illegible documents before, however
this House Bill provides a date
of Jan 1, 1984 as a beginning which
we feel will allow time for people
to prepare documents that are legibly
drawn for recording and reproducing and
also allow for those drawn prior to
that date to be handled in the same
manner as the law now allows. Attached
are samples of some documents recorded
but not legible for you to examine.
We appreciate your consideration of this
H.B. 565 and recommend your approval.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

BY THE COURT: ORDERED, ADJUDGED, and DECREED
THAT the petition of the State of Montana for
the appointment of a receiver of the property of
the State of Montana be and it is so ordered.

IT IS FURTHER ORDERED, ADJUDGED, and DECREED
THAT the receiver of the property of the State of Montana
be and it is so ordered.

IT IS FURTHER ORDERED, ADJUDGED, and DECREED
THAT the receiver of the property of the State of Montana
be and it is so ordered.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the State of Montana at Helena, Montana, this 27th day of July, 1976.

Very truly yours,

Elizabeth Munson
Elizabeth Munson
Clerk and Recorder

201925

STATE OF MONTANA
COUNTY OF TOOLE
I, the undersigned, Clerk and Recorder of the County of Toole, State of Montana, do hereby certify that the foregoing is a true and correct copy of the original instrument filed for record in my office on this 27th day of July, 1976.

Elizabeth Munson
Elizabeth Munson
Clerk and Recorder

RECORDED AT 3:55 O'CLOCK P.M. JUL 27 1976

BOOK 3286 11 ETHEL M. HARDING

BY *Elizabeth A. Wilson*

STATE OF MONTANA
County of Toole.

I hereby certify that the instrument to which this notulise is annexed is a true and correct copy of the original instrument filed for record in my office on this 27th day of July, 1976.

23rd day of July 1976
Elizabeth Munson

ELIZABETH MUNSON
Clerk and Recorder
Elizabeth Munson
Deputy Clerk

Elizabeth A. Wilson & J. H. H.

(Not Legible)

[illegible]

STATE OF MONTANA, COUNTY OF TARRANT
RECORDED AT 12:48 O'CLOCK P. M. SEP 30 '81
MICROFILM 263984 ETHEL M. HARRINGTON RECORDED
FEE \$2.00 BY Heaton Heaton DEP

Return to: Lake County Abstract & Title Co.
Polson, Montana

Is contained in the public records of the State of Montana, and is hereby certified to be a true and correct copy of the original as the same appears in the public records of the State of Montana.

Sept 29 1981
Carol Whipple
 Carol Whipple
 Public Contact Specialist

01 - 263985

STATE OF MONTANA, COUNTY OF LAKE
 RECORDED AT 12:50 O'CLARK P M. SEP 30 '81
 MICROFILM 263985 CHEL M. HARDING RECORDED
 FEE \$ 3.00 BY 2014-11-11 DEP

The United States of America.

Return to: Lake County Abstract & Title Co.
 Polson, Montana

ORIGINAL DOCUMENT
 NOT LEGIBLE

01- 249432

THE UNITED STATES OF AMERICA

DEPARTMENT OF THE INTERIOR

LAND OFFICE

Billings, Montana

Section 17, Township 14N, Range 10E, T14N, R10E, S4, 10th Principal Meridian, Yellowstone National Monument, Montana.

STATE OF MONTANA, COUNTY OF LAND:

RECORDED AT 3:03 O'CLOCK P. M. 1917
MICROFILM 249432 FINE & HARDING
BY 2nd BY *Alma G. Shiff*

Whereas, the above described land is situated within the boundaries of the Yellowstone National Monument, and the same is owned by the United States of America, and the same is subject to the provisions of the Act of Congress, approved March 3, 1892, entitled "An Act to provide for the disposal of the public lands within the boundaries of the Yellowstone National Monument, and for other purposes."

Witness my hand and the seal of the Department of the Interior, at Washington, D.C., this 10th day of July, 1917.

As a condition of the public records retained by the Bureau of Land Management, Billings, Montana, I hereby certify this to be a true copy.

John J. [Signature]
Public Lands Specialist

RETURN TO:
American Abstract & Title Co.
Box 991
Billings, Mt. 59860

ORIGINAL DOCUMENT
NOT LEGIBLE

249284

STATE OF MONTANA, COUNTY OF LAKE
 RECORDED AT 4:00 O'CLOCK P. M. JUN 11 1979
 MICROFILM 249284 ETHEL M. BARDING RECORDED
 FILE 16⁰⁰ BY *Shirley J. Shierhoff*

Eileen S. Decker

being first duly sworn, on oath depose and say: That

I am employed as Legal Clerk at Flathead Agency

in the State of Montana; that on the 19th day of July
 Conf. Salich and Kootenai
 1972 William Hatt an enrolled member of the Tribes

of Indians in the State of Montana requested me to prepare his ~~last~~
 last will and testament; that I prepared the attached will and read ~~(the instrument before the testator)~~
 said will to testator ~~(the testator)~~ and he ~~(then)~~ then stated that said instrument was drawn in accord-
 ance with his ~~(own)~~ own wishes as previously stated to me; that said testator ~~(testator)~~ was not, so
 far as I could ascertain, acting under duress, menace, fraud or undue influence of any person, and in
 my opinion was mentally capable of disposing of his ~~(own)~~ estate by will; that he ~~(then)~~ signed the

same and published and declared it to be his ~~(own)~~ last will and testament before Carl S. Cajune

and William Hatt, whom he ~~(then)~~ requested
 to act as witnesses thereto; that there were present in the room with the testator ~~(testator)~~ at said
 time besides myself and the above named witnesses, the following-named persons: no other person

was present.

WITNESSES

Eileen S. Decker
 Eileen S. Decker

Subscribed and sworn to before me this 19th day of July

1972, by William Hatt Carl S. Cajune

and Eileen S. Decker

Shirley J. Shierhoff
 NOTARY PUBLIC FOR THE STATE OF MONTANA
 Residing at Ronan, Montana

NOTARY PUBLIC FOR THE STATE OF MONTANA

Residing at Ronan, Montana

My Commission Expires May 23, 1979

My Commission Expires May 23, 1979

My Commission Expires May 23, 1979

My Commission Expires May 23, 1979

My Commission Expires May 23, 1979

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My Commission Expires May 23, 1979

My Commission Expires May 23, 1979

My Commission Expires May 23, 1979

Return to:

Evelyn Stevenson

Box 278

Park, MT

89855

2025 RELEASE UNDER E.O. 14176
 2025 RELEASE UNDER E.O. 14176
 2025 RELEASE UNDER E.O. 14176

ORIGINAL DOCUMENT

POLSON, MONTANA,

July 9

06-255756
1866

184 days (1-14-81)

after date, I or we, jointly and severally

Promise to pay to the order of

THE SECURITY STATE BANK

POLSON, MONTANA

DOLLARS

Forty thousand two hundred and 20/100

\$ 40,200.00

Secured by

Real Estate Mortgage

Acct.
No.

No.

Date 8-14-81

Grand Falls 004005

Bureau File Number

File

Bureau File Number

File

EXHIBITS

FURNISH

FURNISH

EXHIBITS

EXHIBITS

11112 04

As custodian of the public records retained by
the State of Montana, I hereby certify that this is a true copy.

Date

JUL 1937

Margaret M. Smith
Margaret M. Smith
Public Records Specialist

STATE OF MONTANA, COUNTY OF LAKE

RECORDED AT 11:40 AM INDEXED A M. JUL 9 1937
MICROFILMED 255753 BY STILL M. MANUANG RECORDED
FEE \$ 4.00 BY *Barbara L. Bates* DEP.

File

ORIGINAL DOCUMENT
NOT LEGIBLE

NOTICE OF ASSIGNMENT OF CONTRACT FOR DEED AND ABSTRACT OF INSTRUMENT

Return to: First Security Bank & Trust

P.O. Box 250

Miles City, MT 59301

- (1) The names and addresses of the Parties to the Assignment are:

ASSIGNOR: NEWHOUSE CATTLE CO., A Montana Corporation
ASSIGNEE: First Security Bank & Trust of Miles City, Miles City, Montana.

529

- (2) The description of the real property affected is described as follows or is attached hereto as Exhibit "A": Glacier & Lake Co (Fill in Description)

See legal description attached.

225983

- (3) This Notice is an Abstract of an Assignment of a Contract for Deed between the NEWHOUSE CATTLE, CO.

 as Seller, and Lucille Snyder as Purchasers, AND covering the above described property.

- (4) The name and address of the person who will provide a full and complete copy of the document abstracted as provided for in Section 73-101-1, RCM, 1947, as amended, is R. C. Brown, 1st Security Bank & Trust, 700 Main Street, Miles City, Montana.

- (5) The purpose of this Notice of Assignment of Contract for Deed and Abstract of Instrument is to give notice to any and all persons of the existence of the Assignment and of the interest of the parties hereto.

DATED January 21, 1976

ASSIGNOR:

NEWHOUSE CATTLE CO.

BY: W. E. Newhouse

President

ASSIGNEE:

FIRST SECURITY BANK & TRUST OF MILES CITY

BY: [Signature]

STATE OF MONTANA

COUNTY OF CUSTER

On this 21st day of January, 1976, before me,

undersigned, a Notary Public, personally appeared J.L. McKibbin known to me to be the Vice President & Cashier of the Corporation that executed the within instrument and acknowledged to me that such corporation executed the same.



Pamela Albertson
Notary Public for the State of Montana
Residing at Miles City, Montana
My Commission expires 1-25-79

STATE OF MONTANA

COUNTY OF CUSTER

On this 21st day of January, 1976, before me, the undersigned, a Notary

Public for the State of Montana, personally appeared W.E. Newhouse known to be the President of NEWHOUSE CATTLE, CO. who subscribed to the within instrument, and acknowledged to me

that he

executed the same.



W.E. Newhouse
Notary Public for the State of Montana
Residing at Miles City, Montana
My Commission expires

EXHIBIT "B"

The following described real estate and interest therein, being and being in the County of Lake, State of Montana, and more particularly described as follows, to-wit:

Tract I

All of the following described premises located in Township Seventeen (17) North, Range Twentieth (20) West, Blaine, Lake County, Montana, to-wit:

Section Nineteen (19): Lots Two (2), Three (3), Four (4) and Five (5), and the Southwest Quarter (SW 1/4), South-east Quarter of the Southwest Quarter (SE 1/4), Southwest Quarter of the Northeast Quarter (SW 1/4), and Southeast Quarter (SE 1/4);

Section Twenty (20): Southwest Quarter of the Southwest Quarter (SW 1/4);

Section Twenty-nine (29): West Half of the West Half (W 1/2);

Section Thirty (30): West Half of the Southeast Quarter (W 1/2 SE 1/4), Southwest Quarter of the Northeast Quarter (SW 1/4), East Half of the Northeast Quarter of the Northeast Quarter (E 1/2 NE 1/4), East half of the East Half (E 1/2);

Section Thirty-one (31): Northeast Quarter (NE 1/4), Northeast Quarter of the Southwest Quarter (NE 1/4 SW 1/4), West Half of the Southeast Quarter (W 1/2 SE 1/4);

Section Thirty-two (32): Northwest Quarter (NW 1/4), North Half of the Southwest Quarter (N 1/2 SW 1/4), Southeast Quarter of the Southwest Quarter (SE 1/4 SW 1/4);

All of the following described premises located in Township Seventeen (17) North, Range Twenty (20) West, M.P.M., Lake County, Montana, to-wit:

Section Twenty-four (24): Southeast Quarter (SE 1/4), East Half of the Southwest Quarter (E 1/2 SW 1/4);

Section Twenty-six (26): Southeast Quarter of the Southeast Quarter (SE 1/4 SE 1/4), East Half of the Southeast Quarter (E 1/2 SE 1/4), East R/W and West of R/W;

Section Thirty-five (35): Northwest Quarter of the Northeast Quarter (NW 1/4 NE 1/4), Southwest Quarter of the Northeast Quarter (SW 1/4 NE 1/4), Less 120;

EXHIBIT "B"

1
2 The following described real estate and interest therein;
3 being in the County of Ada, State of Oklahoma, and the
4 more particularly described as follows, to-wit:

Tract I

5 All of the following described premises located in Township
6 Seventeen (17) North, Range Twenty (20) West, H. Park, Lake
7 County, Oklahoma, to-wit:

- 8 Section Nineteen (19): West Half (W/2) of the North Half (N/2)
9 and East Half (E/2) of the North Half (N/2)
10 of the Southwest Quarter (SW/4) of the
11 Northeast Quarter (NE/4) of the
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38 All of the following described premises located in Township
39 Seventeen (17) North, Range Twenty (20) West, H. Park, Lake
40 County, Oklahoma, to-wit:

- 41 Section Twenty-four (24): Southeast Quarter (SE/4) of the
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• **Stress** is a response to a stimulus that is perceived as a threat or challenge.

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It is reported that a small number of the individuals residing near the headquarters of the Communist Party of Eastern Russia have been arrested in connection with the arrest of these individuals and that the Russian Government has announced that it will be arrested.

Exhibit A-1

Answer to Question

1. The first part of the paper is devoted to the study of the asymptotic behavior of the solutions of the system (1) as $t \rightarrow \infty$. It is shown that the solutions of the system (1) are bounded and tend to zero as $t \rightarrow \infty$ if the matrix A is stable. The second part of the paper is devoted to the study of the asymptotic behavior of the solutions of the system (1) as $t \rightarrow \infty$ if the matrix A is not stable. It is shown that the solutions of the system (1) are bounded and tend to zero as $t \rightarrow \infty$ if the matrix A is not stable and the matrix B is positive definite.

100-101-102-103-104-105-106-107-108-109-110-111-112-113-114-115-116-117-118-119-120-121-122-123-124-125-126-127-128-129-130-131-132-133-134-135-136-137-138-139-140-141-142-143-144-145-146-147-148-149-150-151-152-153-154-155-156-157-158-159-160-161-162-163-164-165-166-167-168-169-170-171-172-173-174-175-176-177-178-179-180-181-182-183-184-185-186-187-188-189-190-191-192-193-194-195-196-197-198-199-200-201-202-203-204-205-206-207-208-209-210-211-212-213-214-215-216-217-218-219-220-221-222-223-224-225-226-227-228-229-230-231-232-233-234-235-236-237-238-239-240-241-242-243-244-245-246-247-248-249-250-251-252-253-254-255-256-257-258-259-260-261-262-263-264-265-266-267-268-269-270-271-272-273-274-275-276-277-278-279-280-281-282-283-284-285-286-287-288-289-290-291-292-293-294-295-296-297-298-299-300-301-302-303-304-305-306-307-308-309-310-311-312-313-314-315-316-317-318-319-320-321-322-323-324-325-326-327-328-329-330-331-332-333-334-335-336-337-338-339-340-341-342-343-344-345-346-347-348-349-350-351-352-353-354-355-356-357-358-359-360-361-362-363-364-365-366-367-368-369-370-371-372-373-374-375-376-377-378-379-380-381-382-383-384-385-386-387-388-389-390-391-392-393-394-395-396-397-398-399-400-401-402-403-404-405-406-407-408-409-410-411-412-413-414-415-416-417-418-419-420-421-422-423-424-425-426-427-428-429-430-431-432-433-434-435-436-437-438-439-440-441-442-443-444-445-446-447-448-449-450-451-452-453-454-455-456-457-458-459-460-461-462-463-464-465-466-467-468-469-470-471-472-473-474-475-476-477-478-479-480-481-482-483-484-485-486-487-488-489-490-491-492-493-494-495-496-497-498-499-500-501-502-503-504-505-506-507-508-509-510-511-512-513-514-515-516-517-518-519-520-521-522-523-524-525-526-527-528-529-530-531-532-533-534-535-536-537-538-539-540-541-542-543-544-545-546-547-548-549-550-551-552-553-554-555-556-557-558-559-560-561-562-563-564-565-566-567-568-569-570-571-572-573-574-575-576-577-578-579-580-581-582-583-584-585-586-587-588-589-590-591-592-593-594-595-596-597-598-599-600-601-602-603-604-605-606-607-608-609-610-611-612-613-614-615-616-617-618-619-620-621-622-623-624-625-626-627-628-629-630-631-632-633-634-635-636-637-638-639-640-641-642-643-644-645-646-647-648-649-650-651-652-653-654-655-656-657-658-659-660-661-662-663-664-665-666-667-668-669-670-671-672-673-674-675-676-677-678-679-680-681-682-683-684-685-686-687-688-689-690-691-692-693-694-695-696-697-698-699-700-701-702-703-704-705-706-707-708-709-710-711-712-713-714-715-716-717-718-719-720-721-722-723-724-725-726-727-728-729-730-731-732-733-734-735-736-737-738-739-740-741-742-743-744-745-746-747-748-749-750-751-752-753-754-755-756-757-758-759-760-761-762-763-764-765-766-767-768-769-770-771-772-773-774-775-776-777-778-779-780-781-782-783-784-785-786-787-788-789-790-791-792-793-794-795-796-797-798-799-800-801-802-803-804-805-806-807-808-809-810-811-812-813-814-815-816-817-818-819-820-821-822-823-824-825-826-827-828-829-830-831-832-833-834-835-836-837-838-839-840-841-842-843-844-845-846-847-848-849-850-851-852-853-854-855-856-857-858-859-860-861-862-863-864-865-866-867-868-869-870-871-872-873-874-875-876-877-878-879-880-881-882-883-884-885-886-887-888-889-890-891-892-893-894-895-896-897-898-899-900-901-902-903-904-905-906-907-908-909-910-911-912-913-914-915-916-917-918-919-920-921-922-923-924-925-926-927-928-929-930-931-932-933-934-935-936-937-938-939-940-941-942-943-944-945-946-947-948-949-950-951-952-953-954-955-956-957-958-959-960-961-962-963-964-965-966-967-968-969-970-971-972-973-974-975-976-977-978-979-980-981-982-983-984-985-986-987-988-989-990-991-992-993-994-995-996-997-998-999-1000-1001-1002-1003-1004-1005-1006-1007-1008-1009-1010-1011-1012-1013-1014-1015-1016-1017-1018-1019-1020-1021-1022-1023-1024-1025-1026-1027-1028-1029-1030-1031-1032-1033-1034-1035-1036-1037-1038-1039-1040-1041-1042-1043-1044-1045-1046-1047-1048-1049-1050-1051-1052-1053-1054-1055-1056-1057-1058-1059-1060-1061-1062-1063-1064-1065-1066-1067-1068-1069-1070-1071-1072-1073-1074-1075-1076-1077-1078-1079-1080-1081-1082-1083-1084-1085-1086-1087-1088-1089-1090-1091-1092-1093-1094-1095-1096-1097-1098

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In testimony whereof, I, Theodore Roosevelt

United States of America, have caused these letters to be made
Private, and the seal of the General Land Office is to be removed
off and.

1984

WITNESSED under my hand, at the City of Washington, the
 19th day of May, 1904.

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED

and of the influence of the United States the new business
and development.

On certificate of the post office returned by
the carrier of 1890, September 1st, Chicago, Illinois,
I hereby certify that

Theodore Roosevelt
John A. Tamm
[Signature]
Secretary of the General Land Office.

Mary S. Briggs

MARY S. BRIGGS
Public Printer 1890

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STANDING COMMITTEE REPORT

March 25 19 83

MR. President

We, your committee on Senate Judiciary

having had under consideration House Bill No. 565

(Vinger-Daniels)

Respectfully report as follows: That House Bill No. 565

Be amended as follows:

1. Title, line 6.

Following: "RECORDER"

Insert: "AND THE ADDITION OF A STATEMENT BY THE CLERK TO DOCUMENTS
CONSIDERED NO LIGIBLE"

2. Page 1, lines 12 and 13.

Strike: "executed after January 1, 1984, and"

3. Page 1, lines 15 through 19.

Strike: "the printed" on line 15, through "county clerk" on line 19.

Insert: "and accompanied by the required fee, he"

4. Page 1.

Following: line 23.

Insert: "(2) If the printed, written, or typed words or numbers are
considered by the clerk and recorder to be illegible and not legibly
reproducable, the clerk and recorder must affix to the recorded
document a statement that the document is illegible and not legibly

DO-PASS

Continued on page 2.

Senate Judiciary Committee

Re: HB565

Page 2

March 25, 19 83.....

reproducible.

Renumber: subsequent subsections.

And, as so amended,
BE CONCURRED IN

J.C.

STANDING COMMITTEE REPORT

March 25

19 83

MR. **PRESIDENT**

We, your committee on **JUDICIARY**

having had under consideration **HOUSE** Bill No. **856**

Bergene (Halligan)

Respectfully report as follows: That **HOUSE** Bill No. **856**

Third reading bill (blue copy) be amended as follows:

1. Page 9, line 11.

Strike: "41-3-404"

Insert: "41-3-406"

**And, as so amended,
BE CONCURRED IN**

XXXXXX

4/C

STANDING COMMITTEE REPORT

.....March 25,..... 19...83...

MR.President.....

We, your committee onSenate Judiciary.....

having had under considerationHouse..... Bill No.880.....

Bergene (Berg)

Respectfully report as follows: That.....House..... Bill No.880.....

be amended as follows:

1. Page 9.

Following: line 17.

Insert: Section 12. 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.

Renumber: Subsequent section.

DO-PASS

And, as so amended,
BE CONCURRED IN

41

STANDING COMMITTEE REPORT

March 24, 19 83

MR. President

We, your committee on Senate Judiciary

having had under consideration House Bill No. 357

Donaldson (Mazurek)

Respectfully report as follows: That House Bill No. 357
be amended as follows:

1. Page 2, line 24.

Following: "employer."

Insert: "If the employee is an elected state official or other employee having no supervisor, the employee shall give notice of the action to the legal officer or agency of the governmental entity defending the entity in legal actions of that type."

2. Page 3, line 17.

Following: "unless the"

Insert: "employee's"

3. Page 3, lines 18 and 19.

Strike: "upon" on line 18 through "employment" on line 19

DO PASS

Continued on page 2

March 24,

19 83

4. Page 3, line 20.

Strike: "or"

5. Page 4, line 5.

Strike: "civil suit"

Insert: "liability"

6. Page 4, line 10.

Following: "(6)"

Insert: "(b) through (d)"

7. Page 4, line 17.

Following: "based"

Insert: "constitutes oppression, fraud, or malice, or for any other reason"

8. Page 5, line 1.

Following: "If"

Insert: "no judicial determination has been made applying the exclusions provided in subsection (6), the governmental entity employer may determine whether those exclusions apply. However, if"

9. Page 5, line 9.

Following: "employee."

Insert: "The governmental entity employer has no obligation to provide a defense to the employee in a declaratory judgment action or other legal action brought against the employee by the employer under this subsection."

And, as so amended,

BE CONCURRED IN

STANDING COMMITTEE REPORT

March 25,

19 83

MR. President

We, your committee on Senate Judiciary

having had under consideration House Bill No. 540

Vincent (Halligan)

Respectfully report as follows: That House Bill No. 540
be amended as follows:

1. Page 2, lines 19 through 25 and page 3, line 1.
Strike: Page 2, lines 19 through 25 and page 3, line 1.
Insert: "NEW SECTION. Section 2. Operation of motor vehicle with alcohol concentration of 0.10 or more. It is unlawful and punishable as provided in 61-8-714 for any person to drive or be in actual physical control of a motor vehicle upon the ways of the state open to the public while the alcohol concentration in his blood, breath, or urine is 0.10 or more.
2. Page 3, lines 2 through 14.
Strike: page 3, lines 2 through 14.
Insert: "Section 3. Section 61-8-401 is amended to read:
"61-8-401. Persons under the influence of alcohol or drugs.
(1) It is unlawful and punishable as provided in 61-8-714(1) for any person who is under the influence of:
(a) alcohol to drive to be in actual physical control of a motor vehicle upon the highways-of-this-state ways of the state open to the public;

DO-PASS-

Continued on page 2

March 25, 1983

(b) a narcotic drug to drive or be in actual physical control of a motor vehicle within this state; or

(c) any other drug to a degree which renders him incapable of safely driving a motor vehicle to drive or be in actual physical control of a motor vehicle within this state; or"

3. Page 3, line 15.

Strike: "(c)"

Insert: "(d)"

4. Page 3, line 16.

Following: "vehicle"

Insert: "to drive or be in actual physical control of a motor vehicle within this state"

5. Page 3, line 17.

Strike: "(3)"

Insert: "(2)"

6. Page 3, line 18.

Strike: "or (2)"

7. Page 3, line 21.

Strike: "or (2)"

8. Page 3, line 22.

Strike: "(4)"

Insert: "(3)"

9. Page 4, line 24.

Strike: "(5)"

Insert: "(4)"

Following: "subsection"

Strike: "(4)"

Insert: "(3)"

10. Page 5, lines 6 through 12.

Strike: subsections 6 and 7

Renumber: subsequent subsection

11. Page 5, line 15.

Strike: "(6)"

Insert: "(4)"

12. Page 5, line 16.

Strike: "subsections" and "and (2)"

Insert: "subsection" before "(1)"

13. Page 5, following line 19.

Insert: "NEW SECTION. Section 4. Definition of alcohol concentration. For purposes of [Sections 2 and 3], 'alcohol concentration' means either grams of alcohol per 100 milliliters of blood, grams of alcohol per 210 liters of breath, or grams of alcohol per 75.3 milliliters of urine."

14. Page 8, lines 12 through 14.

Following: "person" in line 12

Strike: "while driving or in actual physical control of a motor vehicle while under the influence of alcohol,"

Insert: "in violation of [Section 2 or Section 3 of this Act]."

And, as so amended,
BE CONCURRED IN

STANDING COMMITTEE REPORT

.....MARCH 25..... 19 83.

MR. **PRESIDENT**.....

We, your committee on..... **JUDICIARY**.....

having had under consideration..... **HOUSE**..... Bill No. **362**.....

Sands (Crippen)

Respectfully report as follows: That..... **HOUSE**..... Bill No. **362**.....

Third reading bill (blue copy) be amended as follows:

1. Title, lines 6 and 7.

Strike: "EXCEPT WHEN IT IS A DEFENDANT'S FIRST OFFENSE."

2. Page 2, line 3.

Strike: ","

Insert: ."

3. Page 2, lines 4 through 9.

Strike: "however" on line 4 through "THEN" on line 9

Insert: "However,"

And, as so amended,
BE CONCURRED IN

~~DOXAS6X~~

J.A.C.