

MINUTES OF THE MEETING
LOCAL GOVERNMENT COMMITTEE
MONTANA STATE SENATE

March 3, 1987

The fifteenth meeting of the Local Government Committee was called to order by Chairman Bruce Crippen at 1:00 p.m. on March 3, 1987, in Room 405 of the Capitol.

ROLL CALL: All members were present.

CONSIDERATION OF HOUSE BILL NO. 625: Rep. Stella Jean Hansen of Missoula, representing District 57, said she sponsored the bill to clarify the penalties for non-payment of sewer and water assessments. The termination of water service is of little value to a city or town that does not own its water system, which is the case in Missoula. This bill attempts to give the city statutory authority to sue to collect delinquent sewer bills. In January, 1986, Missoula was owed more than \$120,000 in delinquent sewer payments by less than 30 industrial and commercial business entities.

PROPOSERS:

Jim Nugent, City Attorney for Missoula, presented testimony to the committee. (See EXHIBIT 1)

Allen Tandy, Billings City Manager, distributed testimony to members of the committee and read EXHIBIT 2.

Alec Hansen, of the League of Cities and Towns, said this would provide cities with a legal means of collecting delinquent sewer bills, and urged support for the bill.

OPPOSERS: There were no opposers.

QUESTIONS FROM THE COMMITTEE:

Sen. Eck asked about the provision for suing in city court. Mr. Nugent said that cities are authorized to use city court to collect up to \$2,500 but they must use the district court to collect \$30,000 or more.

Sen. Crippen asked if health standards might be questioned if water was shut off and sewer services were terminated. Mr. Nugent said the sewer system probably wouldn't be shut off.

Sen. Crippen asked if sewer service could be shut off in a business center for non-payment. Mr. Nugent felt it was unlikely. Mr. Tandy said it could cause a sanitary problem - a threat to health and safety. Three formal warnings are given before there would be any discontinuance, he said, but the notice provision is related only to case law.

Mr. Nugent said that Great Falls has a stringent requirement for giving notice, and further, that the resident has a right of appeal.

In closing, Rep. Hansen said the bill was instituted mostly because of a dairy farm which owes a large sum for sewer service and is polluting the Clark Fork River. She urged support of the bill.

CONSIDERATION OF HOUSE BILL NO. 320: Rep. Stella Jean Hansen of District 57, said this bill would require only one copy of a technical code to be filed with a city clerk. This proposal eliminates a conflict between two provisions of state law and saves cities and towns a small amount of money. The code is a large publication and seldom requested, dealing with the fire department and building officials. It costs about \$35 per copy.

PROPONENTS:

Jim Nugent, representing Missoula, presented EXHIBIT 3 to the committee.

Alec Hansen, lobbyist for the Montana League of Cities and Towns, said portions of the technical codes are available to anyone upon request, by use of copy machines, and urged support of the bill. The money saved could be better used in other ways, he said.

OPPONENTS: There were no opponents.

QUESTIONS FROM THE COMMITTEE:

Sen. Story asked if this bill only eliminated printing of two extra copies for the city clerk. Mr. Nugent said that was true; that the building official and fire chief would still get their copies.

Sen. Eck asked Alec Hansen if the micro-fiche system wasn't used to store technical information. Mr. Hansen said he wasn't aware of any cities using them.

In closing, Rep. Hansen said that it is presently very easy to copy a page from the code on the copy machine and felt that money could be saved by printing two less copies for the city clerk.

CONSIDERATION OF HOUSE BILL NO. 587: Rep. Paula Darko, of Libby, representing District 2, said the bill would shorten the time it takes to get overdue sewer charges on the tax notices from two years down to six months. When there are property transfers, the new property owner should know that these charges are owed before they purchase the property.

PROPOSERS:

Alec Hansen, lobbyist for Montana League of Cities and Towns, supported the bill.

Jim Nugent, City Attorney of Missoula, said the reduction in the time lag is an improvement and, in his estimation, it is a "housekeeping" measure.

OPPOSERS: There were none.

QUESTIONS FROM THE COMMITTEE: There were no questions.

Rep. Darko closed her presentation on HB 587. Sen. Vaughn was assigned to carry the bill on the Senate floor.

CONSIDERATION OF HOUSE BILL NO. 646: Rep. Barry "Spook" Stang, St. Regis, representing District 52, said this bill is an extension of the current SID laws, authorizing the creation of a SID for the purpose of facilitating the construction of telecommunications, electricity and gas. There were some small subdivisions created 10-15 years ago with the assumption that electricity would soon be put in and it still has not been brought to the area. This would allow owners to have the electricity, even if some of the property owners want to delay it, and the cost would be spread out over a number of years.

PROPOSERS:

Bob Quinn, lobbyist for the Montana Power Company, said that under the current rules of the Montana Public Service Commission, the people who put in the power lines will only be contracted for five years and then the lines will be free and clear. Individual property owners can sign up to pay for the installation of power to their property over a period of 15-20 years and future owners will pay their fair share of the cost of bringing it into the subdivision. Mr. Quinn said that expected revenue five times the predicted annual bill is the basis for determining the capabilities of a line built free of charge into a subdivision. If the construction cost exceeds that, this bill will provide for the use of SIDs to cover the additional cost.

OPPOSERS: There were none.

QUESTIONS FROM THE COMMITTEE:

Sen. Eck referred to the language on page 4, line 10, specifically to the word "aid."

Ms. Renne, staff researcher, noted that under current federal law the bonds used to bring electricity onto private property would not be tax exempt. Mr. Quinn said the property would remain the property of the utilities, who would maintain and pay taxes on the property.

Sen. Hammond asked if bonding would be used for lighting districts and Mr. Quinn answered negatively.

In closing, Rep. Stang commented that the bonding question did come up in the House. He said that getting electricity onto the land would increase its value which would result in more taxable value "on the books".

EXECUTIVE SESSION:

ACTION ON HOUSE BILL NO. 320: Sen. Walker MOVED that HB 320 BE CONCURRED IN. The MOTION PASSED UNANIMOUSLY. Sen. Walker was assigned to carry the bill on the floor of the Senate.

ACTION ON HOUSE BILL NO. 587: Sen. Harding MOVED that HB 587 BE CONCURRED IN. The MOTION PASSED UNANIMOUSLY. Sen. Vaughn was assigned to carry the bill.

ACTION ON HOUSE BILL NO. 625: Sen. Eck MOVED that HB 625 BE CONCURRED IN. The MOTION PASSED UNANIMOUSLY. Sen. Eck was assigned to carry the bill.

ACTION ON HOUSE BILL NO. 646: Discussion by the committee brought out that a Special Improvement District would not own the power line as opposed to the city owning a lighting district. Also, it was determined that the cost to the individual property owner would be prorated.

Sen. Eck MOVED that HB 646 BE CONCURRED IN. The MOTION PASSED UNANIMOUSLY. Sen. McCallum had previously agreed to carry the bill, according to Rep. Stang.

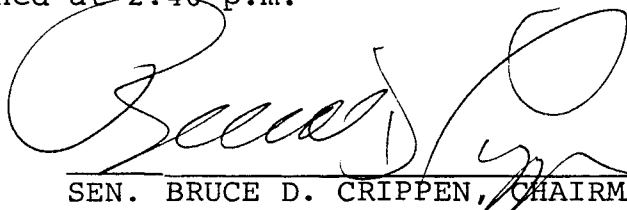
ACTION ON HOUSE BILL NO. 452: Discussion by the committee followed the distribution of amendments requested by Sen. Story (EXHIBIT 4). He said that Livingston and Red Lodge want to have biennial elections in even-numbered years on school election day so it would be paid for by the county. Problems could develop if the amendments aren't passed because they want to hold their elections on April 2 of this year when the school elections are being held.

Sen. Story MOVED ADOPTION OF HIS AMENDMENTS. The MOTION PASSED UNANIMOUSLY.

Local Government Committee
March 3, 1987
Page 5

Sen. Story MOVED that HB 452 BE CONCURRED IN AS AMENDED.
The MOTION PASSED UNANIMOUSLY. Sen. Story was assigned
to carry the bill.

The meeting adjourned at 2:40 p.m.

A handwritten signature in cursive script, appearing to read "Bruce D. Crippen", is written above a horizontal line. The signature is fluid and somewhat stylized.

SEN. BRUCE D. CRIPPEN, CHAIRMAN

ROLL CALL

SENATE LOCAL GOVERNMENT COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 3-3-87

| NAME | PRESENT | ABSENT | EXCUSED |
|--------------------|---------|--------|---------|
| BRUCE CRIPPEN | X | | |
| R. J. PINSONEAULT | X | | |
| TOM BECK | X | | |
| DOROTHY ECK | X | | |
| H. "SWEDE" HAMMOND | X | | |
| ETHEL HARDING | X | | |
| LES HIRSCH | X | | |
| PETER STORY | X | | |
| ELEANOR VAUGHN | X | | |
| MIKE WALKER | X | | |
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Each day attach to minutes.



OFFICE OF THE CITY ATTORNEY

201 W. SPRUCE • MISSOULA, MT 59802-4297 • (406) 721-4700

February 27, 1987

87-128

| | |
|-----------------------------------|-----------------------------------|
| Representative Stella Jean Hansen | Senator Bruce Crippen |
| State House of Representatives | Senate Local Government Committee |
| Montana State Capitol | Chairman, Montana Senate |
| Helena, Montana 59620 | Montana State Capitol |
| | Helena, Montana 59620 |

Re: Support for HB-625, pertaining to penalties for delinquent sewer billings

Dear Representatives Hansen and Wallin:

The City of Missoula supports House Bill 625, entitled, "An Act to Clarify the Penalties a City or Town may Invoke for Non-payment of a City Water or Sewer Assessment," providing that sewer service may be discontinued, that full payment must be made prior to re-establishment and that past due payments are a debt collectable in court.

City of Missoula sewer rates are established pursuant to Federal Environmental Protection Agency requirements that require users of a municipal sewer system to pay sewer rates based on their direct sewer usage impacts on the municipal sewage treatment facility. This is required in order to be eligible for sizeable and substantial federal EPA grants for sewage treatment facilities.

The purpose of HB-625 is to clarify what remedies exist for dealing with municipal utility delinquencies by expressly establishing statutory remedies.

Currently, pursuant to Montana law, legal uncertainty exists as to whether a city or town may collect delinquent municipal sewer bills pursuant to a lawsuit if it is deemed necessary to do so. Further, Section 7-13-4306, M.C.A., pertaining to the effect of failure to pay charges, only expressly authorizes the discontinuance of water to a premises when nonpayment of either water or sewer bills occurs. If the city or town does not own the municipal water system, it is difficult for the city to terminate the supply of water pursuant to current law in Section 7-13-4306, M.C.A.

There is substantial reason to believe that, pursuant to Montana Supreme Court case law, where the State Legislature creates statutory remedies, those statutory remedies are deemed by the Montana Supreme Court to be exclusive remedies. Pursuant to statutory remedies in current Montana state law, delinquent sewer bills may become a real estate lien similar to a tax lien pursuant to Section 7-13-4309, M.C.A., or the supply of water may be discontinued pursuant to Section 7-13-4306, M.C.A. The termination of water service is of little value to a city or town that does not own its water system.

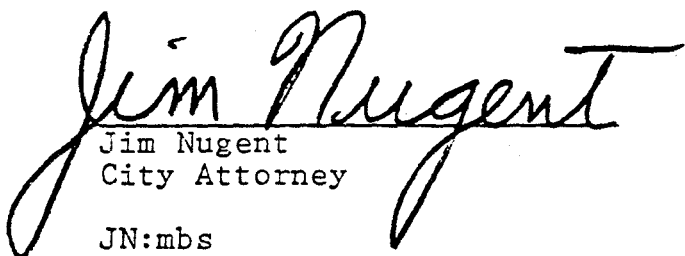
Representative Stella Jean Hansen
Senator Bruce Crippen
February 27, 1987
Page Two

Sewer delinquency real estate liens are of inadequate assistance to a municipality attempting to collect delinquent sewer bills for industrial and commercial business entities that make substantial use of and have significant impacts on a municipal sewage treatment facility. At the beginning of 1986 the City of Missoula was owed more than \$120,000.00 in delinquent sewer payments by less than thirty (30) industrial and commercial business entities, each of whom's sewer delinquency was at least \$1,000.00 in arrears.

A dairy in Missoula had the greatest delinquency with a bill that had accumulated over several years to the point of being more than \$30,000.00 in arrears. The City has now collected a major portion of these delinquencies pursuant to additional delinquency notices and letters threatening to bring a lawsuit to collect. However, at this time there is legal uncertainty as to whether the City actually possesses statutory authority to sue to collect delinquent sewer bills. Thus, the City's threats might not be able to be successfully implemented.

Therefore, your favorable consideration of and support for HB-625 would be greatly appreciated.

Yours truly,


Jim Nugent
City Attorney

JN:mbs

cc: Missoula County Senators William E. Farrell, Mike Halligan, Bill Norman, Fred VanValkenburg, Jack Haffey, George McCallum and R.J. "Dick" Pinsoneault; Alec Hansen, Executive Director of the Montana League of Cities & Towns; and Legislative File

HB625/INFO

Mr. Chairman and Committee Members, my name is Alan Tandy, City Administrator of Billings.

The City of Billings supports the passage of HOUSE BILL 625.

The City recently annexed a large area in its northeast sector, which is commonly referred to as the "Billings Heights Area." This area contains about 5,000 people. Currently, the property owners located in the Billings Heights area, the City of Billings, the State of Montana, and the United States Environmental Protection Agency are working together to fund and construct a sanitary sewer system to serve this area. The total cost for the sewer system exceeds \$19 million. The contracts awarded to construct this system are in various stages of completion. However, those portions that are completed are now serving about 440 customers.

A county water district provides the Billings Heights Area with water service,. Consequently, in the case of nonpayment of city sewer charges, the City cannot discontinue water service to the properties in that area. With passage of HOUSE BILL 625, however, the City would have a means of ensuring payment of these sewer charges, either by dicontinuance of City sewer service or by bringing suit in a city court. For this reason, we support the passage of HOUSE BILL 625.

Thank you.

MARCH 1987



MISSOULA

OFFICE OF THE CITY ATTORNEY BILL NO. SB 320

201 W. SPRUCE • MISSOULA, MT 59802-4297 • (406) 721-4700

February, 1987

87-127

Representative Stella Jean Hansen
House of Representatives
Montana State Capitol
Helena, Montana 59620

Senator Bruce Crippen
Senate Local Government Committee
Chairman
Montana Senate
Montana State Capitol
Helena, Montana 59620

Re: Support for House Bill 320 requiring only one copy of a technical Code to be filed with a City Clerk

Honorable Representative Hansen and Senator Crippen:

The purpose of this letter is to express the support of the Montana League of Cities and Towns and City of Missoula officials for House Bill 320 requiring only one copy of a technical Code to be filed with a City Clerk. This legislative proposal eliminates a conflict between two provisions of state law and saves city and towns a small amount of money.

Friday, September 19, 1986, at its annual conference, the Montana League of Cities and Towns adopted a resolution stating:

BE IT RESOLVED THAT THE MONTANA LEAGUE OF CITIES AND TOWNS WILL SUPPORT LEGISLATION IN 1987 THAT WILL CHANGE THE REQUIREMENTS FOR ADOPTING TECHNICAL CODES BY REFERENCE. THERE IS AN INCONSISTENCY BETWEEN 7-5-4202 AND 7-5-108 THAT NEEDS TO BE ELIMINATED.

Currently, two sections of Montana law pertain to a local government's (city or town) adoption or incorporation of technical codes by reference. These sections are 7-5-108 and 7-5-4202, M.C.A. Examples of technical Codes adopted or incorporated by reference are the Uniform Fire Code, Uniform Building, Electrical and Plumbing Codes, etc.

Currenty, Section 7-5-108, M.C.A. requires that at least one copy of any technical Code be kept in the City Clerk's Office and be available for public use, inspection and examination. However, Section 7-5-4202, M.C.A. requires that three copies of the technical Code be filed with the City Clerk for inspection by the public. The Montana League of Cities and Towns supports House Bill 320 for the following reasons:

1. It eliminates the current conflict in law between Sections 7-5-108 and 7-5-4202, M.C.A.; and
2. It amends Section 7-5-4202, M.C.A. so that only one copy of each technical Code is required to be on file with the City Clerk's office. The Uniform technical Codes are expensive books, and this could save cities and towns a small amount of money.



OFFICE OF THE CITY ATTORNEY

201 W. SPRUCE • MISSOULA, MT 59802-4297 • (406) 721-4700

SENATE LOCAL GOVERNMENT
EXHIBIT NO. 3

DATE 3-3-87

BILL NO. SA 320

February, 1987

87-127

Representative Stella Jean Hansen
House of Representatives
Montana State Capitol
Helena, Montana 59620

Senator Bruce Crippen
Senate Local Government Committee
Chairman
Montana Senate
Montana State Capitol
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Senate Committee on Local Government

February 19, 1987

AMENDMENTS TO HOUSE BILL 452
(requested by Senator Story)

1. Title, line 5.

Strike: "WITH A COUNCIL-MAYOR GOVERNMENT"

2. Title, line 6.

Following: "MANNER"

Insert: "OR TIME"

Following: "ELECTION;"

Insert: "AMENDING SECTIONS 13-1-104 AND 13-1-107, MCA;
PROVIDING AN APPLICABILITY DATE AND AN IMMEDIATE
EFFECTIVE DATE;"

3. Page 1, following line 19.

Insert: "Section 2. Section 13-1-104, MCA, is amended to
read:

"13-1-104. Times for holding general elections.

(1) A general election shall be held throughout the state in every even-numbered year on the first Tuesday after the first Monday of November to vote on ballot issues required by Article III, section 6, or Article XIV, section 8, of the Montana constitution to be submitted by the legislature to the electors at a general election, unless an earlier date is provided in a law authorizing a special election on an initiative or referendum pursuant to Article III, section 6, and to elect federal officers, state or multicounty district officers, members of the legislature, judges of the district court, and county officers when the terms of such offices will expire before the next scheduled election for the offices or when one of the offices must be filled for an unexpired term as provided by law.

(2) A general election shall be held throughout the state in every odd-numbered year on the first Tuesday after the first Monday in November to elect municipal officers, officers of political subdivisions wholly within one county and not required to hold annual elections, and any other officers specified by law for election in odd-numbered years when the term for the offices will expire before the next scheduled election for the offices or when one of the offices must be filled for an unexpired term as provided by law.

(3) The general election for any political subdivision other than a municipality required to hold elections annually shall be held on school election day, the first Tuesday of April of each year, and is subject to the election procedures provided for in 13-1-401.

(4) The general election for a municipality required to hold elections annually may be held either on school election day as provided in subsection (3) or on the first Tuesday after the first Monday in November, at the discretion of the governing body."

Section 3. Section 13-1-107, MCA, is amended to read:

"13-1-107. Times for holding primary elections.

(1) On the first Tuesday after the first Monday in June preceding the general election provided for in 13-1-104(1), a primary election shall be held throughout the state.

(2) On the Tuesday following the second Monday in September preceding the general election provided for in 13-1-104(2), a primary election, if required, shall be held throughout the state.

(3) If the general election for a municipality required to hold annual elections is held in November, as provided in 13-1-107(4), a primary election, if required, shall be held on the Tuesday following the second Monday in September. In an even-numbered year, the cost of this election must be paid by the municipality."

Section 4. Applicability. Sections 2 and 3 apply to municipal elections held after the effective date of this act."

Renumber: subsequent section.

4. Page 1, line 20.

Following: "date."

Strike: "This act"

Insert: "Section 1"

5. Page 1, following line 21.

Insert: "Section 6. Effective date. This act is effective on passage and approval."

CLERICAL

Date: 3/9

House Bill 452

Time: 6:00

In accordance with Joint Rule 3-7(b) the following clerical errors may be corrected:

Sen. Local Government
3/3

2. Insert: " 13-1-107, MCA; "

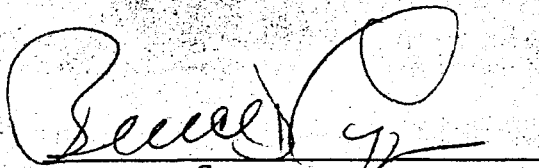
Title, line 7.

Following: "PROVIDING"

Insert: " AN APPLICABILITY DATE, AN IMMEDIATE EFFECTIVE DATE, AND "

3. Insert: "(3) subdivision, other than a municipality, "

Insert "NEW SECTION." before sections


Sponsor *Bill Crispen*

Secretary of Senate
or
Chief Clerk

Caj
Legislative Council

STANDING COMMITTEE REPORT

March 3

19 37

MR. PRESIDENT

We, your committee on Local Government

having had under consideration House Bill No. 320

third reading copy (blue)
color

Hansen, S.J. (Walker)

REQUIRING ONLY ONE COPY OF A TECHNICAL CODE TO BE FILED FOR PUBLIC INSPECTION

Respectfully report as follows: That House Bill No. 320

BE CONCURRED IN

~~DO PASS~~

~~DO NOT PASS~~

Senator Crippen

Chairman.

STANDING COMMITTEE REPORT

SCRHB452

.....March 3,..... 1937.....

MR. PRESIDENT

Local Government

We, your committee on.....

House Bill

452

having had under consideration..... No.....

third

blue

reading copy (.....)

color

Wallin (Story)

ALLOW MUNICIPALITIES TO CORRECT ERRONEOUS DESCRIPTION OF TYPE OF ELECTIONS

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

BE AMENDED AS FOLLOWS:

1. Title, line 5.

Strike: "WITH A MUNICIPAL COUNCIL-MAYOR GOVERNMENT"

2. Title, line 6.

Following: "MANNER"

Insert: "OR TIME"

Following: "ELECTION;"

Insert: "AMENDING SECTIONS 13-1-104 AND 13-1-107, MCA; PROVIDING AN APPLICABILITY DATE AND AN IMMEDIATE EFFECTIVE DATE;"

3. Page 1, following line 19.

Insert: "Section 2. Section 13-1-104, MCA, is amended to read:

"13-1-104. Times for holding general elections.

(1) A general election shall be held throughout the state in every even-numbered year on the first Tuesday after the first Monday of November to vote on ballot issues required by Article III, section 6, or Article XIV, section 8, of the Montana constitution to be submitted by the legislature to the electors at a general election, unless an earlier date is provided in a law authorizing a special election on an initiative or referendum pursuant to Article III, section 6, and to elect federal officers, state or multicounty district officers, members of the legislature, judges of the district court, and county officers when the

XXXXXX

XXXXXXXXX
DO NOT PASS

CONTINUED

Chairman.

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Re-number: subsequent section.

4. Page 1, line 10.
Following: "date."
Strike: "This act"
Insert: "Section 1"

5. Page 1, following line 21.
Insert: "Section 6. Effective Date. This act is effective on passage and approval."

AND AS AMENDED,
BE CONCURRED IN

Senator Crispin

Chairman.

STANDING COMMITTEE REPORT

March 3

37

19.....

MR. PRESIDENT

We, your committee on..... Local Government.....

having had under consideration..... House Bill.....

No. 587

third reading copy (blue)
color

Darko (Vaughn)

CHANGE DATE CITY SEWER CHARGES ARE CERTIFIED TO COUNTY ASSESSOR

Respectfully report as follows: That..... House Bill.....

No. 587

BE CONCURRED IN

~~XXXXXX~~
~~DO PASS~~

~~XXXXXXXXXX~~
~~DO NOT PASS~~

..... Senator Crippen.....

Chairman.

STANDING COMMITTEE REPORT

March 3,

19 87

MR. PRESIDENT

We, your committee on Local Government

having had under consideration..... House Bill No. 625

third reading copy (blue)
color

Hansen, S. J. (Eck)

PENALTIES FOR NONPAYMENT OF MUNICIPAL WATER AND SEWER CHARGES

Respectfully report as follows: That..... House Bill No. 625

BE CONCURRED IN

~~DO NOT PASS~~

~~DO NOT PASS~~

.....
Senator Bruce Crippen

Chairman.

STANDING COMMITTEE REPORT

March 3, 1937

MR. PRESIDENT

We, your committee on Local Government

having had under consideration House Bill No. 646

third reading copy (blue)
color

Stang (McCallum)

ALLOW SID/RSID FOR TRANSMISSION FACILITIES FOR ELECTRICITY, GAS
AND PHONE

Respectfully report as follows: That House Bill No. 646

BE CONCURRED IN

~~DO PASS~~

~~DO NOT PASS~~

Senator Crippen

Chairman.