

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Vice Chairman Kelly Addy, on March 9, 1989, at
8:05 a.m.

ROLL CALL

Members Present: All members were present with the following
exception:

Members Excused: Rep. Dave Brown

Members Absent: None.

Staff Present: Julie Emge, Secretary
John MacMaster, Legislative Council

HEARING ON SENATE BILL 417

Presentation and Opening Statement by Sponsor: Sen. Del Gage,
Senate District 5, stated SB 417 dealt with the harming of a
police dog.

Testifying Proponents and Who They Represent:

None.

Proponent Testimony:

None.

Testifying Opponents and Who They Represent:

None.

Opponent Testimony:

None.

Questions from the Committee: Rep. Boharski asked Sen. Gage if
he had looked into other states that may have this law.
Sen. Gage responded he hadn't.

Closing by Sponsor: Sen. Gage closed.

DISPOSITION OF SENATE BILL 417

Motion: Representative Nelson moved SB 417 BE CONCURRED IN, motion seconded by Rep. Wyatt.

Discussion: Rep. Brooke indicated she had a problem with the punishment and asked how that compared to an assault charge on a human. Rep. Addy responded if it is a simple assault where no grievous bodily harm is inflicted or threatened, \$500 or six months. If it is grievous bodily harm or aggravated assault, a fine of up to \$50,000 and imprisonment up to 20 years.

Amendments, Discussion, and Votes: None.

Recommendation and Vote: A vote was taken on the motion SB 417 BE CONCURRED IN and CARRIED unanimously.

HEARING ON SENATE BILL 377

Presentation and Opening Statement by Sponsor: Sen. Del Gage, Senate District 5, stated SB 377 is another bill which attempts to put more teeth into our illegal drug laws in the state of Montana. SB 377 deals with forfeiture of property and what property is subject to forfeiture. SB 377 allows for more forfeitures to generate more funds in our state from the seizure of various types of assets which then go back into the drug enforcement field in our state to alleviate some of the funding we are now lacking from the federal government. The Senate had brought this down to a zero tolerance as far as illegal drugs are concerned, which the federal government has done. It was amended on the Senate floor so 60 grams of marijuana are allowed before any forfeiture occurs. Previously the statute had 250 grams. Sen. Gage indicated they would not be unhappy if the House brought that back to zero tolerance.

Testifying Proponents and Who They Represent:

John Connor, County Prosecutor Services Bureau, Dept. of Justice
Donald Ranstrom, Blaine County Attorney and President of the
Montana County Attorneys Association
Ed Hall, Montana Board of Crime Control
Mark Stolin, Havre Police Officer

Proponent Testimony:

John Connor, County Prosecutor Services Bureau of the Montana Department of Justice, appeared in support of SB 377 on behalf of both the Department of Justice and the Montana County Attorneys Association. They looked at the zero tolerance to address a problem brought to their attention in several areas of the state, most notably along the Highline, where young people (19, 20, 21 years old) were dealing small amounts of drugs from their cars in the area of their schools and were never in the possession of 250 grams at any one time, so there was nothing that could be done to shut down their vehicle, i.e., their base of operation. That is why this bill was designed as it was. He believed the justification for pushing it up to 60 grams was because 60 grams was the felony amount. They would prefer it be zero.

Donald A. Ranstrom, Blaine County Attorney and President of the Montana County Attorneys Association, submitted written testimony in support of SB 377 (Exhibit 1). He went on to state this bill asks the state to adopt exactly the same language as what is currently in 21 U.S.C. sec. 881 to do exactly what the federal government can do. This provides the funding for the drug enforcement plans the federal government is advocating. Under the current situation, this year Montana must provide 27% of the matching funds to receive its grants from the federal government, next year 50%, and the year thereafter Montana will no longer receive federal funding. By adopting this measure, we will be able to internally fund our own operations through the sale of these forfeited assets. Mr. Ranstrom is hopeful this bill will make the risk of losing their property as great as the benefit, thereby making the choice to be involved with illegal drugs harder.

Ed Hall, Montana Board of Crime Control staff, representing the Statewide Anti-drug Strategy Committee, appeared in support of SB 377. This committee believes the removal of assets from drug traffickers is a key tool for law enforcement and is an important anti-drug tool. The committee unanimously supports this bill. They feel the fear of going to prison is not enough to discourage drug dealing.

Mark Stolin, Havre police officer, spoke in support of SB 377. Mr. Stolin relayed his Chief Mike Shortell's support of the bill as Mr. Shortell was unable to attend the hearing. Mr. Stolin relayed to the committee some of his experiences working narcotics from the street level.

Testifying Opponents and Who They Represent:

Ray Brandewie, Montana Innkeepers Association
Tom Hopgood, Montana Association of Realtors

Opponent Testimony:

Ray Brandewie, representing the Montana Innkeepers Association, stated he fully supported the bill with the exception of three words in the bill on page 3, line 15, "the owner proves." He indicated this was putting the burden on an owner of property, in this case, a motel or hotel operator, to prove he did not know anything about the operation nor was he gaining anything from it. Mr. Brandewie indicated the burden of proof should be on the state.

Tom Hopgood, representing the Montana Association of Realtors, stated that although his association supports measures which curb drug problems, it opposes the same section Mr. Brandewie addressed. Although this is a civil penalty, it is in the nature of a criminal forfeiture and is the penalty opposed for the commission of a crime. Therefore, the association believes the burden of proof should be on the state like it is in every other criminal offense to prove the owner has specific knowledge or has consented to the commission of a crime. Mr. Hopgood submitted an amendment to remedy this problem (Exhibit 2).

Questions from the Committee: Rep. Gould asked Sen. Gage his opinion of the proposed amendments. Sen. Gage felt it would put a little more responsibility on the landlords to be a little more responsible about the people they are renting to and do more monitoring of their property. Rep. Daily asked Mr. Connor to address the amendments. Mr. Connor did not expect during the next biennium to see anywhere near the kind of forfeiture actions relative to properties Mr. Hopgood contemplates seeing. He did not feel we were looking at forfeiting a lot of real property. In addition, the language which is a concern is language taken directly from the federal law, 21 U.S.C. sec. 881. Forfeiture actions are not criminal actions--they are civil cases in rem rather than in personam, and, therefore, it is appropriate to put the burden of proof on the owner of the property. Not adopting the language the federal law uses will restrict our opportunities to take advantage of the federal adoptive forfeitures.

Rep. Eudaily asked Mr. Connor to address the statements made about real property that is derived from the sale of drugs when the bill states real property that is used or intended to be used in any manner or part to commit or facilitate the commission of a violation without mentioning how they purchased it. Mr. Connor indicated he was referring to subsection (h) of the current law that says any real or personal property constituting or derived from proceeds obtained directly or indirectly from the sale. This bill takes that real property language out of Section 44-12-102(h), MCA, and expands it to what we have here, which is the federal law. As he reads this act, what it says is you cannot forfeit it if you can prove only that it was derived from it. If the property is being used for a violation punishable by more than five years, then that property can be forfeited. Within Section 44-12-102, MCA, there are other provisions relating to instances that do not deal with real property. Rep. Mercer stated that (h) in the current law says the real property derived from the proceeds could be forfeited, i.e., if you sell out of your car and buy real estate, the real estate could be forfeited. In the bill, that is being deleted and (i) says the real property used or intended to be used indicates that if you pass this bill, the only real property you will be able to forfeit is real property used in part of the commission of the crime. Mr. Connor stated the bill in its original form had language relative to derivation but that was stricken in the Senate. However, as it was drafted originally, that would have been covered in (i) in its original form. It was their desire that you would be able to forfeit property purchased with drug money.

Rep. Mercer asked Sen. Gage why the Senate deleted the forfeiture of real property when a lot of the testimony today indicated someone can be profiting from drugs and buying themselves a large ranch or some such thing and under the current law that ranch could be taken away from them, but if this bill is passed in the form it is in now, we would not be able to. Sen. Gage indicated that part got tied up in the innocent spouse doctrine we have around and that entered into their determination that they were being too tough with regard to family situations. This would temper that a bit in that regard.

Rep. Aafedt asked Mr. Ranstrom if the property were confiscated, what the lienholder's position would be. Mr. Ranstrom stated the lienholder would have a right to be paid first unless it could be shown the lienholder was somehow involved in this gain. He felt building in an innocent owner

exception crippled the legislation.

Rep. Addy stated Mr. Ranstrom seems to be saying it is just common sense the judge won't do what we say, he'll do what we mean. Rep. Addy asked him why we just don't say what we mean. Mr. Ranstrom responded he did not see any reason Montana should take a different path than the federal government in this regard.

Rep. Eudaily asked if this were put in the law would they have the obligation to do the forfeiture. Mr. Ranstrom responded no--prosecutorial discretion allows a judgment call.

Rep. Eudaily asked if everything in subsection (i) were federal law. Mr. Connor responded this is the federal law except for the penalty provisions which he tailored to Montana law.

Rep. Eudaily then asked about the stricken language on lines 11 and 12. Mr. Connor stated that was language they put in to address Rep. Mercer's concern about the derivation problem.

Closing by Sponsor: Sen. Gage also had a concern with the burden of proof but he stated he has a lot of faith in the judges and jury system of our state. He feels they are fair and they consider these things.

DISPOSITION OF SENATE BILL 377

Motion: Rep. Hannah moved SB 377 BE CONCURRED IN, motion seconded by Rep. Stickney.

Discussion: Rep. Mercer stated he felt the concern was legitimate with respect to the owner proves.

Amendment: Rep. Mercer moved to amended as follows:

Page 3, lines 15 and 16.
Strike: "the owner proves to have been"
Following: "omitted" on line 16
Insert: "the owner"
Before: "knowledge"
Insert: "actual"
Before: "consent"
Insert: "express"

The sentence would then read, an owner's interest in real property is not subject to forfeit by reason of any act or omission committed or omitted by the owner without his

actual knowledge or express consent. Rep. Mercer felt this would eliminate any confusion about implied consent and the burden of proof would then be on the prosecutor.

The amendment was seconded by Rep. Brooke and CARRIED with all in favor.

Rep. Mercer felt the idea of real property purchased or derived from the proceeds should be reinserted. He felt something could be crafted to protect the family member that said, any real property or portion of real property or amount of equity in real property that is derived from the proceeds of illegal drug sales should be subject to forfeiture. Although he did not agree with the zero tolerance, Rep. Mercer also felt the 60 grams should be amended to 5 or 10 grams, something more like the average casual user is carrying around.

Rep. Mercer moved to further amend SB 377 as follows:

Page 3, line 7.

Strike: "all"

Insert: "that specific portion of"

Page 3, line 8.

Strike: "the whole of"

Page 3, line 9.

Following: "that is"

Insert: "directly"

Page 3, lines 11 and 12.

Reinsert: stricken language

The sentence would then read, that specific portion of the real property that was derived from or maintained by the proceeds from drug dealing could be forfeited as well as any portion of the property that is directly used to commit or facilitate the offense.

The amendment was seconded by Rep. Eudaily and CARRIED with Rep. Addy voting No.

Rep. Mercer stated that he did not feel any family deserved to be protected if part of their property was purchased from the proceeds of illegal drugs. Rep. Aafedt expressed concern as to how you could prove where or what portion of the money came from drug profits. Rep. Mercer responded the burden of proof would again be on the prosecutor.

Additionally, Rep. Mercer felt 60 grams was too high--maybe put it at 5 or 10 grams. Rep. McDonough explained that figure was used because 60 grams was the felony break-off, less than that would be a misdemeanor. She expressed concern in taking someone's car for a misdemeanor offense. Rep. Eudaily asked if this bill was aimed at the supplier, dealer, distributor, or user. He was concerned that lowering the amount too much would affect the user more than the supplier. Rep. Mercer indicated the bill was going after both users and possessors.

Recommendation and Vote: Rep. Mercer moved SB 377 DO PASS AS AMENDED, motion seconded by Rep. Eudaily. Motion was voted upon and CARRIED unanimously.

HEARING ON SENATE BILL 79

Presentation and Opening Statement by Sponsor: Sen. Joe Mazurek, Senate District 23, stated SB 79 was introduced at the request of the Montana Association of Realtors (not the Board of Realty Regulation). Prior to 1975, persons could not agree in advance to arbitrate future disputes. In 1985, Montana adopted the Uniform Arbitration Act which updated the procedures for conducting arbitration and authorized people to submit future disputes to arbitration. At the time that bill was adopted, the legislature imposed exceptions on that ability to arbitrate a future dispute, Section 27-5-114, MCA. This bill addresses those exceptions in a very narrow context. This bill would allow disputes between members of the association only to be arbitrated. This will not affect any dispute between the buyer and seller of a home. Sen. Mazurek suspects the most frequent circumstance under which the need for this may arise will be when a dispute arises as to how the proceeds of a commission ought to be split--it does not involve the buyer or seller, but rather the two real estate agencies or realtors under the matter. The bill provides they would be required first to submit the matter to arbitration if both realtors were members of their professional association. It could not be used if they were not both members of the trade or professional association.

Testifying Proponents and Who They Represent:

Tom Hoppood, Montana Association of Realtors

Proponent Testimony:

Tom Hopgood, representing the Montana Association of Realtors, rose in support of SB 79. He noted the Realtors are a voluntary association. When you join the association, you enter into an agreement which states you agree to submit disputes between yourself and another realtor to arbitration rather than take it to court.

Testifying Opponents and Who They Represent:

None.

Opponent Testimony:

None.

Questions from the Committee: Rep. Hannah asked whether Mr. Hopgood was saying the agreement which realtors currently enter into requiring they submit matters to arbitration was not binding. Mr. Hopgood indicated the way the law is currently written, if the consideration paid for certain services is less than \$30,000, then that contract is invalid and unenforceable. Unfortunately, most real estate commissions are less than \$30,000, so that would be the case.

Closing by Sponsor: Sen. Mazurek closed.

DISPOSITION OF SENATE BILL 79

Motion: Rep. Darko moved SB 79 BE CONCURRED IN, motion seconded by Rep. Knapp.

Discussion: Following a question concerning the intent of the bill, Rep. Addy responded this bill authorizes the use of arbitration with amounts of money under \$35,000. This bill will allow them to compel arbitration. It allows a different dispute resolution than going to court.

Amendments, Discussion, and Votes: None.

Recommendation and Vote: The motion SB 79 BE CONCURRED IN CARRIED with a unanimous vote.

HEARING ON SENATE BILL 293

Presentation and Opening Statement by Sponsor: Sen. Joe Mazurek, Senate District 23, stated SB 293 was an effort to have the legislature in the state of Montana take a strong position in opposition to the sort of terrorist and harassment activities some supremacist organizations use and give our law enforcement a tool with which to deal with some of the tactics some of these organizations have used in the past. SB 293 does two things: It creates a new offense--malicious intimidation or harassment, the effect of which is to say that if because of another person's race, creed, religion, color, national origin, or involvement in civil or human rights activities and accused purposely or knowingly with the intent to terrify, intimidate, threaten, harass, or in any way offend, that person can be convicted of the offense of malicious harassment or intimidation, a felony level offense. The bill also provides for sentence enhancement of two to five years. The bill does not infringe on anyone's right to belong to any of these organizations or to believe as he wishes about supremacy. This bill is intended to send a message Montana does not want to be a bastion of hate groups. Sen. Mazurek presented a partial list of extremist group activities in Montana (Exhibit 3) and a memorandum from Betty Babcock who was unable to attend the hearing (Exhibit 4). Sen. Mazurek also stated the Human Rights Division has suggested the following amendment:

Page 3, line 4.
Following: "ethnic"
Insert: "identity or"

Testifying Proponents and Who They Represent:

Jim Murry, Executive Secretary of the Montana State ALFCIO
Rep. Vicki Cocchiarella, House District 59
David Lyman, Sanders County Task Force for Human Dignity
John Connor, Montana Dept. of Justice
Tim McWilliams, Noxon High School Teacher
Mona Jamison, Self
Megan Hill, Montana Catholic Conference
Bill Verwolf, City of Helena
Rep. Jim Elliott, House District 51
Rep. Paula Darko, House District 2
Suzanne Hanlon, Citizen of Montana
Mike Craig, Associated Students of the University of Montana
Bill Fleiner, Captain of the Lewis and Clark County Sheriff's
Dept.

Proponent Testimony:

Jim Murry, Executive Secretary of the Montana State AFLCIO, presented written testimony in support of SB 293 (EXHIBIT 5).

Rep. Vicki Cocchiarella, House District 59, appeared in support of SB 293 on behalf of a constituent in her district who was afraid to come to the hearing as he has been the subject of threats on his life and those of his family since 1953 because of an activity in which he participated.

David Lyman, member of the board of the Sanders County Task Force for Human Dignity, gave a brief overview of the history of racist groups in the United States and the influx of such groups into the state of Montana. Mr. Lyman submitted examples of the kind of literature these groups are distributing (EXHIBITS 6, 7, and 8).

John Connor, Montana Department of Justice, appeared in support of SB 293 representing Attorney General Marc Racicot and the Montana County Attorneys Association. As the county attorney is the person responsible for prosecuting this offense if this bill is enacted, the Montana County Attorneys Association welcomes that opportunity. Although there are statutes in the codes now, they are not as specific or serious as this bill. Mr. Connor does not believe this bill will be used to a large extent because it provides for the proof of additional elements, all of which would have to be proved beyond a reasonable doubt, but it would be there when it is needed.

Tim McWilliams, Noxon high school teacher and President of Sanders County Task Force for Human Dignity, spoke in support of SB 293. Mr. McWilliams outlined the history of racist activities in Noxon and the history of the Sanders County Task Force for Human Dignity. Mr. McWilliams presented literature from the Task Force for submission into the record (EXHIBIT 9).

Mona Jamison, representing herself, spoke in support of SB 293. She did not believe this bill impacts those persons who wish to have negative, racist, or evil thoughts, but it protects others who don't. If their feelings of hatred impact our lives, this bill gives us a way to deal with it.

Megan Hill, representing the Montana Catholic Conference, presented written testimony in support of SB 293 (EXHIBIT 10).

Bill Verwolf, representing the City of Helena, spoke in support of SB 293. He stated the City of Helena has requested at least one of these organizations to not establish its national headquarters in Helena. They feel this statute is necessary to protect people who are going about their business in a reasonable manner. They are hopeful it creates less of a haven in the state of Montana for that sort of activities.

Rep. Jim Elliott, House District 51, spoke in support of SB 293 and stated the bill will prevent people from being beaten, tortured, and killed because of their race or political actions.

Rep. Paula Darko, House District 2, spoke in support of SB 293. She felt this bill is one step toward preventing racist activities from occurring.

Suzanne Hanlon, citizen of Montana, supported SB 293 very strongly.

Mike Craig, representing the Associated Students of the University of Montana, presented written testimony in support of SB 293 (EXHIBIT 11).

Bill Fleiner, Captain of the Lewis and Clark County Sheriff's Department, representing the Montana Sheriffs and Peace Officers Association, stated they were in support of this legislation. From a local law enforcement perspective in terms of information they would want to know in relation to these types of groups, Mr. Fleiner stated everything that has been stated here is true and is more vast than what has been stated.

Testifying Opponents and Who They Represent:

None.

Opponent Testimony:

None.

Questions from the Committee: Rep. Mercer asked about the distinction between someone who is doing this type of activity to cause bodily injury or reasonable apprehension of bodily injury and then into this concept of defacing property because the penalty is up to five years in prison. He asked whether there should be some distinction between

causing bodily injury or reasonable apprehension thereof and someone who for the purpose to annoy another places a religious symbol on someone else's property. Sen. Mazurek responded that like any criminal statute, you can devise a circumstance which is borderline within the purview of the language which is the law. He did not feel this is unlike a lot of other situations where you have to use the rule of common sense and prosecutorial discretion. He felt a prosecutor would still have available the offense of criminal mischief while watering this bill down to allow an escape route for someone who really should not come under the purview of this act would minimize the places where it can be effectively.

Closing by Sponsor: Sen. Mazurek thanked the committee for the hearing and those who traveled to speak in support of the bill.

DISPOSITION OF SENATE BILL 293

Motion: Rep. Darko moved SB 293 BE CONCURRED IN, motion seconded by Rep. McDonough.

Discussion: None.

Amendments, Discussion, and Votes: Rep. Darko moved SB 293 be amended as follows:

Page 3, line 1.
After: "ethnic"
Insert: "identity or"

The amendment was seconded by Rep. Eudaily and CARRIED unanimously.

Recommendation and Vote: Rep. Strizich moved SB 293 BE CONCURRED IN AS AMENDED, motion seconded by Rep. Brooke. Motion CARRIED with a unanimous vote.

DISPOSITION OF SENATE BILL 331

Motion: Rep. Stickney moved SB 331 BE CONCURRED IN, motion seconded by Rep. McDonough.

Discussion: None.

Amendments, Discussion, and Votes: Rep. Stickney moved SB 331 be amended as follows:

Page 33.

Strike: "(4)(3) does not apply"

Insert: "(3)(b) does not apply"

The amendment was seconded by Rep. McDonough and CARRIED with all in favor.

Recommendation and Vote: Rep. McDonough moved SB 331 BE CONCURRED IN AS AMENDED, motion seconded by Rep. Stickney. Motion CARRIED unanimously.

ADJOURNMENT



REP. DAVE BROWN, Chairman

DB/je

5508.min

DAILY ROLL CALL

JUDICIARY

COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date MARCH 9, 1989

NAME	PRESENT	ABSENT	EXCUSED
REP. KELLY ADDY, VICE-CHAIRMAN	X		
REP. OLE AAFEDT	X		
REP. WILLIAM BOHARSKI	X		
REP. VIVIAN BROOKE	X		
REP. FRITZ DAILY	X		
REP. PAULA DARKO	X		
REP. RALPH EUDAILY	X		
REP. BUDD GOULD	X		
REP. TOM HANNAH	X		
REP. ROGER KNAPP	X		
REP. MARY McDONOUGH	X		
REP. JOHN MERCER	X		
REP. LINDA NELSON	X		
REP. JIM RICE	X		
REP. JESSICA STICKNEY	X		
REP. BILL STRIZICH	X		
REP. DIANA WYATT	X		
REP. DAVE BROWN, CHAIRMAN			X

STANDING COMMITTEE REPORT

March 9, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that SENATE BILL 417 (third reading copy -- blue) be concurred in.

Signed: _____
Kelly Addy, Vice-Chairman

[REP. WYATT WILL CARRY THIS BILL ON THE HOUSE FLOOR]

STANDING COMMITTEE REPORT

March 9, 1989

Page 1 of 2

Mr. Speaker: We, the committee on Judiciary report that SENATE BILL 377 (third reading copy -- blue) be concurred in as amended.

Signed: _____
Kelly Addy, Vice-Chairman

[REP. STRIZICH WILL CARRY THIS BILL ON THE HOUSE FLOOR]

And, that such amendments read:

1. Title, line 7.

Strike: "SECTION"

Insert: "SECTIONS"

Following: "44-12-102"

Insert: "AND 44-12-203"

2. Page 3, line 7.

Strike: "all"

Insert: "that specific portion of"

3. Page 3, line 8.

Strike: "the whole of"

4. Page 3, line 9.

Following: "that is"

Insert: "directly"

5. Page 3, line 12.

Following: "from"

Insert: "or that is derived from or maintained by the proceeds
resulting from"

6. Page 3, lines 15 and 16.

Strike: "the owner" on line 15 through "without" on line 16

Insert: "unless it is proved that the act or omission was the
owner's or was with"

7. Page 3, line 16.

Following: "his"
Insert: "actual"
Following: "knowledge or"
Insert: "express"

8. Page 4, following line 11.

Insert: "Section 2. Section 44-12-203, MCA, is amended to read:

"44-12-203. Presumption -- procedure following answer or expiration of time for answering. (1) There is a rebuttable presumption of forfeiture as to all property listed in 44-12-102, except property listed in 44-12-102(1)(i).

(2) If a verified answer to the petition is not filed within 20 days after the service of the petition and summons, the court upon motion must order the property forfeited to the state.

(3) If a verified answer is filed within 20 days, the forfeiture proceedings shall be set for hearing without a jury not less than 60 days after the answer is filed. Notice of the hearing shall be given in the manner provided for service of the petition and summons." "

STANDING COMMITTEE REPORT

March 9, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that SENATE BILL 79 (third reading copy -- blue) be concurred in.

Signed: _____
Kelly Addy, Vice-Chairman

[REP. _____ WILL CARRY THIS BILL ON THE HOUSE FLOOR]

STANDING COMMITTEE REPORT

March 9, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that SENATE BILL 293 (third reading copy -- blue) be concurred in as amended .

Signed: Kelly Addy, Vice-Chairman

[REP. ELLIOTT WILL CARRY THIS BILL ON THE HOUSE FLOOR]

And, that such amendment read:

1. Page 3, line 1.
Following: "ethnic"
Insert: "identity or"

STANDING COMMITTEE REPORT

March 9, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that SENATE BILL 331 (third reading copy -- blue) be concurred in as amended.

Signed: _____
Kelly Addy, Vice-Chairman

[REP. _____ WILL CARRY THIS BILL ON THE HOUSE FLOOR]

And, that such amendment read:

1. Page 33, line 18.

Following: "(3)"

Insert: "(b)"

SENATE BILL 377

Testimony of Donald A. Ranstrom
Blaine County Attorney
President, Montana County Attorneys Association

Senate Bill 377 was requested by the Montana County Attorneys Association to provide additional assistance to law enforcement in their efforts against dangerous drug offenders, and to bring Montana law into line with federal statutes relating to seizures and forfeitures of assets involved in drug transactions and/or offenses.

A change in the Anti-Drug Abuse Act of 1988, §21 U.S.C. 881, will delete the beneficial aspects for local governments and state governments from what have been known in the past as "adoptive forfeitures". In the past, these forfeitures have been instituted in federal jurisdiction for assets such as real property, which Montana's statutes do not currently cover. The result of such a forfeiture was a sharing of the monetary recovery on an equitable basis between the federal jurisdiction and the state or local jurisdiction involved. In October of 1989, any forfeitures of this nature will result in all funds being retained solely by the federal government. The proposal that is before the legislature at this time will grant the State of Montana the same rights to forfeit real property as are currently allowed under federal statute, and will guarantee to law enforcement a capability to forfeit assets involved in drug transactions or offenses, which we believe will have a "chilling effect" on offenders' willingness to undertake such endeavors.

Hand in hand with this broader authority, comes the prospect of generation of additional funds through such forfeitures, for the purpose of enhancing law enforcement's capability to deal with the drug problem. In the current fiscal year, the State's

EXHIBIT 1
DATE 3-9-89
H# SB 377

1 matching percentage to obtain federal funds is 27% of
2 approximately \$800,000. That match requirement will increase to
3 50% in the following year, and thereafter, the State will be
4 required to fund all of its operations independently, without any
5 federal funding. Clearly, it is necessary to put in place a
6 funding mechanism for law enforcement which can reduce the
7 expenditures required from local general funds for the purpose of
8 drug enforcement. Additionally, drug education efforts aimed at
9 prevention as opposed to enforcement may also be funded from
10 these forfeiture dollars. I believe that it must always be borne
11 in mind that the people who are involved in this type of illegal
12 enterprise are strictly in it for the money, and the law must be
13 made such that upon being apprehended, virtually all of the
14 trappings and benefits of the illicit drug trade may be subject to
15 forfeiture, thereby increasing the risk that one takes when
16 embarking on this path.

17

18 The requests we have made for changes in the existing
19 statute do not affect the innocent owner protections contained in
20 existing law. Additionally, any concerns about overzealous
21 activities by law enforcement in this area need to be tempered by
22 consideration that this entire procedure is subject to the
23 scrutiny and control of the District Courts of the State of
24 Montana, which I submit are a significant balancing factor.

25

26 The first change in this legislation relates to the 250 gram
27 limitation on marijuana contained in a conveyance. The Senate
28 modified this portion of the proposed bill, placing the limit at
29 60 grams, rather than removing the limitation altogether. The 60
30 gram limitation is in line with the amount of marijuana that must
31 be in a defendant's possession in order to qualify as a felony
32 offense. The Montana County Attorneys Association believes that

1 this change is appropriate, as the limitation amounts are
2 identical, and therefore, a felony offense will have the result
3 of risk of forfeiture of an automobile upon conviction.

4
5 The bill also amends the conveyance language to allow
6 forfeiture of a conveyance if it is used in any manner to
7 facilitate the commission of an offense under Title 45, Chapter
8 9. This is not a major substantive change from present language,
9 but the change simplifies the language and makes it much more
10 direct in its application.

11
12 The bill also amends the personal property provisions of
13 subsection (h) to expand the language to include not only sale,
14 but any violation of Title 45, Chapter 9, punishable by more than
15 five years imprisonment. Besides sale of dangerous drugs, this
16 amendment would also cover possession of dangerous drugs with
17 intent to sell, a second conviction of fraudulently obtained
18 dangerous drugs, criminal possession of precursors to dangerous
19 drugs, criminal sale of imitation dangerous drugs to a minor,
20 criminal advertisement of imitation dangerous drugs, and criminal
21 manufacture of imitation dangerous drugs. More specifically,
22 this amendment extends the application of the statute to those
23 situations in which the offender is involved in the offense
24 primarily for monetary gain. It would not cover possession of
25 any dangerous drug, a first offense of fraudulently obtaining
26 dangerous drugs, or criminal possession of imitation dangerous
27 drugs with intent to sell. As noted above, the bill also creates
28 a real property forfeiture provision consistent with its federal
29 counterpart. Under this amendment, real property can be
30 forfeited if it is being used to commit or facilitate the
31 commission of an offense in violation of Title 45, Chapter 9,
32 punishable by more than five years imprisonment. I have dealt

EXHIBIT 1
DATE 3-9-89
SB 377

1 with a number of serious drug offenses in the past several years
2 as a county attorney in Blaine County, Montana. I continue to be
3 amazed at the amount of this type of activity which pervades our
4 society, even in rural agricultural settings such as the
5 community where I reside. Money is the driving force behind this
6 type of activity, and it is submitted by the Montana County
7 Attorneys Association that whatever the legislature can do to
8 lessen the amount of money that may be retained by drug offenders
9 after their arrest and conviction is not only appropriate, but
10 absolutely necessary if we are to deal effectively with this
11 festering cancer.

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MONTANA ASSOCIATION OF REALTORS
PROPOSED AMENDMENT TO
SENATE BILL 377

1. Page 3, Line 15.
Following: "omission"
Insert: "UNLESS"

Following: "owner"
Strike: "proves"
Insert: "IS PROVED"

Following: "have"
Insert: "HAD PRIOR"
2. Page 3, Line 16
Strike: "been committed or omitted without his"

Following: "knowledge"
Insert: "OF"

Following: "or"
Strike: "consent"
Insert: "CONSENTED TO SUCH ACT OR OMISSION"

"An owner's interest in real property is not subject to
forfeit by reason of any act or omission UNLESS the owner IS
proves PROVED to have HAD PRIOR ~~been-committed-or-omitted~~
without-his knowledge OF OR ~~consents~~ CONSENTED TO SUCH ACT OR
OMISSION."

*Maguire
Handout*

EXHIBIT 3
DATE 3-9-89
SB 293

SENATE JUDICIARY
EXHIBIT NO. 2, p. 1
DATE 2-3
BILL NO. SB 293

Partial List of Extremist Group Activities In Montana

- April 18, 1984 S.S. Action Group drops pamphlets in Helena.
- August 1, 1984 Jerome Pederson, Posse Comitatus member, arrested by heavily armed law enforcement officials on tax evasion charges in Wolf Point, Montana.
- December 27, 1984 Montana man tied to \$5000,000.00 armored car robbery in Seattle.
- December 27, 1984 Agricultural Protective Association of Montana formed.
- January 12, 1985 Arms cache found in Kalispell linked to Andrew Barnhill and Richard Kemp, Order members.
- May 3, 1985 Cross burned on the lawn of an inter-racial couple.
- May 9, 1985 Steven J. Scott, Covenant, Sword, the Arm of the Lord member, arrested in Virginia City on murder charges for an Arkansas murder.
- June 16, 1985 Montana National Guard tightens security in response to efforts by a para military group member to infiltrate.
- October 19, 1985 Cartridge casings from the machine gun used to murder Denver talk show host, Alan Berg, discovered in a residence in Troy, Montana.
- November 22, 1985 Andrew Barnhill and Richard Kemp arrested in a Kalispell Bar on racketeering charges stemming from the FBI's investigation of the Order.
- January 14, 1986 National Agricultural Press Association meeting in Malta, Montana.
- January 16, 1986 State political leaders denounce a proposal by white supremacist, Larry McCurry, to cut ethnic groups' citizenship.
- April 1, 1986 Nazi threats to Billings high schools.

EXHIBIT 3DATE 3-9-89HB SB 293EX. NO. 3, 22DATE 2-3-89BILL NO. SB 293

April 13, 1986 Sheriff Larry Broadbent, Kootenai County, Idaho, reports that the Aryan nation Church is considering a move to Montana.

July 12 & 13, 1986 Aryan Nations Congress meeting in Hayden Lake, Idaho to promote whites only "Homeland" in Washington, Oregon, Idaho, Montana and Wyoming.

October 2, 1986 Church of Jesus Christ Christian - Aryan nations declare their republic encompassing the states of Washington, Oregon, Idaho, Montana and Wyoming.

November 28, 1986 White separatist, Robert Miles, says he was "half-teasing" about moving his headquarters to Miles City, Montana.

April 20, 1987 Police car in Missoula bombed, caller claims credit for the Aryan nation.

October, 1987 White Student Union, Aryan Youth movement literature posted on University of Montana campus.

March 27, 1988 Supremacists from Montana and Washington attend Human Rights Rally in Noxon.

April 25, 1988 Cross burning reported in Wadsworth.

July 21, 1988 Media reports League of Pace Amendment Advocates, a supremacist group, considers moving its headquarters to Helena.

July 23, 1988 League of Pace Amendment Advocates rally in the Bitterroot Valley (marked by poor attendance).

August 28, 1988 League of Pace Amendment Advocate takes out a full page add in the Independent Record announcing move to Helena.

October, 1988 Demolished car found on McDonald Pass. A swastika and the words "we are here" painted on the roof.

December 1988 East Helena couple found murdered in Bonner's Ferry Idaho. Drugs, weapons and supremacist literature found on the premises.

December 23, 1988 A thirteen year old Black assaulted by five white adults in Bozeman.

EXHIBIT 4
DATE 3-9-89
SB 293

MEMORANDUM TO THE HONORABLE Joe
State Capital, Helena, MT 59601

FROM: Betty L. Babcock, Box 183, Wolf Creek, MT 59648
Chairman, State Advisory Committee, for the United
States Civil Rights Commission., and former legislator.

B.L. Babcock

REGARDING: Senate Bill 293

Dated: February 12, 1989

As chairman, and on behalf of the State Advisory Committee on
Civil Rights I am writing to ask for your support of Senate
Bill 293.

Montana is in need of a strong law to prohibit Malicious
Intimidation or Harassment of persons because of Race, Creed,
Religion, Color, National Origin, or involvement in Civil
Rights or Human Rights activities and to enhance the penalty
for other offenses committed because of the Victim's Race,
Creed, Religion, Color, National Origin, or involvement in
Civil Rights or Human Activities.

As chairman of this committee many of these offenses have
been reported to me or come to my attention by way of the
news media. We will be holding a public forum along with the
states of Washington, Idaho, Oregon, South Dakota and Montana
for the purpose of collecting data for the United States
Civil Rights Commission and for the purpose of education.

I strongly and respectfully urge your support of this bill.



EXHIBIT 5
DATE -9-89
~~HB~~ SB 293

JAMES W. MURRY
EXECUTIVE SECRETARY

Box 1176, Helena, Montana

ZIP CODE 59624
406/442-1708

Testimony of Jim Murry before the House Judiciary Committee on Senate Bill 293, March 9, 1989

Mr. Chairman and members of the Committee, for the record, I am Jim Murry, Executive Secretary of the Montana State AFL-CIO, and am here today in support of Senate Bill 293 which would prohibit malicious intimidation or harassment of people because of their race, creed, religion, color, national origin or involvement in civil or human rights activities.

This legislation is in response to the increasing activities of hate groups in the Northwest, and is important for two reasons. First, it provides another tool for law enforcement officials to use to combat the intimidation, harassment and physical harm caused by these groups. And secondly, this legislation is an important signal to send to these groups that their illegal, immoral and unjust activities will not be tolerated here in Montana.

During the past several years, we have witnessed an influx of hate groups and their activities in the Northwest. Much of this is attributable to the call by these groups to establish an Aryan nation in our area. They have been particularly active in neighboring Idaho, Washington and Oregon. Wherever these groups have gone, they have spread their brand of violence and hatred.

In the past few years, they have become more and more active in Montana. They have enclaves of supporters around the state and are especially active in northwest Montana. Just last year, a 14 year old black student was assaulted in Bozeman because of his race. Montana is not a state which should tolerate such injustice in any form. Where laws like Senate Bill 293 have been enacted in Idaho and Washington, there has been a decline of the violent activities of these groups. They are known to weigh the political environment and the legal framework of an area before deciding the extent and the scope of their activities.

Montana should send these people a message that their hatred will not be welcome here. The message of the Montana Senate in this regard was loud and clear when they passed Senate Bill 293 without a dissenting vote. We sincerely urge this Committee and the Montana House of Representatives to do the same.

Thank you.



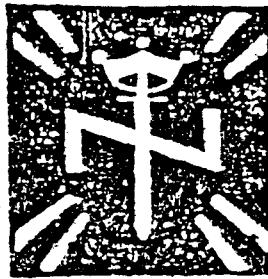
Official RUNNIN' NIGGER Target



**BODY SHOTS COUNT 5
HEAD SHOTS COUNT 0
HEEL SHOTS COUNT 100**

..Put The High Praises Of God
Be In Their Mouth.

ARYAN



NATIONS

Church of Jesus Christ Christian

P.O. Box 382
Hayden Lake, Idaho 83835

EXHIBIT 6
DATE 3-9-89
In Their Hand
No. 100
SB 293

SUBJECT RESIDENTS OF THE ARYAN EMPIRE

SUMMER CONFERENCE AND NIGGER SHOOT - July 24, 25, 26, 1981

We are pleased to announce our Annual Summer Convergence and NIGGER SHOOT to be held at our Hayden Lake headquarters; as many subject residents in the Aryan Empire who wish to come are welcome.

There will be no charges to anyone bringing live targets. Paper practice targets are available for all races with range rules. A special prize will be given to the best Runnin' Nigger scores in the Shotgun, Pistol, and Sub Machine Gun categories. Niggers, Jews, Mexicans, Gooks, etc., are also welcome as live targets!

Camping areas and housing is available for everyone. Live targets must be housed in our special facility for security reasons.

Children are welcome and we will have special games arranged for them including some activities in the surrounding communities with green ribbon prizes.

On Sunday the 26th we will host an outdoor Barbeque and Chicken Fry with plenty of Watermelon for the best marksmen to share with you.

We want winners and to win you must be able to shoot. Civil Rights comes out of the barrel of a gun and we mean to give the Niggers and Jews all the Civil Rights they can handle.

Our "Official RUNNIN' NIGGER Target" is included with this announcement for you to practice on...the real thing is real fun.

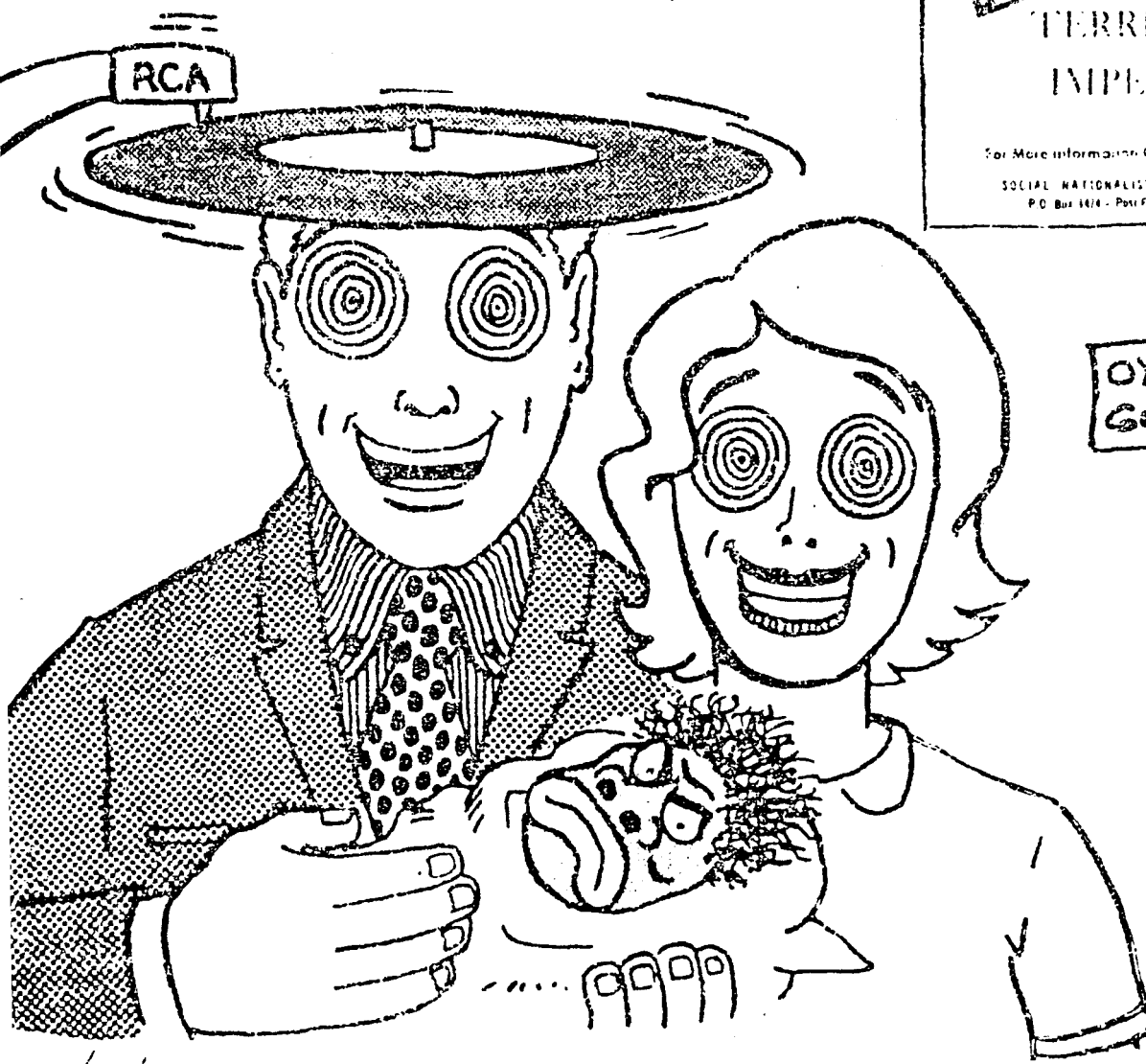
Our Security Team will see that no live targets escape from the range. Any who refuse to run or can't for any reason will be fed to the dogs. The dogs appreciate a good f-ed as much as we do.

THE GREEN RIBBON SALESMAN OF ATLANTA will be honored whoever he is and a special pledge of support will be made for his continuing good works. Remember, every Nigger he gets is one that our children won't have to fight in the streets!

There will be a substantial force of Aryan Warriors in uniform and during the Conference we will descend upon the home of a local traitor and serve up Biblical Justice to the Godless one,

Richard G. Bush

WHITE PEOPLE ARE EVIL. WE HATE WHITE PEOPLE. WE HATE OUR ANCESTORS. THEY ENSLAVED THIS GREAT RACE OF BLACK PEOPLE. THEY MADE BLACKS LIVE IN SLUMS AND DESIGNED I.Q. TESTS TO MAKE THIS DYNAMIC RACE OF INVENTORS AND EXPLORERS SEEM STUPID. WE LOVE THE BLACKS!
MY WIFE AND I HAD THE DOCTOR STERILIZE US SO WE COULDN'T HAVE ANY WHITE-DEVIL KIDS. NOW WE ARE ADOPTING BLACK KIDS TO CORRECT SOCIETY'S INJUSTICES.
SOMEDAY ALL THE PEOPLE IN THE WORLD WILL LOVE EACH OTHER - LIKE WE DO. OF COURSE, WE'LL HAVE TO GET RID OF THOSE ROTTEN WHITES... ROTTEN WHITES... ..ROTTEN WHITES... ROTTEN WHITES...



WHITE MAN The
TERRITORIAL
IMPERATIVE

For More Information On Social Nationalism, Write
SOCIAL NATIONALIST ARYAN PEOPLE'S PARTY
P.O. Box 1474 - Post Falls, Idaho 83654 - (208) 773-7637

OY, THESE ARE GOOD PEOPLE



RACE TRAITORS

Those guilty of fraternizing socially or sexually with blacks now stand warned that their identities are being cataloged.

The country is in a Second Revolution which will restore complete authority into the hands of those people of European ancestry.

Those persons of alien race will be deported to Asia or Africa.

White persons consorting with blacks will be dealt with according to *the Miscegenation Section of the Revolutionary Ethic*:

1. Miscegenation is Race Treason;
2. Race Treason is a Capital Offense;
3. It will be punished by Death, automatic, by Public Hanging

Negroes involved in Miscegenation will be Shot as they are apprehended.

The
Revolutionary Government
of the
Aryan Nation

PO Box 526, Noxon, MT 59853 Spring 1989 Vol #1



Task Force Update

*"The voice of the Sanders County
Task Force for Human Dignity"*

Skinheads in Northwest

Richard Butler, head of the Aryan Nations/Church of Jesus Christ Christian, is hosting a national skinhead conference on April 21-23 at his Hayden Lake compound.

Members of the skinhead movement are generally easy to recognize. They stand out with closely shaven heads, military boots, and often wear swastikas on their clothing or have them tattooed on their faces and necks. Their numbers are reported as growing in Spokane, Portland, Seattle and other neighboring

"Aryan skinhead violence is increasing in intensity"

communities. There are currently two major factions in the skinhead movement. One group is non-Aryan, with members showing their rebelliousness through their outward appearance, use of drugs, and attraction to heavy metal music. The other faction is similar, but adds racism as its focal point.

Aryan skinhead violence is increasing in intensity in the Northwest. Skinheads are actively recruiting members in high schools and on street corners for an entire network of white separatist/racist organizations. Although the skinheads have frequently denied being white supremacists or Nazis, they distribute Neo-Nazi literature and chant racially-based hate slogans.

Reportedly tied to such groups as the White Aryan Nations/Church of Jesus Christ Christian, skinheads are actively being sought to add new vitality to many other racist organizations. Tom Metzger, leader of the White Aryan Resistance based in California, is planning to recruit skinheads in Seattle and is quoted as saying he is trying to "inject sane ideology" in them so they can be used as "front-line warriors" for his cause.

Skinheads have been associated with outbreaks of violence, assaults, vandalism and murder. Most recently, Billy Wayne Worl was convicted December 14, 1988, of the attempted

murder and malicious harassment of Spokaneite Ray Hill, Jr., a black man. Hill was attacked by Worl in a supermarket parking lot. Worl yelled racial slurs at Hill and slashed him on the wrist, chest and leg. Worl, a twenty-four year-old skinhead from Oklahoma, said he was attracted to Spokane because of Aryan activities in the area. He is quoted as saying he is a "Nazi American Christian racist" who is a believer in white supremacy. Worl did not know Hill when he attacked him; the attack was based solely on the color of Hill's skin.

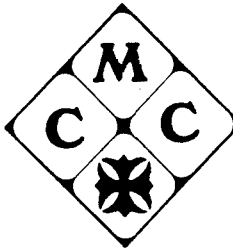
On January 18, 1989, Billy Worl was sentenced to fifteen years in prison: ten years for attempted second degree murder and five years for malicious harassment. This is the first conviction under Washington's malicious harassment law. The law makes it a felony to injure, intimidate, or harass anyone because of his/her race, color, or ancestry.

The murder of Mulugeta Seraw in Oregon last November was another extreme example of alleged recent skinhead violence. Seraw, an African working as a bus driver in Portland, was allegedly beaten to death by youths using bats. Two other African men were injured in the attack. Members of the skinhead faction known as the East Side White Pride have been charged with murder.

The Northwest is being targeted by skinheads, and racial organizations are using the skinheads to achieve their bigoted goals. Skinhead activity is expected to continue in the region.

Inside...

- ...Montana Legislation
- ...Lenny Zeskind/CDR
- ...Task Force Library
- ...More News



Montana Catholic Conference

EXHIBIT 10
DATE 3-9-89
HB. SB 293

March 9, 1989

CHAIRMAN BROWN AND THE HOUSE JUDICIARY COMMITTEE

I am Megan Hill, representing the Montana Catholic Conference.

The Catholic Church believes that all human beings are by their nature free and creative, and made so by their creator. Every person, regardless of creed or color, is endowed with human rights.

It is the duty of each of us to create a better world for future generations. SB 293 will help in the building of such a world. The MCC urges passage of SB 293.



Tel. (406) 442-5761

P.O. BOX 1708

530 N. EWING

HELENA, MONTANA 59624





Associated Students
University of Montana

EXHIBIT 11
DATE 3-9-89
~~HB~~ SB 293

Room 105
University Center
Missoula, MT 59812
(406) 243-2451

House Judiciary Committee

Senate Bill 293 - Sen. Mazurek

Hearing: March 9, 1989, Room 312-2

Mr. chairman and members of the committee, good morning. For the record, my name is Mike Craig and I represent the Associated Students of the University of Montana.

ASUM strongly supports Senate Bill 293. There are many students attending the University who have "minority" or "affected group" status and would therefore be potential targets for those who subscribe to a "supremacist" doctrine.

Indeed, the presence of at least one extremist group is felt on our own campus in Missoula. The University of Montana and ASUM have taken a strong stand against the proliferation of organizations that preach hate and violence, and encourage the passage of any measure that promotes their demise. We feel that Senator Mazurek's proposal is a welcome beginning to the end of white supremacy in the State of Montana and in the Pacific Northwest.

ASUM appreciates your support for Senate Bill 293. Thank you for your time and consideration.

VISITORS' REGISTER

House Judiciary

COMMITTEE

BILL NO. 377

DATE MARCH 9, 1989

SPONSOR GAGE STRIZEN Halligan

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Donald A. RANSTROM	Chinook MT	X	
John Connor	DEPT of Justice Mt County Atty ASCA	X	
Mark E. Tolson	Harre, MT	X	
Tom Hopgood	Mont. Assoc. Realtors		✓
Robert Scott	Montana ACLU		✓
Bill FLEWEL	MONTANA SHERIFFS POLICE OFFICERS	X	
Jim DUPONT	MONTANA SHERIFFS AND POLICE OFFICERS	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.
PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

JUDICIARY

COMMITTEE

BILL NO. SENATE BILL 79

DATE MARCH 9, 1989

SPONSOR SEN. MAZUREK

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
Tom Hoppgood	Mont. Assoc. Realtors	✓	

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

JUDICIARY

COMMITTEE

BILL NO. SENATE BILL 293

DATE MARCH 9, 1989

SPONSOR SEN. MAZUREK

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
Megan Hill	W. Catholic Conf.	✓	
Tim Williams	Sanders County Task Force for Human Dignity	✓	
David Lyman	Sanders Cty Task Force on Human Dignity	✓	
Mike Craig	ASSOC. STUDENTS of UNIV. OF MONT	✓	
Jim Murray	Mont. State AFL-CIO	✓	
Bill Venneff	City of Helena	✓	
Shelly Laine	City of Helena	✓	
Jim Elliott	Troot Creele	✓	
Anne MacIntyre	Human Rights Comm.	—	
Suzanne Hanlon	self	✓	
John Connor	Dept of Justice Mt County Atty Assn	✓	
Bill Fleiner	MONTANA SHERIFFS & DEPT OFFICERS	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.
PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.