

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Bruce Crippen, on February 13, 1989, at 10:00 a.m. in Room 325.

ROLL CALL

Members Present: Chairman Bruce Crippen, V. Chairman Al Bishop, Senators Tom Beck, Bob Brown, John Harp, Mike Halligan, Joe Mazurek, R. J. Pinsoneault and Bill Yellowtail.

Members Excused: Loren Jenkins

Members Absent: None

Staff Present: Staff Attorney Valencia Lane and Committee Secretary Rosemary Jacoby

Announcements/Discussion: There were none.

HEARING ON SENATE BILL 367

Presentation and Opening Statement by Sponsor: Senator Jerry Noble of Great Falls, District 21, opened the hearing saying the bill was requested by the Montana County Attorneys Association because there was no statutory direction for law enforcement officers or prosecutors in certain cases. A law was needed specifying how the items of property seized as evidence were to be handled after the case is closed, or after the decision has been made not to file charges. Different jurisdictions have different means of disposing of unnecessary evidence, he told the committee. Questions continually arise about how to disburse of such evidence. This bill will provide uniform statewide procedure that will allow for judicial review on the disposition of this property. It also allows law enforcement with an opportunity to obtain a court order specifying when the property may be used for training or enforcement purposes.

List of Testifying Proponents and What Group they Represent:

John Connor, Department of Justice, County Prosecutors Bureau, appearing in behalf of the Montana County Attorneys Association.

List of Testifying Opponents and What Group They Represent:

None

Testimony:

John Connor said this bill would not make anyone "angry." It simply provides a procedure for destruction of evidence after a case has been completed and no charges are contemplated. The process now is not specified and the property sometimes remains in storage for years on end, he said. If a request to destroy the property is made, a judge often asks for the law that provides for that authority. This bill will bring uniformity to the process and eliminate any appearance of impropriety when evidence has to be destroyed by contraband. For instance, if law enforcement wants to burn 50 lb. of marijuana, there will be a court order specifying how that will be done and could include witnesses to see that it was done properly. The bill allows also allows for disposition of property for which the owner cannot be determined. The property can be sold and the money placed in an appropriate drug fund whether in a county, city or state.

Questions From Committee Members: Senator Bishop asked how the bill would tie in with the unclaimed property law for abandoned property. John Connors said that Section 4 specified that those properties do not apply to actions included in this act. Things that will be included might be a sawed-off shotgun which would be illegal to possess and should be destroyed, he said.

Senator Halligan said that sometimes a landlord has a stove or something else removed, then taken in evidence by law enforcement. Where would a person go to retrieve it. Mr. Connors said this bill would not have an application in that case. This bill applies where the owner cannot be determined, he said.

Senator Crippen asked if there were provisions for money or personal property. Mr. Connors said the authority was provided, but only for drug-related matters--forfeitures arising out of Title 44, chapter 12.

Senator Crippen asked if there should be a definition of the property and Mr. Connors said he would look into it.

Closing by Sponsor: Senator Noble closed the hearing.

HEARING ON SENATE BILL 377

Presentation and Opening Statement by Sponsor: Senator Del Gage of Cut Bank, District 5, opened the hearing saying the bill revised and clarified the items subject to forfeiture connected to drug dealing, and also removed the 250 gram marijuana exemption exception that was in the law previously. It brings the state, as far as forfeiture is concerned, into a zero tolerance situation as the federal government has done. He said John Connor would explain the bill.

List of Testifying Proponents and What Group they Represent:

John Connor, Montana County Attorneys' Association
Ed Hall, Staff Attorney for Crime Control
Chuck O'Reilly, Montana Peace Officers Association

List of Testifying Opponents and What Group They Represent:

Robert Scott, A.C.L.U.

Testimony:

John Connors appeared in favor of the bill. He said the bill was one of three drug-related bills of importance to the Montana County Attorneys' Association. This bill will provide the most useful tool in the efforts against dangerous drugs. He said there are four reasons for requesting this legislation. Under the anti-drug abuse act of 1988, there is an amendment proposed to Section 21. Its effect is that, when the federal government seizes property that the state is involved with also under the adoptive seizures provision, the state no longer gets any share of that property after forfeiture occurs, if the state statute is not as broad as the federal law. For example, he said the federal law provides for seizure of real property if it's used in any way to violate a federal drug law. Montana statute now only provides for seizure of real property if its proceeds are obtained directly or indirectly from a violation or sale of an

illegal substance. This bill proposes to bring the real property into line with federal law. The advantage of doing that is that their forfeiture laws, administratively, are a lot more streamlined than ours. They can forfeit things much quicker and with less bureaucratic red tape than we can do on the state level, he stated. (Exhibit A-1)

Another reason for the bill is that Montana has to provide 27% matching funds for the drug abuse act. The state receives \$800,000 for 1989-90, he stated. The match goes up to 50% in the next fiscal year and, thereafter, the state is required to totally fund the programs they have in relation to that act, he told the committee. There are 8 task forces presently operating for which funding is needed, he said.

In areas where there is no grant money available, forfeitures make is possible to fund local drug enforcement operations, said Mr. Connor.

Finally, he stated, the bill will allow law enforcement to remove the profit from the sale of drugs. He then reviewed the bill for the committee. He spoke to the 250 gram exemption being removed and to "conveyances" used in the commission being forfeited. He addressed real property and personal property forfeiture provisions, criminal sale, criminal advertisement and criminal manufacture of imitation dangerous drugs. It would not apply to simple possession of dangerous drugs or first offense, he said. Section I is taken directly from federal law with the exception of "derived" or "maintained", he told the committee.

Mr. Connor said the problem of dangerous drugs was far reaching and needed to be dealt with. He thought removing the profit motive would be a way of dealing with the problem.

Ed Hall said a 12 person committee had been formed late in 1988 to formulate Montana's anti-drug strategy to provide funds as mentioned by John Connor. The committee has representatives from police agencies, the prison, the Office of Public Instruction, the Drug Enforcement Administration, the U. S. Attorney's Office, the Treatment Service Division of the Department of Institutions, the Law Enforcement Services Division in the Department of Justice and some legislators. At a recent meeting, he said, the

committee unanimously supported the bill. He said it will be an important tool to the state, as it is to federal enforcement. One team in Flathead has enough money from forfeitures to fund their program.

Chuck O'Reilly supported the bill. He said that many departments have zero funds and are funded totally from forfeitures. He urged support of the bill.

Robert Scott said the A.C.L.U. did not oppose the bill in general, but opposed one portion of it. He said the bill seemed to be directed primarily to people trafficking in drugs and seeking to use the money derived from the forfeitures for funding their anti-drug programs. He said he would like to oppose the provision dealing with 250 grams of marijuana. And, he said, he opposed the provision relating to vehicles included misdemeanor possession of marijuana which is a \$500 fine. If a vehicle was being used by a non-owner and is forfeited, the owner would have to prove that he had no knowledge of the illegal use. He thought that was an excessive punishment and urged the committee to study that.

Questions From Committee Members: Senator Mazurek asked about p.3, (i), saying he had some concern about "the innocent spouse." There may be a spouse with knowledge of drug sale, but has no ability to stop it. He felt there was no protection for her. John Connor felt that would be a rare situation but, even if it were to occur, discretion is allowed the prosecutor. If the facts were to show the "innocent" spouse was innocent, he thought a prosecutor would not take her home away from her. The bill was mainly to conform to federal statutes. There is a provision for an innocent owner's interest, he said, in the bill. He wouldn't object to some amendment if the committee felt necessary. He also said the bill was not more stringent than present law allows for regarding to marijuana possession.

Senator Beck asked about the marijuana exemption. Mr. Connor said the problem was brought to his attention by law enforcement officer on the highline. People were using their cars to deal drugs to high school kids. He said, because there might be only a small amount of marijuana in a car at any one time, forfeiture was not an option. But if the possession was added up over a period of time, it would be enough for forfeiture. And that, he said was the reason to remove the limitation. He felt that there was little use in protecting someone who was setting out to break the law.

Senator Yellowtail asked Mr. Connor to expand on p.3, line 8. Mr. Connor said that a person might be growing marijuana on a farm in Cascade County and the proceeds are maintaining a ranch in Ravalli County. The bill would allow for the forfeiture of the Ravalli County Ranch, if it could be shown that the proceeds were being used to purchase or maintain it. Drug money is being made and, essentially, laundered.

Senator Yellowtail asked why the federal law did not contain the same language. Mr. Connor didn't know.

Closing by Sponsor: Senator Gage said we should not jeopardize the broadness of the bill and forfeit federal participation because of it. He specifically wanted to prohibit farm and ranch operations from being illegal drug operations. He urged passage of the bill.

At this point, Chairman Crippen had to present the next bill in the hearing. V. Chairman Bishop took the chair.

HEARING ON SENATE BILL 363

Presentation and Opening Statement by Sponsor: Senator Bruce Crippen of Billings, District 45, opened the hearing stating that the purpose of the bill was to allow parties to a contract for the acquisition of real or personal property, services, or money or credit to agree to submit any future contractual disputes to arbitration, regardless of the dollar amount of the contract; deleting the dollar amount limitation for contracts that may contain such arbitration agreements. The act removes the limit of \$35,000 for future contractual disputes for arbitration. In 1985, Montana adopted the arbitration act with a \$35,000 limit on certain actions involving money. Since then, it has been discovered that there are many cases before the district court having this amount of money or less.

List of Testifying Proponents and What Group they Represent:

Judge Charles Sande of Billings, himself
Lew Penwell of Billings, himself

List of Testifying Opponents and What Group They Represent:

Michael Sherwood, Montana Trial Lawyers Association

Testimony:

Judge Sande said the bill wasn't designed to solve all problems but it would provide early settlement in many cases. It is very important that the lawyers notice that the courts are being bogged down with criminal matters. Civil cases going through district court and then through the supreme court take from 20 to 24 months. By changing the dollar amount for arbitration, many costs will be eliminated. Many lawyers are hesitant to use arbitration because, if they are not successful, the client might not be happy. If the dollar amount is changed, lawyers are more likely to use arbitration. Even if it is changed, it will be some time before it is used frequently. Many nearby states have the provision and it is being used successfully, he said.

Lew Penwell said he conducted an independent arbitration and mediation service in Billings. He agreed that arbitration would prove to eliminate the crowded court problem. Throughout the country, the alternate dispute resolution is proving more and more popular. This past year, Colorado amended their arbitration act to provide that amounts less than \$50,000 be arbitrated before they are litigated. It points out that the smaller claims are creating the problems, he said, and are exactly the ones that should be arbitrated. When two parties wish to put into a contract that any future dispute be arbitrated, the state should not be legislating away their right to do so, he said. The option should be left open. The section is not in the federal act, and he felt it should not be in the Montana act.

Michael Sherwood appeared in opposition to the bill. He presented written testimony for the record (Exhibit 1). He said that Carl Englund of the MTLA originally talked the legislature into the \$35,000 limit. He was concerned that unsophisticated parties would be dealing with sophisticated parties. The \$35,000 was an artificial number decided upon and was an expression of the opinion that arbitration should be limited to sophisticated parties. Anyone can opt into arbitration now, he said. The agreement, he felt would waive the right to a jury, the judicial system and judicial review and go to binding arbitration. He was concerned that Section 27-5-211 stipulated that "binding arbitration" was

binding. He felt that an unsophisticated person might be at a disadvantage in the future. He supported Judge Sande's view regarding clogged courts and also approved of arbitration, but hoped the committee would take a look at his objection.

Questions From Committee Members: Senator Mazurek asked why it was necessary to do away with the limitation. Anything can be submitted to arbitration, he commented. Mr. Penwell said, for example, that two parties have entered a contract and are in a dispute, the present law may prevent them from using arbitration at a future time.

Senator Mazurek said the \$35,000 limit was not in the original bill, but was added so that every contract didn't contain a provision that any future dispute had to be automatically submitted to arbitration. He asked if Mr. Penwell was saying, maybe that would still be OK to have some protection, but the presence of this language keeps parties from using arbitration even after the dispute arises. Mr. Penwell said yes, that there should be the option to use arbitration.

Closing by Sponsor: Senator Crippen said that Mr. Sherwood had brought up some valid points regarding the unsophisticated borrower. When parties enter arbitration on equal parity, that was equitable. But, if an unsophisticated person is faced with an attorney generally representing the creditor in court, he would be at a disadvantage. He thought this bill, providing arbitration out of court, could actually protect the unsophisticated party. He closed the hearing.

HEARING ON SENATE BILL 353

Presentation and Opening Statement by Sponsor: Senator Bruce Crippen of Billings, District 45, opened the hearing. He said the bill would allow local law enforcement agencies to request assistance from the national guard and tactical teams from other jurisdictions during tactical incidents. It would empower the governor to authorize the national guard assistance and create a vehicle tax to fund situations demanding such assistance. In cases such as the Dan and Don Nichols incident and the Holter Lake Ambush would have ended much sooner, had national guard and a

tactical team assisted. Close to 300 officers from Lewis and Clark county, the Helena Police Department, the F.B.I., Forest Service, and the Department of Fish and Wildlife and Parks were involved. At one time during that ambush, there was a time when law enforcement was pinned down by semi-automatic fire. The sheriffs people were not equipped the same and were in danger of their lives. However, two officers had worked their way to a good position and would have been effective if they had had long range rifles. A request had been made for an armored vehicle from the national guard, but it was denied because there was no provision in law to allow it. This bill would authorize the governor to loan equipment and the guard to transport the tactical teams to the area needed. He said that rapid help might save lives of citizens and officers. This bill has an appropriation in it which will be amended out, he said, and the House would provide the funding.

List of Testifying Proponents and What Group they Represent:

Chuck O'Reilly, Sheriff of Lewis and Clark County,
representing the Sheriffs and Peace Officers
Association
Captain Bill Fleiner, Montana Peace Officers Chairman
of the Montana Tactical Task Force
Clint Stocks, Peace officer from Stillwater County
Richard Brennen, Yellowstone County Sheriffs and Peace
Officers
Greg Hansen, Missoula, Sheriffs and Peace Officers and
the subcommittee
Rick Blader, Sheriff of Beaverhead and the Peace
Officers Association
John Connor, Montana Peace Officers Association
Peter Funk, representing the Attorney General of
Montana

List of Testifying Opponents and What Group They Represent:

Steve Turcowitz, Montana Automobile Associaion

Testimony:

Sheriff O'Reilly said this is a bill of life and death for the officers and innocent citizens who may be taken hostage in any community and around the state. There are only 8 tactical incident teams in local law enforcement agencies in the state. It doesn't take long in an incident for the local resources to become depleted. If additional resources

are not immediately available, the chance of someone being killed or injured are great. He said the funding proposed was 1/2 of 1 percent on vehicles that replaces the temporary tax going out of effect on July 1, 1989.

Those monies upon approval of the AG, would be used to pay for extraordinary expenses associated with a multi-jurisdictional tactical incident. The Sheriff said that 25 agencies, and over 300 people were involved in the Holter Lake Ambush. A small city had to be set up providing food, sanitation, waste disposal etc. Because the federal agencies were involved, they picked up the vast majority of the cost, he said, but the cost to Lewis and Clark was \$20,000. They included food, ammunition, snake bite kits, command post rent, wrecker, batteries, gasoline for generators and vehicles, phones, medical supplies for injuries, portable bathrooms etc. This bill would help financially, as most departments are not prepared for that kind of expense. He showed photographs of the area involved in the incident. He said that there is a violent element in today's society and that law enforcement needed to have the tools to handle violent situations.

The sheriff called attention to p. 3, line 9 of the bill and said the draft inadvertently left out "requesting agency tactical team and/or to". On page 3, line 19, subsection 2 there is a redundancy, he said; and on page 7, the effective date should read 1989, not 1999. He said that Tom Harrison would provide those amendments in writing to the committee.

Captain Bill Fleiner said the committee met to put together a manual for the law enforcement officers throughout the state. That manual has been approved by the board of directors of the association and will be ready to dispense statewide soon. A chapter dealing with tactical team request was included, he said. The legislation before the committee was recommended during these meetings. He said the funding mechanism does not exist anywhere else in the country. Anti-social behavior results in people going to remote places to live off the land, such as Holter Lake or Big Sky where they feel they can live free. The incidents that occurred had a significant impact on the recreational areas where they took place. He urged passage of the bill.

Clint Stocks said there has been an increase in violent crime in his county. There have been several incidents where they have requested the assistance of tactical teams from other counties, he said. The last incident involved a situation where an armed man was barricaded. The Yellowstone County Sheriff's office was called in finally,

but he felt the national guard could have assisted very ably.

Richard Brennen said that the 8 tactical teams in the state had been called out to 75 incidents in the state. He suspected that there would be more and supported the bill.

Greg Hansen said he was on the tactical team task force and was a member of the subcommittee. He was commander of the Missoula county department of special weapons team since 1979. During those years, the tactical team has offered assistance on numerous occasions to other counties and to the state prison. He urged support of the bill.

Rick Blader appeared in support of the bill.

John Connor supported the bill for his association.

Peter Funk voiced support for the general concept of the bill and also to let the committee know that the attorney general has no problem with being included in the bill in the role of disbursing officer for the funds.

Steve Turcowitz appeared as an opponent. Even though he was a law-abiding citizen and sympathetic to the problems. He referred the committee to Section 8 on page 4 which discussed the funding. He asked the committee to consider the increase in tax of automobiles. In 1989, the budget office estimated that this tax will raise \$37 million on the current 2% level, he said. By fiscal year 1990, that will be \$40 million. He said, when the taxes change, there would be 3% on vehicles, including new car tax, the tax proposed in this bill, weed districts taxes, solid waste bureau, local option taxes in some counties and local option sales taxes. He felt the motor vehicle has been taxed enough, he said. He said the 1/2 of 1% would generate \$10 million which was considerably more than needed. \$500,000 would go into the fund and the remaining \$9.5 million would go to the state general fund. Historically, automobile taxes have gone to local governments. This, he stated, was a tremendous alteration to that use. Mr. Turcowitz said he was not opposed to the concept, but felt the funding needed to be reviewed.

Questions From Committee Members: Senator Beck and Senator Crippen said they were surprised that the funding provision would realize the amount of money Mr. Turcowitz had mentioned.

Senator Beck asked if the bill would give the sheriff the right to call out the tactical team or the national guard for the pipeline incident that occurred some time ago. Sheriff O'Reilly said that decision would rest solely with the governor. If it was a tactical team situation, whether it was union or non-union people breaking the law or holding hostages, using firearms and shooting, the sheriff's department would be called first. Later, if needed the other teams might be called in.

Senator Halligan asked if the bill was asking for equipment only and not manpower. Sheriff O'Reilly said, if a helicopter was asked for, a pilot would obviously be needed. His understanding of the governor's authority was that he could call out the guard in emergencies if he had the authority.

Senator Mazurek asked why the bill didn't include manpower needs. Sheriff O'Reilly said that law enforcement might then oppose the bill. Sheriff's departments have the training to handle these incidents. But tactical teams could be used only as a last resort in extreme cases. He said law enforcement did not want an incident to be taken over by a military force.

Senator Mazurek asked why the bill suggested using vehicle fees for funding. Sheriff O'Reilly thought they were doing something good, when they found a statute about to end, and decided to take that over. Taxes would not be increased, he said, but would remain the same.

Senator Pinsoneault said he thought the Holter Lake incident would be a perfect situation for a two-man mortar. The sheriff said his goal was to capture the individuals and gave orders that fatal action was only used as a last resort.

Senator Pinsoneault asked if Montana didn't still have "posse comitatus" on the books which said we couldn't use federal law to enforce local law. Sheriff O'Reilly said the people involved had violated numerous federal laws so the federal agencies were allowed. There is also a federal assistance act which allows help for both local and federal agencies.

Senator Mazurek asked if the sheriff had talked with General Blair of the National Guard. Sheriff O'Reilly said he hadn't, but had talked with General Duffy who would support

the concept. He said he had worked with the guard when drafting the bill.

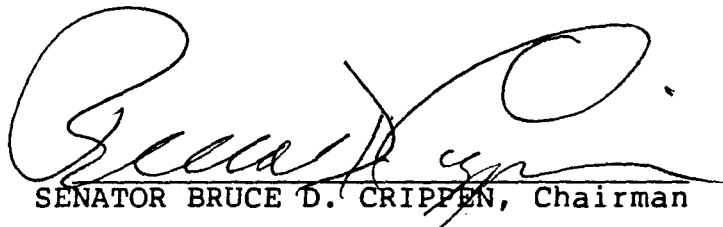
Senator Halligan asked about the "civil disorder" portion of the bill. Sheriff O'Reilly said the language in that section was directed at the Aryan Nations white supremacist group -- bombing of police cars, military tactics etc.

Closing by Sponsor: Senator Crippen urged passage of the bill. He approved of the concept and asked that another look at the funding be done.

ANNOUNCEMENTS: Chairman Crippen said that, due to the time constraints, the committee would not take action on any of the bills until a further meeting. He asked interested parties to work on amendments and bring them to the next meeting.

ADJOURNMENT

Adjournment At: 11:45 a.m.



SENATOR BRUCE D. CRIPPEN, Chairman

BDC/rj

minrj.213

ROLL CALL

JUDICIARY

COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date 2-13-89

NAME	PRESENT	ABSENT	EXCUSED
SENATOR CRIPPEN	✓		
SENATOR BECK	✓		
SENATOR BISHOP	✓		
SENATOR BROWN	✓		
SENATOR HALLIGAN	✓		
SENATOR HARP	✓		
SENATOR JENKINS			✓
SENATOR MAZUREK	✓		
SENATOR PINSONEAULT	✓		
SENATOR YELLOWTAIL	✓		

Each day attach to minutes.

SENATE BILL 377

Testimony of John Connor, Department of Justice
On Behalf of Montana County Attorneys Association

Senate Bill 377 was requested by the Montana County Attorneys Association to provide additional assistance in the law enforcement effort against dangerous drug offenders.

There are four basic reasons for the changes proposed by Senate Bill 377. The first is that under the Anti Drug Abuse Act of 1988, section 21 U.S.C. 881 is amended to disallow equitable distribution of forfeiture assets back to local or state law enforcement authorities when the property is seized by the federal government unless the state has a corresponding forfeiture provision which also would allow state forfeiture of the subject property. The rationale for this position is that the federal law can't be used to subvert state statutes; if the state statute is not broad enough to cover the contemplated forfeiture, then the federal government can seize, but the state or local agency assisting can't share in the proceeds. The amendments as proposed would bring state law in line with federal law in this regard.

The second reason is that the money received by the state under the Anti Drug Abuse Act of 1988 requires a state match, which for the current fiscal year is 27% of approximately \$800,000. The match requirement for the following fiscal year is 50% and the state is required to fund any operations entirely thereafter.

There are currently eight task force programs operating in the state with these funds. By strengthening our forfeiture statutes, we will be able to realize more money from the offender which can be

used to meet some of these match requirements and be utilized to provide funding when federal funds are no longer available.

Another reason for the bill is to provide a source of money for funding those enforcement and education efforts which do not currently receive Anti Drug Abuse Act grant funds. Instead, these efforts rely primarily on local general fund expenditures.

Finally the proposed amendments will allow law enforcement a greater opportunity to extract the profit from drug operations, making those who are in it for the money pay for the resources of those who are committed to stopping their illegal activities.

This bill proposes four principal changes in the existing statute which defines the things that are subject to forfeiture. It is important to remember though, that all of the innocent owner protections and all of the procedural aspects of the forfeiture statutes remain unchanged by this bill.

The first change relates to the marijuana limitation. Section 44-12-102 exempts from forfeiture items used in connection with or the conveyance of marijuana in amounts of less than 250 grams. The bill proposes to remove this limitation entirely.

The bill also amends the conveyance language to simply allow forfeiture of a conveyance if it is used in any manner to facilitate the commission of Title 45, Chapter 9. This is not a major substantive change from present language but it does simplify it.

Additionally, the bill amends the personal property provisions of subsection (h) to expand the language to include not only sale but any violation of Title 45, Chapter 9 punishable by more than

five years imprisonment. Besides sale of dangerous drugs, this amendment would also cover possession of dangerous drugs with intent to sell, second conviction of fraudulently obtaining dangerous drugs, criminal possession of precursors to dangerous drugs, criminal sale of imitation dangerous drugs to a minor, criminal advertizement of imitation dangerous drugs and criminal manufacture of imitation dangerous drugs. In other words this amendment would extend application of the statute to those situations in which the offender was involved in the crime primarily for money. It would not cover possession of any dangerous drug, first offense of fraudulently obtaining dangerous drugs or criminal possession of imitation dangerous drugs with intent to sell.

The bill also creates a real property forfeiture provision that is consistent with its federal counterpart. Pursuant to this amendment, real property can be forfeited if it is being used to commit or facilitate commission of or maintained by or derived from proceeds of a violation of Title 45, Chapter 9 punishable by more than five years. It also includes the innocent owner exception of Title 21, section 881, United States Code.

Having worked as a drug prosecutor for the past year and a half I have seen the scope of the problem in Montana. I believe it is getting worse and the profits going to the offender are on the increase. I have yet to voir dire a prospective jury panel where there was not at least one person adversely touched by a drug related problem of some sort. Drug dealers are simply in it for the money; they are capitalists of the first order. Money is

EXHIBIT NO. A-1, p.4

DATE 2-28-89

BILL NO. SB 377

the dealer's incentive and we need to take the incentive away from him. The provisions of Senate Bill 377 will greatly aid us in doing that.

(This sheet to be used by those testifying on a bill.)

EXHIBIT NO. 1 DATE 2-13-89

DATE 2-13-89 ON FILE

BILL NO. SB363 AMENDMENT 31272 SENATE JUDICIARY

NAME: Michael Sherwood DATE: 2-13-89

ADDRESS: _____

PHONE: _____

REPRESENTING WHOM? MTLA

APPEARING ON WHICH PROPOSAL: SB 363

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

COMMENT: The jury system has its place in commercial

litigation. It does however have its pluses and minuses:

Pluses: (1) Access w/ minimal cost Minuses: Delay

to an impartial fact finder

(2) Testing of evidentiary issues

(3) discovery

(4) Judicial Review

The arbitration system also has its pluses and minuses:

(1) Speedy resolution of disputes Minuses: (1) Another party, usually

(2) Avoids deadlock (strikes) a lawyer, at \$400 - \$500/day

in labor disputes

Arbitration is currently an option in all cases, Future binding arbitration

should be limited to sophisticated parties who can afford it.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

VISITORS' REGISTER

SENATE ~~AND HOUSE~~ COMMITTEE

Judiciary

BILL 366

DATE 2/13/89

SPONSOR Bruce Crippen

NAME	REPRESENTING	RESIDENCE	SUPPORT	OPPOSE
<i>E. STAUDE</i>	<i>Self</i>	<i>Billings</i>	<i>X</i>	
<i>DW Penwell</i>	<i>Self</i>	<i>Billings</i>	<i>X</i>	

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

