

MINUTES

MONTANA SENATE 51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Bruce Crippen, on March 3, 1989,
at 10:00 a.m. in Room 325.

ROLL CALL

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

Members Excused: None

Members Absent: None

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

Announcements/Discussion: Chairman Crippen told those present that the hearing would be conducted in the following manner: Rick Bartos, legal staff for the Governor's Office would present each judge appointee, giving pertinent information about his professional and personal lives. After each presentation, a judge would speak to the committee. And, finally, after all had been introduced and given an opportunity to speak, the Judiciary committee would be allowed to ask questions of the appointees.

HEARING ON DISTRICT COURT JUDGES CONFIRMATIONS

Opening Statement by the Chief Justice. Chief Justice Jean Turnage said he appreciated the honor of appearing before the Judiciary Committee at the confirmations hearing. He said there was no more significant position in the state than the district judge. There are 36 district judges and 7 supreme court justices and that, he stated, constituted one-third of the constitutional state government. He knew that the committee took the appointments seriously, as did the Supreme Court, and he wanted to inform the committee that they wholeheartedly supported all of the confirmations before the committee.

Justice Turnage continued with summaries on the judges. Judge Mizner, he stated, assumed the bench on June 24, 1987, bringing with him 13 years of successful law practice. Judge McLean assumed the bench on February 1, 1989 with approximately 15 years of successful practice of law. Judge Cox assumed the bench on June 19, 1987 having had 35 years successful law practice. Judge Keller brought with him not only experience and service as a district judge, he assumed the bench on April 26, 1988, bringing with him approximately 32 successful years of practicing law. Each and every one of the judges during their years of practice held a "V" rating with Martindale-Hubbell, which is the highest rating for ethics, integrity and responsibility, he announced. He urged confirmation for all judges presented to the committee.

List of Testifying Proponents and What Group they Represent:

Rick Bartos, Chief Legal Counsel for the Governor's Office

List of Testifying Opponents and What Group They Represent:

There were none.

Testimony:

Mr. Bartos gave personal and professional histories on each of the four candidates. See Exhibits 1, 2, 3, and 4. He said that Governor Stephens had had an opportunity to review the backgrounds and experience and also had visited with them earlier in the morning that same day. He said the Governor urged confirmation of all candidates. After each history, the judges gave comments on their own behalf as follows:

Judge Dale Cox said he appreciated the support of the chief justice. He stated that he believed the Montana Judiciary to be composed of competent, hard-working men and women dedicated to serving justice in Montana. He believed, also, that they were widely respected by Montanans. He deemed it an honor and privilege to have been selected by Governor Schwinden to serve in that branch of government with those men and women as the Seventh Judicial Judge in the Spring of 1987 when the vacancy occurred. He hoped and believed he would carry out the job in the best of his ability.

Judge Robert S. Keller stated that he enjoyed being on the bench previously. He left because his son was ready to go to college and he felt he couldn't afford to remain on the bench with the increased expenses. He said he had fought the salary as a matter of principle up until that point, but quit the bench as a matter of necessity. He said he had 3 children, all of whom were now educated. He no longer had to support the family so could now afford to, and was looking forward to going back on the bench.

Judge Ed McLean said he was honored to be before the committee. He appreciated the vote of confidence of former Governor Ted Schwinden and of Governor Stan Stephens. He said he wished to assure the committee that he was aware of the great responsibility placed upon him. He accepted the challenge eagerly, he said, and would keep the high standards that are available to him in serving the state of Montana.

Judge Ted Mizner apologized for his laryngitis. He said he did appreciate the opportunity to appear before the committee. He thanked the committee for the courtesies extended to him during the nomination process. His 20 months on the bench had been very exciting and challenging, he commented, as well as humbling at times. He promised to do the best job he was able to do and promised to maintain the dignity of the judiciary. He said he thought his experience as Powell County Attorney had served him well in preparation for his appointment as district judge. He told the committee he would be happy to answer any questions the committee might have.

Questions From Committee Members:

QUESTIONS ASKED OF JUDGE KELLER

Senator Crippen asked Judge Keller for comments on the public perception of the legal system, in general, and judges, in particular. Unfavorable comments in the newspapers had led to the confirmation process, he said, in hopes of bringing some dignity and respect to the judiciary. He wondered what else might be done to improve public perception. Judge Keller said he thought the answer might be more public involvement. He said that, in any profession, there are the winners and the losers. He said that when a person sits on the

bench, they are only told how good they are, not how bad. But, when he went off the bench for a time, he commented, he had an opportunity to observe those on the bench. He thought that being on the bench tended to bring out the best in many lawyers. He said that public involvement required giving up something of your personal lives and felt that legislators would understand that, as they, too, must give up a lot.

Senator Crippen commented that he, as a lawyer-legislator, found the perception of non-lawyer legislators regarding lawyers to be somewhat adversarial. He asked if Judge Keller had any suggestions on improving the legislature/judicial branch relationship. Judge Keller said that he resigned from the bench in 1976 which was an election year. He worked on a special assignment for the Attorney General, he said, which required him to work in the capitol. One day, when he was in an elevator, he heard two legislators commenting how difficult it would be in the legislature when there were to be only 5 or 6 lawyers in the Senate. They said that they had given barbed comments to the lawyers in the senate, but that when the chips were down, they realized the importance of having their knowledge and experience in the legislature. The process moved much better, they had admitted with lawyers present. He thought the same was true between the legislature and the judges. It was the legislature's job to make the laws and the judges job to enforce and determine constitutionality. He believed there did exist mutual respect.

Senator Crippen asked if Judge Keller intended to run for re-election. The answer was yes. He said he didn't think the age of 61 was old. He said he just visited his dad who was 30 years his senior and who still plays golf once a week. He said he had observed judges who had lost their memories, and he hoped someone close to him would tell him when it was time for him to step down.

Senator Harp said the Judiciary Committee had recently had a bill dealing with the death penalty. A letter had been received in committee from the Lincoln county attorney expressing his frustration at not being able to seek the death penalty in a case where an eight-year-old boy had been sexually assaulted and murdered. Senator Harp asked Judge Keller for comments on the case. Judge Keller said he had not been present for the case, but knew what the feeling was in the community. He said

when he was district judge previously, capital punishment was unconstitutional. Had it not been, he said, he would have imposed it in two cases before him. He did not object.

Senator Brown said it was a pleasure to tell the committee that Judge Keller was a top-quality lawyer. Judge Keller said it was a pleasure to see Senator Brown before him in the committee.

Senator Jenkins said the Judge was probably aware that there was a case in his area in which a large quantity of marijuana was grown. He wondered what reactions the judge regarding having a case of this kind before him. Judge Keller thought drug dealing and growing were serious offenses and that time should be spent in prison. He said a judge had to figure out how much time a person should actually spend in prison and then translate what sentence would provide that. Fifteen years ago, if you wanted a three year stay in prison, you would give a 15 year sentence, he said. A five year stay in prison would require a 25 year sentence, he said. But now that has changed because felons are out faster due to prison overcrowding. A five year stay in prison requires a 35 year sentence, he stated. As to the marijuana, he knew of a case where 13 fields were being grown.

Senator Pinsoneault said he wished to comment on the two gentlemen who had run for attorney general. He said he had felt a great sense of professional pride in the legal profession when the media agreed the candidates were high quality candidates and didn't take sides. In addition, he felt pride in the quality of judge candidates present for the hearing. And on another subject, Senator Pinsoneault said that his first opinion on judges was that they should be appointed for the reason that they might have a case in front of them involving someone who had contributed money to their campaign. He asked how Judge Keller would feel under such a circumstance. Judge Keller said he didn't recall receiving any substantial contributions. He told of Judge Haswell's last election in which several lawyer friends contributed money. After the election, Judge Haswell bent over backwards not to be prejudiced to those friends, and nearly alienated himself doing so. Judge Keller said he never won a case in Judge Haswell's court after that. Later, when Judge Keller was elected as district court judge, Judge Haswell told him not to make the same mistake, just to be fair.

Judge Keller said if he had a case before him where friends were involved, he would "bail out" if anyone was uncomfortable in the slightest. However, he said, it was a judge's duty to let all parties know if there is any connection to parties in a case.

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QUESTIONS ASKED OF JUDGE MIZNER

Senator Crippen said he noticed that Judge Mizner was involved in the Cursillo movement and, as such, he wondered what his opinion was regarding capital punishment when it was warranted and demanded. Judge Mizner said he recently had a case and it was a problem for him. He said it is a judge's responsibility to do what the law requires him to do and he did impose the death penalty in that particular case.

Senator Crippen told Judge Mizner that the committee had recently heard a bill that dealt with consecutive sentences versus concurrent sentences. He said the law, as it now reads, states that sentences will be run concurrently unless the judge does not specifically state that they should run consecutively. If the law were changed so that a judge would not have to make that decision, how would Judge Mizner feel about it, he asked. Judge Mizner answered that each case must be looked at individually. It is known if there is another sentence being served, he said. He felt that a term served concurrently is not really a penalty, except for the fact that it goes on his record in the event he has further trouble with the law. He said, however, it will result in longer sentences and further overcrowding at the prison.

Senator Crippen asked Judge Mizner if he would run for re-election and the answer was yes.

Senator Beck said he didn't have any questions, but wanted to comment on the quality of fairness exemplified in all aspects of Judge Mizner's life. He said he had known him for many years, felt that he was a highly qualified man, a good person and a good jurist.

Senator Jenkins asked how Judge Mizner felt about cases dealing with marijuana. Judge Mizner answered that he supported the laws on the books. He felt that drugs

were a serious problem, particularly cases involving sellers of drugs, and that sometimes the decisions were difficult. He said he liked to give a first-time offender a break, but that repeat offenders should be treated harshly.

Senator Mazurek asked if Judge Mizner intended to make the bench a career. The answer was not definitive at the moment. He said that would be a logical progression in his career at this point. He has found the bench to be a challenge and, as long as it continued to be, he would pursue it.

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QUESTIONS ASKED OF JUDGE COX

Senator Crippen stated that Glendive had sent two very fine jurists to the Supreme Court. He asked how Judge Cox would deal with overcrowded court dockets. Judge Cox said that was a problem. Speedy trials are required and it is incumbent, he said, to see that they are granted as rapidly as possible. His district, the Seventh Judicial District disposed of over 700 cases last year, he stated. Many cases are settled, some dismissed and a few are tried.

Senator Crippen noted that Judge Cox had been in private practice since 1952 and had spent many years as a county attorney. That, he stated, was indicative of many years of trial experience. He asked if the judge had done any practice from a defendants point of view. Judge Cox said he had practiced in Glendive from 1961 to 1968 and had done civil work for the county during the last part of those years.

Senator Crippen asked if Judge Cox thought the exclusionary rule was fair and should be used. The judge said that any judge has some problem with that rule. He said it usually comes down on the victim rather than on the person who commits the crime. However, the law has the rights of search and seizure, he stated. He noted that the exclusionary rule is generally targeted at the police and other law enforcement people. Usually, he said, they are overly zealous in trying to obtain evidence when the problems occur.

Senator Crippen asked if Judge Cox planned to run for re-election and the answer was yes.

Senator Halligan said that the legislature was bombarded with requests for tort reform, limiting attorneys fees, requests to change Rule 12, etc. What suggestion might help remove some of the pressures regarding rules changes, he asked. Judge Cox stated that there are very good rules in the judicial system. He said there were a great number of weapons dealing with dilatory practices. He said some lawyers to file frivolous cases and some haven't done their homework. Those, he said aren't even worthy of review. Rule 11 sanctions can actually fine lawyers, he added. A judge might have some hesitancy in doing that, he said, but the rules have been utilized.

Senator Pinsonneault said that President Reagan had appointed Judge Ginsberg to the Supreme Court. His confirmation was complicated by the fact that he had smoked a "joint" with fellow students in law school. Senator Pinsonneault asked if Judge Cox have voted for him. The judge said he wouldn't have held that particular act against him. He would consider his judicial knowledge, ability and philosophy. He said that Judge Ginsberg was a very young man at the time, and that youth was entitled to one or two sins.

Senator Bishop commented that out of 26 graduates in his law class that Judge Cox was one of three who were now district court judges and he was in the Senate. He thought that spoke well for the dean of the law school.

Senator Jenkins asked how the judge felt about drugs and the death penalty. The judge said he had had a case in which a 16-year-old boy had killed three people. The state did not ask for the death penalty and that particular case would have been difficult because of his age, he said, but he could impose the death penalty when the case required it. As to marijuana and other drugs, he said he was opposed to them. He felt that drug use was epidemic. He said that there had been a number of "sting" operations in his part of the state for the court's disposal.

Senator Yellowtail said that the Judiciary Committee had struggled with tort reform issues. He asked for the judge's comments on the legislative action of 1987. Judge Cox hoped that rights of claimants would receive just decisions. He said that there had been some large and excessive awards which brought about tort reform. He felt the reform brought about in the legislature had

been good. He said that there must be merit in compensatory damages.

Senator Yellowtail said, in view of the failure of CI-30, that the committee had been in doubt of the success of the tort reform of 1987. Judge Cox declined to voice an opinion on the subject.

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QUESTIONS ASKED OF JUDGE MC LEAN

Senator Crippen commented that Judge McLean had considerable experience in the county attorney's office and had been strongly supported by Senator Van Valkenburg. He asked if the judge had done any practice on the defense side. The answer was no.

Senator Crippen asked what he felt about the exclusionary rule. Judge McLean said he thought there were problems with it, but that they were not as large as some people thought. He felt the rule was needed to guarantee that there will be no infringement on the rights of people.

Senator Crippen said that in recent months there had been problems in Lewistown and Dawson Counties where there had been juveniles convicted of crimes that might warrant incarceration for long periods of time or capital punishment, he said. What kind of protection should be given to an individual under 16 years of age. he asked the judge. Judge McLean said that the age should be reduced from 16 to 13, that at the age of 13, a person pretty well knows right from wrong. He said that if a person this age commits a murder, he should be maintained away from society. He thought that 16 was too old.

Senator Crippen asked for Judge McLean's views on consecutive or concurrent sentences unless otherwise decreed by the judge. Judge McLean didn't think it would make much difference. If a plea bargain had been made about concurrent sentencing, the judge would have to be informed, he said. If a person is released and then commits a new crime, he felt they should have to serve the sentence for the new crime.

Senator Crippen asked if Judge McLean would run for re-election and the answer was yes.

Senator Halligan said he might have the opportunity to practice before Judge McLean so only glowing things would be spoken by him. He told the committee that during his first year out of law school, Judge McLean had been most helpful, considerate and thoughtful to him. He said that the media, attorneys, plaintiffs and trial lawyers all agreed that Judge McLean was a good selection.

Senator Mazurek asked how the problem with the scheduling of motions might be corrected. He said that Missoula county seemed to have more criticism regarding this problem. Judge McLean said that Missoula had the busiest judicial district in the state. He said that he had already instituted changes regarding juvenile matters, civil matters, domestic issues and others. He had set strict schedules in order to accommodate cases in a speedy manner.

Senator Jenkins asked for comments on the Supreme Court's decision on good faith exception to the exclusionary rule. Judge McLean said there was still a burden on the state to show that the officer was acting in good faith. But, he thought the Supreme Court had given fairly clear decisions, and if the officers are informed, he found that they would usually comply. There is sometimes a fine line to work with regarding good faith, he said. Sometimes an officer would take shortcuts to gain evidence and it might lead to problems. The judge said he would abide by the Supreme Court's decisions.

Senator Jenkins asked about the death penalty and Judge McLean said he would use it in cases that merited it.

Senator Jenkins asked about marijuana cases. Judge McLean said that a person who deals marijuana should be prepared to accept the penalty.

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With the question period at an end, Chairman Crippen asked Chief Justice Turnage and Rick Bartos for closing comments.

Chief Justice Jean Turnage said he felt all the judges had passed the test and urged their confirmation. He

congratulated the committee on a dignified and deliberate hearing.

Rick Bartos said the judges hadn't been as concerned about the confirmations hearing as about the funding for the youth treatment centers. He thought that was indicative of the high calibre of the judges and of their awareness of the problems of the state in this regard.

The hearings were closed.

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EXECUTIVE SESSION: Senator Mazurek MOVED that the committee accept the complete slate of judges as heard this day. The MOTION CARRIED UNANIMOUSLY.

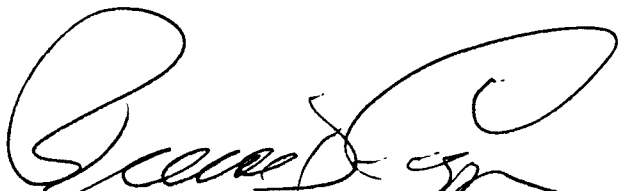
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ANNOUNCEMENTS: Chairman Crippen thanked the judges for braving the cold and snow to attend the hearing. He said he had been prompted to hold the hearings to add some dignity to the appointments. He said that Judge Holmstrom in Billings had been confirmed 18 months before he was notified. He congratulated the judges and announced that a luncheon had been provided by the Montana Trial Lawyers Association and the Montana Defense Lawyers Association and invited those present to stay.

Note: The program and judges professional summaries are attached. (See Exhibit 5.)

ADJOURNMENT

Adjournment At: 12:00 noon.


SENATOR BRUCE D. CRIPPEN, Chairman

BDC:rj

minrj.303

ROLL CALL

JUDICIARY

COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date 3-3

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.

March 3, 1989

PRELIMINARY STANDING COMMITTEE REPORT

MR. PRESIDENT:

We, your committee on Judiciary, having had under consideration the appointments of the following:

Edward McLean, Missoula, as district judge of the Fourth Judicial District;

Ted L. Mizner, Deer Lodge, as district judge of the Third Judicial District;

Dale Cox, Glendive, as district judge of the Seventh Judicial District; and

Robert S. Keller, Kalispell, as district judge of the Nineteenth Judicial District,

respectfully report that the nominations be considered and confirmed.

BE ADOPTED

Senator Bruce Chaffin

99-50
2-3-89

DALE COX BIOGRAPHICAL SKETCH

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2
3 Dale Cox was born in Great Falls, Montana, He was reared
4 and attended school in Shelby, Montana, graduating from Shelby
5 High School in 1945. The day after graduation he was called to
6 active duty with the United States Navy, where he served for 18
7 months. Also, he was in the Naval reserve on inactive status
8 from July, 1947, to July, 1951. Shortly after Honorable
9 Discharge from active duty with the Navy, he enrolled at the
10 University of Montana where he commenced his undergraduate
11 studies. He also attended Washington University at St. Louis
12 and St. Louis University. He received a Bachelor of Arts Degree
13 from the University of Montana in 1951, a Bachelor of Law Degree
14 in 1952, and a Juris Doctorate Degree in 1970.

15 Upon graduation from law school in 1952 he opened a law
16 office in Glendive, Montana, and practiced law there until
17 September of 1954, when he moved to Wibaux, Montana, upon his
18 appointment as Wibaux County Attorney. He held this office
19 until 1961 when he resigned and returned to Glendive when he,
20 Russell McDonough, and Thomas Cavanaugh formed a law partnership.
21 He continued the practice of law in Glendive and the firm grew
22 in size to six attorneys. The firm engaged in the general
23 practice of law, with emphasis by Mr. Cox on civil litigation.
24 As a lawyer Mr. Cox enjoyed, since 1973, the Martindale-Hubbell
25 Law Directory highest rating of "A.V."

26 In 1968 Mr. Cox was appointed Deputy County Attorney for
27 Dawson County, Montana, and held that position until he was
28 appointed a District Judge in 1987.

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Mr. Cox is a member of the Montana and American Bar Associations, the Montana and American Trial Lawyers. He was appointed by the Montana Supreme Court as a member of the Commission on Uniform District Court Rules in 1986. He has served on various committees of the Montana Bar Association, including the IOLTA Committee, and was a member of the Montana Medical Malpractice Panel since its inception, and served as Chairman on many of its cases.

In 1982, then Seventh Judicial District Judge L. C. Gulbrandson was elected to the Montana Supreme Court, and Mr. Cox's law partner, Russell McDonough, was elected District Judge, resigning from the law firm. In the spring of 1987 District Judge Russell McDonough was appointed to the Montana Supreme Court, and Mr. Cox, in May of 1987, was appointed by Governor Schwinden to fill that vacancy. Mr. Cox was sworn in as Seventh Judicial District Judge under that appointment, June 19, 1987.

Judge Cox is 61 years of age and married. His wife's name is Jackie, and they have two adult sons.

ROBERT S. KELLER
Attorney at Law
P.O. Box 1954
Kalispell, Montana 59903-1954

December 14, 1987

Born: December 5, 1927, Bellefonte, Pennsylvania

Education: High School, State College, Pennsylvania; BA, Pennsylvania State University, 1950; Juris Doctor (LLB), University of Utah, 1956.

Experience: Admitted to Montana Bar, October 25, 1956;
Private practice of law thereafter until January 6, 1969;
Elected Judge of the Eleventh Judicial District Court
(which then included Flathead and Lincoln Counties) in
November, 1968 and sworn in on January 6, 1969;
Resigned, May 10, 1976 to return to private practice;
Admitted to practice (and have practiced before): Montana
Supreme Court and District Courts, Montana Federal
District Courts, Ninth Circuit Court of Appeals,
and United States Supreme Court.

Committees, Commissions and Schools: Supreme Court Commission on Rules
of Evidence; Supreme Court Commission on Rules of Civil and
Appellate Procedure; Governor's Mental Health Advisory
Council, 1974-76; Governor's Juvenile Justice Advisory
Council, 1972-74; Governor's Committee on Corrections,
1974; National College of Juvenile Justice, University of
Nevada at Reno, 1973; Accreditation Committee of the
National Council of Juvenile Court Judges; Instructor,
Flathead Valley Community College, Evidence for the Law
Enforcement Officer, Winter and Spring quarters, 1974.

Military Experience: Army Air Corps, February, 1946 - August, 1947,
Instructor, Weather Observer School, Chanute Field,
Illinois, Sergeant; ROTC Distinguished Military Graduate,
Penn State, 1950; Regular Army, July 1, 1950 - November 30,
1953, First Lieutenant, Medical retirement for permanent
disability from combat wounds; Combat Infantryman's
Badge, Purple Heart, Bronze Star with "V" device, Silver
Star, National Defense Service Medal, Korean Service Medal
with one Silver Service Star (five campaigns), United
Nations Service Medal, Republic of Korea Presidential Unit
Citation Badge, Tank Company Commander.

ED MC LEAN, MISSOULA, MT.

Ed was born and raised in Anaconda. He graduated from high school in Anaconda

Ed received a bachelor of science degree from the University of Montana with a major in Accounting. He obtained a juris doctorate degree from the University of Montana Law School in 1973.

Ed and his wife, Sandy, have been married for 21 years and have made their home in Missoula. They have three children, Ed, Jr., a junior at the University of Montana; Janelle, a freshman at Carroll College; and Dave, a junion at Sentinel High School.

Upon graduating from law school in 1973, Ed went to work for Dusty Deschamps, the Missoula County Attorney, as a part-time deputy county attorney and practiced civil law as a sole practitioner. In 1975 he beame a full-time deputy county attorney and several years ago was appointed a Special Assistant U.S. Attorney.

PROFESSIONAL ORGANIZATIONS AND ACCOMPLISHMENTS

State Bar of Montana

Western Montana Bar Association

Montana County Attorney's Association

National District Attorney's Association

- ✓ Member of the Criminal Jury Instruction Commission
- ✓ Founding member and Board of Directors of Western Montana Criminal Justice Association, President 1982
- ✓ Founding member of Missoula City-County Crime Attack Team - Place second in the nation as the most exemplary crime reducing program in the United States
- ✓ Lecturer on Arrest and Search and Seizure - Montana Law Enforcement Academy
- Lecturer to Missoula County High School government classes
- Lecturer to Missoula County Sheriff's Department and Missoula Police Department on criminal procedure and case law.

911 Advisory Board

Lecturer for Montana Bar Review for attorneys preparing *hearings*
for Montana Bar Examination

Advisory Committee on reducing Court delay

COMMUNITY INVOLVEMENT PAST AND PRESENT

✓ Kiwanis

Board of Directors, Missoula Federal Credit Union

✓ Board of Directors and founding member of Friends
to youth

✓ Community Care Advisory Council

1 Member of Task Force on Drug and Alcohol Abuse in
Missoula area schools

Past Chiarmen of local government section for United
Way

2 Chairman of governmental fund raising for YMCA Building
Project

Day Camp Director for Cub Scouts

SENATE JUDICIARY
EXHIBIT NO. 4, p. 1
DATE 3-3-89
Judges
CALL NO. Confirmation
hearing⁵

BIOGRAPHICAL SKETCH
JUDGE TED L. MIZNER
THIRD JUDICIAL DISTRICT
STATE OF MONTANA
DEER LODGE, GRANITE AND POWELL COUNTIES

Judge Mizner was born and raised in Deer Lodge, Montana. He attended schools in Deer Lodge and graduated in 1967 from Powell County High School. He attended one year of school at Montana State University and graduated from undergraduate school in 1971 from the University of Montana. His undergraduate degree is in accounting and he is a certified public accountant. Judge Mizner graduated from the University of Montana Law School in 1974.

Prior to attaining his law degree, Judge Mizner worked in the summers as ranch hand, a phosphate miner, smokechaser, mailman, and storekeeper. Since attaining his degree, he has maintained a private law practice and owned and operated a title insurance company. His general law practice involved appearances in all levels of the state court system as well as the federal district court level. He has also represented clients before various state and federal administrative agencies. Prior to his appointment to the bench, Judge Mizner served as the Powell County Attorney for period of nine years. Judge Mizner has been the sitting District Court Judge for the Third Judicial District since June of 1987.

Judge Mizner has been married for fourteen years and he and his wife, Gayle, have raised four children. He enjoys hunting and fishing.

He has sat on the board of directors of several non-profit

SENATE JUDICIARY

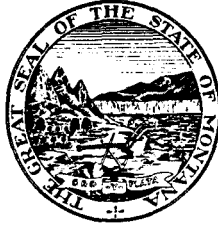
EXHIBIT NO. 4, p. 1

DATE 3-3-89

Judges'
Confirmation
hearing

corporations. He is now the President of Rock Creek Youth Camp. He is a member of Hospice, Knights of Columbus and Toastmasters. He also serves as a volunteer fireman for the Deer Lodge Volunteer Fire Department. In 1987, Judge Mizner was appointed by Governor Schwinden to serve on the Governor's Criminal Justice and Corrections Advisory Council.

Montana State Senate



The Big Sky Country

SENATE JUDICIARY

EXHIBIT NO. 5 p.1

DATE 3-3-89

BILL NO. Confirmation
hearings

DISTRICT COURT JUDGES CONFIRMATION HEARINGS

MARCH 3, 1989

Old Supreme Court Chamber

10:00 A.M.

Room 325

MONTANA STATE CAPITOL

BY THE

SENATE JUDICIARY COMMITTEE
Bruce D. Crippen, Chairman

Third Judicial District Ted L. Mizner, Deer Lodge
Fourth Judicial District Edward Mc Lean, Missoula
Seventh Judicial District Dale Cox, Glendive
Nineteenth Judicial District Robert S. Keller, Kalispell

SENATE CONFIRMATION

As district judge of the Fourth Judicial District:

Edward McLean, Missoula.

McLean has been a deputy county attorney for Missoula County since 1973. He currently holds the position of chief criminal deputy attorney in the Missoula County Attorney's Office, where he administers the criminal division. He also serves as a Special Assistant U.S. Attorney, a position he has held since 1984.

McLean, who was born and raised in Anaconda, graduated from the University of Montana with a bachelor's degree in business administration. He received his law degree from the University of Montana Law School in 1973.

McLean was a founding member of the Missoula City-County Crime Attack Team, which placed second in the nation as the most exemplary crime-reducing project in the United States. In 1982 he was named president of the Western Montana Criminal Justice Association and served on the board of directors of that organization from 1977 through 1985.

As district judge of the Third Judicial District:

Ted L. Mizner, Deer Lodge.

Born in Deer Lodge, Mizner graduated from Powell County High School in 1967. He received a degree in accounting from the University of Montana in 1971 and, three years later, graduated with a juris doctorate. Mizner has served as Powell County attorney and has maintained a private law practice in Deer Lodge for the past nine years.

Mizner is a member of the Montana Bar Association and the Montana Society of Certified Public Accountants. He is actively involved in community affairs, having served on the boards of the Towe/Prison Museum, Powell County Alcohol Center, Deer Lodge Golf Course, Cursillo Core Group and Hospice of Powell County. He is also a member of the Deer Lodge Volunteer Fire Department.

As district judge of the Seventh Judicial District:

Dale Cox, Glendive.

Cox was born in Great Falls and grew up in Shelby. He received both undergraduate and law degrees from the University of Montana. Cox first started practicing law in Glendive in 1952. From 1954 to 1961, he served as Wibaux County Attorney. He resumed private practice in Glendive in 1961 and is currently president of the law firm of Cox & Simonton. Since 1968, he has also served as Deputy Dawson County Attorney.

Cox is a member of the Southeastern Montana, Montana and American Bar Associations and the Montana and American Trial Lawyers Associations. He is also a member of the Supreme Court Commission on Uniform District Court Rules.

As district judge of the 19th Judicial District:

Robert S. Keller, Kalispell.

Keller currently has a private law practice in Kalispell. He is a former District Judge for the 11th Judicial District, which covered Flathead and Lincoln Counties. From 1956 to 1969, Keller practiced law in Kalispell and Libby. After serving as District Judge for the 11th Judicial District from 1969-1976, he returned to private practice in Kalispell and Libby. From 1977-1979, he also served as an assistant attorney general for Attorney General Mike Greely.

Keller received his law degree from the University of Utah College of Law. He earned a bachelor of arts degree from Pennsylvania State University in State College, Pennsylvania. He served in the U.S. Army from 1946-47 and 1950-53 during the Korean War.

VISITORS' REGISTER

Judiciary COMMITTEE

BILL NO. _____

DATE March 3, 1989

SPONSOR

Judicial
Confidential

Bill #

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
J. A. Turney	Helena	X	
KILL BARTOS	Helena GOV OFFICE	X	
DALE COX	GLENDALE, MT.	X	
Robert S. Keller	Libby, MT	X	
Ed McLean	Missoula, MT	X	
Paul L. Quinn St. Bar	Sum Lodge, MT	X	
Denny Moreen	Helena	X	
John Connor	Helena	X	
Brenda Nordlund	Helena	X	

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.