

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By CHAIRMAN RUSSELL FAGG, on April 2, 1993, at
11:00 a.m.

ROLL CALL

Members Present:

Rep. Russ Fagg, Chairman (R)
Rep. Randy Vogel, Vice Chairman (R)
Rep. Dave Brown, Vice Chairman (D)
Rep. Ellen Bergman (R)
Rep. Jody Bird (D)
Rep. Vivian Brooke (D)
Rep. Bob Clark (R)
Rep. Duane Grimes (R)
Rep. Scott McCulloch (D)
Rep. Jim Rice (R)
Rep. Angela Russell (D)
Rep. Tim Sayles (R)
Rep. Liz Smith (R)
Rep. Bill Tash (R)
Rep. Howard Toole (D)
Rep. Tim Whalen (D)
Rep. Karyl Winslow (R)
Rep. Diana Wyatt (D)

Members Excused: None

Members Absent: None

Staff Present: John MacMaster, Legislative Council
Beth Miksche, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: HJR 28
Executive Action: HJR 28

HEARING ON HJR 28

Opening Statement by Sponsor:

REP. BRUCE SIMON, House District 91, Billings, said this joint
resolution condemns all acts of violence and terrorism in Montana
and urges federal law enforcement agencies to assist in

investigating the fire bombing of the Blue Mountain Medical Clinic in Missoula.

REP. SIMON said that HJR 28 does not point fingers at any one person or group, and it is not an abortion issue. He emphasized that other acts of violence and acts of terrorism have taken place in Montana over the past year, but this is an intolerable situation. Governor Racicot and Attorney General Mazurek have both issued statements condemning this violent act.

Proponents' Testimony:

REP. BOB REAM, House District 54, Missoula, declared that he is angered and saddened about the incident at Blue Mountain Clinic and that something like this can go on in Montana. Blue Mountain Clinic is a medical facility that his family has used and that serves many families, particularly low-income individuals in Missoula.

The following individuals presented written testimony:

Deborah Frandsen, Executive Director, Planned Parenthood, Missoula, presenting testimony for Willa Craig, Director, Blue Mountain Clinic, Missoula EXHIBITS 1 and 2

Devon Burklund, Registered Nurse, Manager of Planned Parenthood, Helena EXHIBIT 3

Tootie Welker, representing herself EXHIBIT 4

Stan Frasier, Chairman, Montana Republicans for Choice EXHIBIT 5

Ann Brodsky, presenting testimony for James H. Armstrong, M.D., Kalispell EXHIBIT 6

F.W. Balice, M.D., Bozeman EXHIBIT 7

Eliza Frazer, representing herself EXHIBIT 8

Beth Baker, Attorney, Department of Justice, briefly explained the Department of Justice's role in the investigation of this case. The Federal Bureau of Alcohol, Tobacco and Firearms (ATF) is leading the investigation and is being assisted by the State Fire Marshall. The Department of Justice does not have any jurisdiction, under state law, to initiate these investigations. They are, however, able to investigate and prosecute at the request of other federal, state or local law enforcement agencies.

REP. VICKI COCCHIARELLA, House District 59, Missoula, stated the Blue Mountain Clinic has been a part of District 59 since 1984 and has never been a problem for people who live there. She said

that the problem is from outsiders coming into that district and terrorizing the people and neighbors of the clinic. REP. COCCHIARELLA said she believes it is important to pass this resolution without amendment. The neighbors and business who live in her district were threatened in this fire bombing and are in fear. This has gone on for a long time, and she urges that this resolution stay as it is.

The following proponents appeared in support of HJR-28:

Joe Thaggard, Montana County Attorneys Association
Kay Cholewa, Montana Women's Lobby
REP. JIM ELLIOTT, House District 51, Trout Creek
Bill Fetter, Montana Right to Life
Laurie Koutnik, Christian Coalition of Montana

Opponents' Testimony: None

Questions From Committee Members and Responses:

REP. TIM WHALEN asked REP. SIMON who was involved in drafting the resolution, and if anyone from Montana Right to Life or other pro-life groups were involved in drafting this resolution. REP. SIMON replied that REP. BILL REHBEIN, House District 21, Lambert, and Harley Warner, Montana Association of Churches, were involved. REP. WHALEN indicated that a number of people who supported some type of resolution to condemn the violence, including those with a pro-life perspective, were there.

Mr. Warner announced that he had attended the meeting, and that Sharon Hough, Catholic Conference, was invited but was unable to attend. She asked Mr. Warner to represent the Montana Catholic Conference's interest when drafting this piece of legislation. She reviewed the draft and the resolution as it was introduced, and agreed with that legislation. Mr. Warner told REP. WHALEN that the Montana Association of Churches does not have a position as it relates to abortion.

REP. WHALEN asserted that no one representing the Right To Life was invited to draft the resolution, to which Mr. Warner agreed.

REP. BILL TASH asked Ms. Baker what constitutes terrorism. Ms. Baker said terrorism refers to the use of violence or terror to create fear or intimidation. The act itself, being in a facility where it could endanger the lives of persons, is considered an act of terrorism. Ms. Baker said the fact that these kinds of actions have occurred in over 400 other facilities would conclude that it could be intimidating regardless of who or why it is an act of terrorism. REP. TASH followed up by asking if these cases are prosecuted in federal court. Ms. Baker said that arson is typically prosecuted in the state court. The reason the ATF is involved is because there was a flammable liquid used in the

arson, and the ATF investigates crimes involving those substances.

REP. HOWARD TOOLE reviewed SB 37 (stalking bill) to find the focus of amendments proposed to that bill. His principal objection to that was there were, at one point before the final amendments could be completed, interim amendments by the committee. He asked REP. SIMON if there was some effort made to try to leave out specific finger-pointing or groups in this resolution. It seemed to REP. TOOLE that the resolution does well in that particular regard. REP. SIMON said that was precisely the way this resolution was drafted. There was no attempt in this resolution to point fingers at anybody.

REP. TOOLE said he believes, having looked up the definition of the word "terrorism," that that's an appropriate word. He believes there's a fairly reasonable inference that this particular clinic, a clinic at which abortions are performed, suggests that this was an act criticizing the activity at the clinic. He asked REP. SIMON why the term terrorism, specifically, was used by the drafters of the resolution. REP. SIMON read the definition of terrorism which says "reasonable force or threat to intimidate," which is exactly what happened.

REP. WHALEN said that, according to REP. SIMON, the bill is not pointing fingers at any one group or "type" of group; however, he added, it's obvious from the testimony on the bill that that is precisely what's happening. He asked Mr. Fetta to account for any situations in which acts of intimidation or violence against abortion clinics have been perpetrated by those who were involved in the pro-choice movement. Mr. Fetta said in California, there were bomb threats at an abortion clinic, and it turned out to be a pro-choice individual himself who thought he was helping the cause. He said there are no known cases that a pro-life group has been blamed in this type of violence. REP. WHALEN affirmed that in all the investigations that have taken place by the ATF, not once has a pro-life organization been implicated in any of these types of incidence.

Closing by Sponsor:

REP. SIMON reminded the committee, again, that it is critical to understand that this is not an abortion issue. This is an issue about acts of terrorism and violence which will not be condoned, and he asked the committee to pass this resolution.

EXECUTIVE ACTION ON HJR 28

Motion: REP. WHALEN moved an amendment to take the words "terrorist" and "terrorism" out of the bill.

Discussion:

REP. WHALEN'S said his amendment would delete the word "terrorist" out of the bill as there hasn't been any evidence that terrorist activity was involved. He said it was stated on several occasions that the perpetrators aren't known.

REP. TOOLE said he believes it is a fair inference that, with all the places that could have been selected to be burned by an arsonist, the fact that this was a facility that performed abortions, and that there has been destruction and bombing of over 400 abortion clinics in America over the last several years and two in Montana, it is reasonable to presume that this was an act targeted at that type of facility by someone who had some sort of motive to terrorize these people. REP. TOOLE strongly resists taking terrorism out of the resolution and believes it is exactly the act that happened.

REP. JIM RICE said that the word terrorism conjures up federal jurisdiction/Middle East bombings, etc., but the message should be clear to the public that these crimes cannot be tolerated. He asked the committee and the audience not to get embroiled into a technical argument over the word terrorism or violence. REP. RICE asked all sides to stand together and condemn this type of behavior and violence. He stated he opposed the amendment.

REP. WHALEN closed on his amendment. He first addressed REP. RICE that it is true that "all sides stand together on this issue," but he said they came together to condone the violence with respect to what occurred at the clinic. They did not come together and concur in the language drawn up for this particular resolution; in fact, from the testimony of REP. SIMON and Mr. Warner, it is clear there was nobody representing the pro-life community when the language was drawn up and inserted into the resolution.

Motion/Vote: The question was called on REP. WHALEN'S amendment to strike "terrorist" from the title of bill and "terrorism" from the body of the bill. The amendment failed 16-2 with REPS. BERGMAN and WHALEN voting yes.

Vote: HJR 28 DO PASS. Motion carried 17-1 with REP. WHALEN voting no.

ADJOURNMENT

Adjournment: 12:15 p.m.



REP. RUSSELL FAGG, Chairman



BETH MIKSCHKE, Secretary

RF/bcm

HOUSE OF REPRESENTATIVES

Judiciary

COMMITTEE

ROLL CALL

DATE

4-2-93

| NAME | PRESENT | ABSENT | EXCUSED |
|------------------------------|---------|--------|---------|
| Rep. Russ Fagg, Chairman | ✓ | | |
| Rep. Randy Vogel, Vice-Chair | ✓ | | |
| Rep. Dave Brown, Vice-Chair | ✓ | | |
| Rep. Jodi Bird | ✓ | | |
| Rep. Ellen Bergman | ✓ | | |
| Rep. Vivian Brooke | ✓ | | |
| Rep. Bob Clark | ✓ | | |
| Rep. Duane Grimes | ✓ | | |
| Rep. Scott McCulloch | ✓ | | |
| Rep. Jim Rice | ✓ | | |
| Rep. Angela Russell | ✓ | | |
| Rep. Tim Savles | ✓ | | |
| Rep. Liz Smith | ✓ | | |
| Rep. Bill Tash | ✓ | | |
| Rep. Howard Toole | ✓ | | |
| Rep. Tim Whalen | ✓ | | |
| Rep. Karyl Winslow | ✓ | | |
| Rep. Diana Wyatt | ✓ | | |
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HR:1993

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CS-09

HOUSE STANDING COMMITTEE REPORT

April 2, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that House Joint Resolution 28 (first reading copy -- white) do pass.

Signed: _____
Russ Fagg, Chair

Committee Vote:
Yes 11, No 1.

731339SC.Hss

HOUSE OF REPRESENTATIVES

Judiciary

COMMITTEE

ROLL CALL VOTE

DATE 4-2-93 BILL NO. HJR-28 NUMBER 18

MOTION: Motion to Pass carried 17-1

| NAME | AYE | NO |
|------------------------------|-----|----|
| Rep. Russ Fagg, Chairman | ✓ | |
| Rep. Randy Vogel, Vice-Chair | ✓ | |
| Rep. Dave Brown, Vice-Chair | ✓ | |
| Rep. Jodi Bird | ✓ | |
| Rep. Ellen Bergman | ✓ | |
| Rep. Vivian Brooke | ✓ | |
| Rep. Bob Clark | ✓ | |
| Rep. Duane Grimes | ✓ | |
| Rep. Scott McCulloch | ✓ | |
| Rep. Jim Rice | ✓ | |
| Rep. Angela Russell | ✓ | |
| Rep. Tim Sayles | ✓ | |
| Rep. Liz Smith | ✓ | |
| Rep. Bill Tash | ✓ | |
| Rep. Howard Toole | ✓ | |
| Rep. Tim Whalen | | ✓ |
| Rep. Karyl Winslow | ✓ | |
| Rep. Diana Wyatt | ✓ | |
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| | 17 | 1 |

April 2, 1993

Dear Members of the Committee,

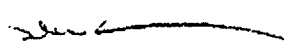
My name is Willa Craig and I am the Executive Director of Blue Mountain Clinic in Missoula. Please accept my apology for not being able to be present today for the hearing of this important resolution.

In the wake of the arson fire that destroyed our clinic our board and staff have been working around the clock to re-establish our medical practices at other sites. It is crucial that our elderly patients be seen quickly and that our prenatal patients have no interruption in their schedule of visits. We are also in the process of relocating our therapist's practice and setting up a new office in which to once again provide safe, legal, first trimester abortion. These endeavors necessitate that I speak briefly and from the heart.

Blue Mountain Clinic is not a building, it is people. We believe our services and our commitment wear a human face; the face of your neighbor, your friend, your family member.

I am encouraged by this resolution's recognition of the impact that anti-abortion motivated violence has on all Montanans. While the arson and subsequent personal threats have drawn our staff even closer together, these attacks have also robbed us of our simplest joy: to live without fear. We now know that our belief in the ability of each individual to be a competent moral agent for him or herself may cost us our property and even our lives.

I urge you to pass the resolution of the Missoula County Legislative Delegation.


Willa Craig, Executive Director
On behalf of the staff, board, and patients
of Blue Mountain Clinic.



BOARD OF COUNTY COMMISSIONERS
200 W BROADWAY ST
MISSOULA MT 59802-4292

(406) 721-5700

EXHIBIT 2
DATE 4-2-93
HJB-28

March 29, 1993

The Board of County Commissioners condemns violence of any kind toward any citizen or property. Such acts of violence interfere with the rights of innocent people, and will not be tolerated.

We fully support the utilization of all appropriate law enforcement and fire protection personnel in the search and apprehension of those responsible for this terrorism.

Our citizens must feel free, protected, and secure as they go about their daily business. Those rights are guaranteed for all, and Missoula County will not be a place where a small minority dominate by fear and hate.



House Judiciary Committee Hearing
April 2, 1993

My name is Devon Burklund and I am an RN and manager of Planned Parenthood of Helena. I am here today representing Intermountain Planned Parenthood, which is seven clinics statewide, including two abortion clinics. Last year we provided medical services, education, and counseling to over 17,000 Montana men and women.

I am here today to talk about the terrorism, harassment, and intimidation that has occurred in Montana this past year. The definition of terrorism is derived from the latin word "terror" - to shake with fear. It is a feeling of "prolonged and intense fear" and we have certainly experienced that feeling. This year we have had toxic chemicals poured down our heating and ventilation equipment that caused \$17,000 worth of damage. We had an arson fire bomb destroy our clinic here in Helena in January 1992, causing \$120,000 worth of damage. We have had our clinics blockaded by Operation Rescue and assorted individuals. We have had our staff stalked and followed, including a physician that was followed to a private medical appointment. We have had countless death letters and threats. I have had hundreds of unauthorized magazines subscriptions, and mail order tapes, books, and plates sent to my home and to the clinic. We have had our clinic invaded by fanatics posing as patients and try to force their way onto a procedure room, where our physician had just completed an abortion on a patient. Our patients have to endure threats and intimidation when they enter our doors. Our staff lives with security systems and endures these threats in our homes. Wanted posters with the picture of our physician was circulated in Billings this August.

These tactics have been calculated to induce a state of fear or submission. We are dedicated to keeping our doors open serving all Montanans. We support this Resolution to call upon Montana law enforcement to strengthen protection of our clinics, staff, and patients. We also call for these agencies to apply all resources to the pursuit and bringing to justice all perpetrators of terrorist violence in Montana.

April 2, 1993

Mr. Chairman, Members of the House Judiciary Committee

For the record, my name is Tootie Welker. I'm here representing my self.

This resolution is about violence, about terrorism. Montanans will not condone or accept violence as a way to resolve differences. The fire-bombing of the Blue Mountain Women's Clinic was nothing more than terrorism.

The press conference Tuesday in the Governor's Reception Room was held by a wide variety of folks to denounce violence and terrorism in Montana. It was not orchestrated by the pro-choice movement. Included in the press conference were people on both sides of the abortion issue and from both political party's. The partisan groups involved in the abortion issue were purposely excluded from this press conference because what was at issue was the violence and terrorism, not abortion.

We need to send a strong message to the folks on the fringe that Montana will not put up with acts of violence to resolve differences. There are many other avenues open to people to express themselves without promoting violence. Let's recall a few years ago when a lab was blown up on the Michigan campus in the middle of the night. It was though to be empty - two people were killed. We can not allow that to happen in Montatna.

RELIGIOUS WAR THREATENS PEACE AND FREEDOM

On March 30, 1993 a press conference was called to decry the arson fire at the Blue Mountain Clinic in Missoula which had occurred the day before. All who spoke condemned all acts of violence and terrorism in Montana.

I was disappointed that not one of the speakers addressed the real problem. The problem is; we are engaged in a religious war in this country. On one side, there are over 70% of us who are interested in minding our own business and living our lives according to the laws of our country. On the other side, there are a small bunch of crusaders who are committed to forcing their religious beliefs on the rest of society.

While it is not possible to say who is guilty for the arson which occurred in Missoula this week and in Helena a year ago, it is possible to place much of the blame for the climate of hate which encouraged these cowardly acts. Most of the blame must lay on the heads of Pat Robertson, his Christian Coalition, Operation Rescue [which is affiliated with the Christian Coalition], Right to Life, and the rest of the religious loonies who are determined to have their way regardless of what the majority of Americans want.

The religious extremists think they know what is best for everyone because they are, "born-again". Pat Robertson has taken advantage of this ready made flock and has used them to advance his own political goals.

In a recent fundraising letter to fight an amendment to the Iowa State Constitution that would give women the same constitutional rights as the men of that state, Pat Robertson wrote " Passage of the Iowa Equal Rights Amendment would advance a feminist agenda, that would encourage women to leave their husbands, kill their children, practice witchcraft, destroy capitalism, and become lesbians."

Whether or not we can agree on abortion, one thing most of us agree on is that we do not want our government to decide how many children we should have!

We also do not want someone else's sectarian views forced on us!

Only when the rest of us are willing to stand up and say, enough, will these religious terrorists crawl back into their churches.

Stan Frasier, Chairman
Montana Republicans For Choice

JAMES H. ARMSTRONG, M.D.
795 SUNSET BOULEVARD
KALISPELL, MONTANA 59901
Telephone (406) 752 8104

April 2, 1993

Judiciary Committee
House of Representatives
Helena, Montana

Dear Committee Members:

Since 1973 I have provided abortions in my office as part of my practice of Family Medicine in Kalispell where I opened my practice in 1964. I write to ask your support of a resolution condemning the illegal and violent acts committed against abortion providers in Montana.

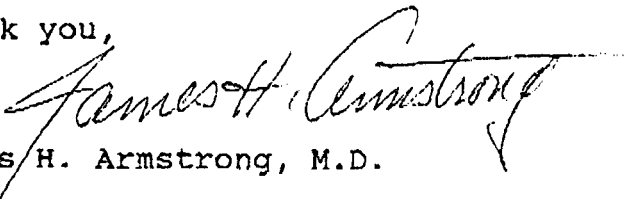
During the first 10 years of doing abortions, my office experienced no picketting nor threats. The first picketting occurred 9 or 10 years ago and was infrequent. However, in the past year it has become a regular thing two or three times a week, and now my home and the Church which I and my family attend, have both been picketted several times this winter. Last year the president of the local Right to Life organization told me they were going to "go all out against me".

In view of the nationwide escalation of violence which has spread into Montana I am increasingly concerned for my personal safety and also that of my family and employees.

The anti abortion spokespeople say they don't condone the violence and criminal acts, then add a "but" which expresses rhetoric that incites further violence by their less disciplined supporters.

For this reason a strong statement by our state leaders, both pro life and pro choice, is needed to set an example and show that these crimes are not to be tolerated.

Thank you,



James H. Armstrong, M.D.

JHA:dlb

Dear Sirs;

I have been an abortion provider in Montana for 13 year, and am now retired. We have always had some protesting but in the last two years it has escalated into violence and terrorism. In my town, Bozeman, Mr Tom Brueckner, of Montana State University, arrived 3 years ago, and since that time there has been consistent harrasment, intimidation, and efforts to interfere with private enterprise. My employees, patients and those of the other businesses in my building have been stalked, prevented from entering and leaving the building and, my office, and others, have been invaded several times. We have received harrasing phone calls and letters and even death threats. This was all serious enough that two restraining orders were requested and granted to protect ourselves from these terrorists. Mr. Brueckner has initiated two actions at the State Board of Medicine to have my license revoked. Even though licensure records are public record, I question, whether it is proper for a state employee to spend so much of his time and energy attempting to put private, legal, taxpaying enterprises out of business. All of these actions by the "right to lifers" are certainly terrorist in nature and the protestors openly profess condoning this level of violence and terrorism "because abortions are violent". I certainly hope you will be able to reduce this level of violence and terrorism, in Montana.

Sincerely,

F.W.Balice M.D.

P.S. They have "stink bombed" our office once.

EXHIBIT # 8
DATE 4-2-93
1 HJR-28

Exhibit #8
April 2, 1993
House Joint Resolution #28

Exhibit #8 is a series of newspaper articles submitted in support of HJR 28. The originals are stored at the Historical Society at 225 North Roberts Street, Helena, MT 59620-1201. The phone number is 444-2694.

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

House Judiciary COMMITTEE BILL NO. HJB-28
DATE 4-2-93 SPONSOR(S) Bruce Simon

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

| NAME AND ADDRESS | REPRESENTING | SUPPORT | OPPOSE |
|------------------|----------------------------------|---------|--------|
| Beth Baker | Dept of Justice | ✓ | |
| Joe Thaggen | MT. County Attorney Ass | ✓ | |
| Marienne Hines | MT Human Rights Network | X | |
| Stacy Frazier | Republicans for Choice | X | |
| Devon Burkhead | Intermountain Planned Parenthood | ✓ | |
| Lnette Arendt | self | ✓ | |
| Melanie Reynolds | self | ✓ | |
| Deborah Frandsen | Planned Parenthood of Missouri | ✓ | |
| HARLEY WARNER | ASSOC. OF CHURCHES | X | |
| Ann Brodsky | self | X | |
| Tooke Walker | SELF | ✓ | |
| Melissa Case | SELF | X | |
| Lennie Kuntz | Christian Coalition of MT | — | |
| Bill Fott | Montana Right To Life | ✓ | |

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Judiciary COMMITTEE BILL NO. HR 28
DATE 4-2-93 SPONSOR(S) Bruce Simon
PLEASE PRINT PLEASE PRINT PLEASE PRINT

| NAME AND ADDRESS | REPRESENTING | SUPPORT | OPPOSE |
|--|-----------------|---------|--------|
| Colleen Suppe | self | ✓ | |
| Jenn. For Bottomy ^{343 W Lawrence Helena} | self | ✓ | |
| Eliza Frazer | self | ✓ | |
| Kate Cholewa | MT Womens Lobby | ✓ | |
| Amy McBride Barker ^{732 S. 12th Boreman} | self | ✓ | |
| Ann Prunuske | MAPP | ✓ | |
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PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.