

**MINUTES**

**MONTANA SENATE  
54th LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON JUDICIARY**

**Call to Order:** By **CHAIRMAN BRUCE D. CRIPPEN**, on April 6, 1995,  
at 10:30 A.M.

**ROLL CALL**

**Members Present:**

Sen. Bruce D. Crippen, Chairman (R)  
Sen. Al Bishop, Vice Chairman (R)  
Sen. Larry L. Baer (R)  
Sen. Sharon Estrada (R)  
Sen. Lorents Grosfield (R)  
Sen. Ric Holden (R)  
Sen. Reiny Jabs (R)  
Sen. Sue Bartlett (D)  
Sen. Steve Doherty (D)  
Sen. Mike Halligan (D)  
Sen. Linda J. Nelson (D)

**Members Excused:** None

**Members Absent:** None

**Staff Present:** Valencia Lane, Legislative Council  
Judy Keintz, Committee Secretary

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

**Committee Business Summary:**

Hearing: SR 6  
Executive Action: None

**HEARING ON SR 6**

**Opening Statement by Sponsor:**

**CHAIRMAN BRUCE CRIPPEN** explained this is the time and place set  
for the confirmation hearing of the Honorable Judge Michael Craig  
Prezeau.

**Governor Marc Racicot** stated he was delighted to recommend to the  
Committee Michael Prezeau to become the new district judge in the  
Nineteenth Judicial District. He was familiar with all the  
candidates recommended to him by the Judicial Nomination  
Commission. He has had the privilege of knowing Michael Prezeau  
for 25 years. He has worked with him as a prosecutor. They

attended law school together. He does not know of anyone more qualified for this position. He recommends, with total and complete confidence, Michael Prezeau to become the District Judge of the Nineteenth Judicial District.

**Proponents' Testimony:**

**Pat Chenovick, Supreme Court Administrator**, stated the Supreme Court sent its regrets. They are holding hearings this morning and will be in Missoula this afternoon. He read a letter from Chief Justice J. A. Turnage, **EXHIBIT 1**.

**Michael Keedy** stated he was a district judge in Flathead County over the past 12 years. Over that course of time he became acquainted with Michael Prezeau. In both the civil and criminal arenas, Michael Prezeau has the temperament, experience, wisdom and insight to be a first rate district judge. At a time when judicial salaries are much lower than they ought to be, it is oft times difficult to attract candidates of the caliber of Michael Prezeau. He urged the committee to approve the nomination.

**Mike McCarter, Judge of the Workers' Compensation Court**, stated a year and a half ago he was confirmed judge of the Workers' Compensation Court. One of his competitors was Michael Prezeau. He has come to know him very well since that time. His disappointment at that time had a silver lining in it. Mr. Prezeau will make an outstanding judge. He has appeared before **Judge McCarter** on numerous occasions. The words he would use to describe Michael Prezeau are: objective, reflective, reasonable, fair, even tempered, considerate, thoughtful, concise, understandable, and insightful.

**Tim Reardon, Chief Legal Counsel for the Department of Transportation**, commented he met Michael Prezeau in law school 25 years ago. One of the things judges do not receive credit for are the undefinable characteristics of compassion and understanding which go along with the legal knowledge necessary to read and apply the law. Michael Prezeau possess the qualities of fairness and courage. During the 12 years he served as the Workers' Compensation Judge, Michael Prezeau appeared before him dozens of times. He never once failed to pursue the right thing and still represent his client very well. The one characteristic he found astounding was at a time in which the Workers' Compensation Department was undergoing reform and lawyers were leaving the system, Michael Prezeau, as a member of an ad hoc advisory group, drafted a form which workers could use to access the court and satisfy all the jurisdictional hurdles to get into court. He did it because he felt it was the right thing to do.

**SENATOR BILL CRISMORE, Senate District 41, Libby**, stated he looked forward to the new judge being a part of their community in Libby.

**Andy Utick** stated he has known Michael Prezeau for ten years. They became acquainted when Michael Prezeau was representing injured claimants in workers' compensation cases. He has been on both sides of cases which gives him the unique position of being able to understand the problems and concerns of both sides in litigation. He has served with Michael Prezeau on the Workers' Compensation Court Rules Advisory Committee. Michael Prezeau has demonstrated an uncanny ability to take a complex legal argument, distill it, and decide the issue or offer a constructive suggestion which will resolve the issue. The main characteristic of a district judge is fairness.

**Brad Luck** commented he has known Michael Prezeau for many years. For several years during the 1980s, Michael Prezeau was his adversary in civil litigation and the Workers' Compensation Court. During that time he generated a respect for Michael Prezeau which is as high as he has for anyone he has dealt with on an ongoing basis in terms of litigation in this state. His legal qualifications are superb. He knew he had to work hard in order to defend his own position with him. The greatest impression from being his adversary, is his attitude toward trying to find middle ground and working through things without causing great difficulty. There are 26 lawyers in his firm who have a hard time agreeing on anything; however, the one thing they could agree on was to ask him to join their firm. He has worked closely with Michael Prezeau on many cases. There is no experience that is more valuable than watching someone work under pressure and see how they react. Michael Prezeau is a great choice for a district judge.

**Russell Hill, Montana Trial Lawyers,** stated their support of the nomination. The lawyers he spoke to about the confirmation commented on the fact that Michael Prezeau is even-handed, experienced on both sides of disputes, deliberative, and has an even temperament. He is a well-rounded person who is very dedicated to his family and to public service.

**Judge Michael Prezeau** thanked the people who spoke in his regard. He commented that it was a true honor for him to be nominated for this position by Governor Racicot. This is a day which will be with him and his family forever. He introduced his family. His daughter is finishing her senior year in law school at the University of Colorado. He introduced his wife, Jill Prezeau, and sons. In the 22 years he has been a lawyer he has been a public defender, a prosecutor, and has practiced civil law. He has been a solo practitioner, a practitioner in a small firm and now practices with the largest firm in western Montana. He believes he can bring to this endeavor the type of temperament which is needed to be a judge.

**Opponents' Testimony:** None

**Informational Testimony:** None

Questions From Committee Members and Responses:

**SENATOR HOLDEN** commented this session of the legislature had seriously considered crime legislation. He asked Michael Prezeau if he would be able to sentence a defendant to hanging?

**Judge Prezeau** stated that as a judge he would hope that it would never be necessary for him to impose the ultimate penalty. He would do so if necessary. He has a great respect for life. When someone is guilty of the type of conduct which puts them at jeopardy to have the death penalty imposed against them, he believes that person has demonstrated that he has no respect for life. That is the punishment which for some crimes and circumstances the legislature has deemed appropriate and it is the judge's responsibility to carry out the law, not to write the law.

**SENATOR CRIPPEN** stated the legislature had passed many anti-crime bills and a number of them dealt with two felonies and then life imprisonment without parole. He asked **Judge Prezeau** his philosophical point of view as to this type of mandatory sentencing and whether he felt it conflicted with any discretion a judge should have.

**Judge Prezeau** stated this body and the courts should reflect the conscience of the community. There is a sentiment to keep more criminals imprisoned for longer periods of time. There is also a flip side to that which is prisons which are overflowing. He believed that judges would prefer the broadest amount of discretion possible in sentencing people. The judge must apply the law as it is written. He recognizes that people are tired of being the victims of crimes.

**SENATOR CRIPPEN** asked **Judge Prezeau** to further explain some of the comments on his application regarding frivolous litigation.

**Judge Prezeau** commented that whenever he attends a legal convention there is talk about the poor image of lawyers. Many people in the legal profession are not mindful of the fear most people have when they come to court. Courtrooms are where the judges and lawyers earn a living. They are there for the benefit of the citizens. Every time there is a jury trial, twenty or more citizens go back into the community and talk about their experience. When a witness has been bludgeoned into submission and in general people at the trial have not been treated with respect, this does not do the legal profession any good. Lawyers need to be ambassadors for the legal profession. He has always been distressed by lawyers who try too hard to be in control of lives of people and do not have respect for them.

**SENATOR BAER** asked **Judge Prezeau** his feelings about the Second Amendment.

**Judge Prezeau** stated the law is the law and personal feelings should not enter into it. If a question were to come before him as a judge as to the right to keep and bear arms, he would be guided by the language of the Second Amendment and applicable court cases which have interpreted that statute. He believes in the private ownership of guns. He owns several guns.

**SENATOR BARTLETT** stated she never misses an opportunity to urge the Governor and the Judicial Nominating Commission to provide more opportunities for women to become judges. She asked **Judge Prezeau** what he might do as a judge to help further the interest in seeing more women on the bench.

**Judge Prezeau** stated he would encourage an atmosphere where people are provided opportunity according to their abilities. His daughter is now completing her senior year of law school. He thinks it is terrible when doors are automatically closed to anyone because of gender, politics, religion, etc. He believes people need to be judged on their merits as human beings and professionals. To the extent that he would have the power to hire and fire a small staff, he does not intend to discriminate against anyone because of gender. It will be his practice to hire the best qualified applicant for any position. He would be very disappointed if his daughter finds that it is more difficult for her to advance in her chosen profession than it would be for a male who would be less qualified.

**SENATOR REINY JABS** asked **Judge Prezeau** his thoughts pertaining to dealing with juveniles as adults.

**Judge Prezeau** stated he has survived three teenagers. One thing which defines a teenager is that they lack the common sense which they will acquire with age. The laws which create a dual justice system recognize that young people make mistakes and there will come a time when they will grow up and be able to exercise better judgment. He believes in a dual justice system which emphasizes more rehabilitation than punishment for juveniles. He believes it necessary that the program be looked at. Youths are becoming older at younger years because of the influence of television and other external forces. He respects the fact that a victim of crime is not hurt any less because that crime was committed by a juvenile. Early intervention is important. Juvenile delinquents are generally youth who have been dependent, neglected and abandoned. The system should work from the bottom up. It amazes him that children drive at 15 years of age. He would be in favor of looking at driving privileges being used as a lever to require youth to be more responsible. There are juvenile delinquents who commit crime after crime and demonstrate that they are not prepared to conform their conduct to the requirements of the law. Those youth need to be placed somewhere so that the members of society can be protected.

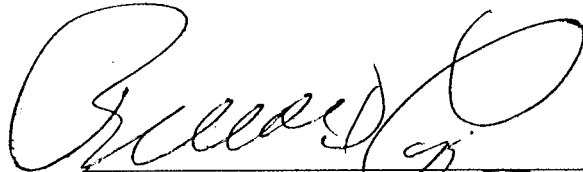
Closing by Sponsor: None

EXECUTIVE ACTION ON SR 6

Motion/Vote: SENATOR BISHOP MOVED SR 6 DO PASS. The motion  
CARRIED UNANIMOUSLY on oral vote.

ADJOURNMENT

**Adjournment:** The meeting adjourned at 11:15 A.M.

  
CHAIRMAN BRUCE D. CRIPPEN, Chairman

  
JUDY J. KEINTZ, Secretary

BC/jjk

MONTANA SENATE  
1995 LEGISLATURE  
JUDICIARY COMMITTEE

DATE \_\_\_\_\_

4/6/95

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THE SUPREME COURT OF MONTANA

J.A. TURNAGE  
CHIEF JUSTICE



SENATE JUDICIARY COMMITTEE  
EXHIBIT NO. 1  
DATE 4/6/95  
FILE NO. SR 62

JUSTICE BUILDING  
215 NORTH SANDERS  
PO BOX 203001  
HELENA, MONTANA 59620-3001  
TELEPHONE (406) 444-5490

April 4, 1995

Honorable Bruce Crippen, Chairman,  
Senate Committee on the Judiciary  
Honorable Committee Members  
State Capitol  
Helena, MT 59624

Re: Confirmation of Michael C. Prezeau

Dear Senator Crippen and Committee Members:

I respectfully submit this letter on behalf of Michael C. Prezeau, and ask your Committee to confirm the appointment of Michael C. Prezeau as District Court Judge of the Nineteenth Judicial District.

District Judge Nominee Prezeau has, since his graduation from the University of Montana School of Law in 1973, continuously practiced law in Montana and has an extensive and successful background of experience as a private practitioner, Chief Public Defender for Flathead County and for five years as Deputy County Attorney for Flathead County from 1979 to 1984.

He has had extensive practical and successful experience in trial work, both civil and criminal, which is an excellent foundation for a trial judge. He has handled at least seven appeals before the Montana Supreme Court and his work product in those matters has been excellent.

District Judge Nominee Prezeau has an excellent reputation for professionalism, integrity and competency as a member of the State Bar of Montana. It is with pleasure that I offer my recommendation on his behalf.

Respectfully,

A handwritten signature in cursive script that reads "J. A. Turnage".  
J. A. Turnage  
Chief Justice

JAT:pwh

DATE 4/6/95  
 SENATE COMMITTEE ON SR 6  
 BILLS BEING HEARD TODAY: \_\_\_\_\_  
 \_\_\_\_\_

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Check One

Name	Representing	Bill No.	Support	Oppose
<i>PATRICK ALKHOVICK</i>	MT. SUPREME COURT	SR 6	✓	
<i>TOM EBZERG</i>	MT Judges ASSN	SR 6	✓	
<i>Tim Beaudin</i>	self	SR 6		
<i>ANDY WICK</i>	SELF	SR 6	✓	
<i>Brad Luck</i>	SELF	SR 6		
<i>Jim Mockler</i>	Judicial Nom Com. Commission	SR 6	✓	
<i>Michael H. Kelly</i>	self	SR 6	X	

## VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY