

MINUTES

MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN BRUCE D. CRIPPEN**, on February 12, 1997, at 8:05 a.m., in the Senate Judiciary Chambers (Room 325) of the State Capitol, Helena, Montana.

ROLL CALL

Members Present:

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

Members Excused: Sen. Walter L. McNutt (R) - was present later on in the meeting.

Members Absent: None

Staff Present: Valencia Lane, Legislative Services Division
Jody Bird, Committee Secretary

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

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 255, posted February 11
Executive Action: SB 215, SB 227, SB 279, HB
200, SB 219, SB 283, SB 250

EXECUTIVE ACTION ON SB 215

Motion/Vote: VICE CHAIRMAN LORENTS GROSFIELD MOVED TO STRIKE THE LAST SENTENCE OF SECTION 3, PAGE 1, LINE 27. THE MOTION CARRIED WITH ALL MEMBERS VOTING AYE EXCEPT SEN.S BARTLETT, BISHOP AND CRIPPEN WHO VOTED NO.

Motion: VICE CHAIRMAN GROSFIELD MOVED TO STRIKE SECTION 4 IN ITS ENTIRETY.

Discussion: VICE CHAIRMAN GROSFIELD. Section 8 is a big problem. It puts a park owner in an untenable situation, and Section 6 is essentially redundant. There are some good points made in Section 3. Section 1 is similar to Section 8 although it

is not as bad. The question is why was it denied? This puts the owner in a tough situation.

CHAIRMAN BRUCE CRIPPEN. Isn't this sort of the heart of the bill? There are other standards in here. Where are Sections 6 and 7 redundant, if at all? I don't see problems with Sections 3-7. These are pretty reasonable. Once a mobile home is put in a park, the tenants are subject to the whims of the park owner, and this can be good and bad.

SEN. RIC HOLDEN. It's wrong to prevent someone from selling their mobile home, but enacting more laws makes the situation worse. There are statutes dealing with fraud, as well as private property rights. My parents live in a mobile home park, and I've lived in one. These are usually lower income people, and I can speak from experience. Section 4 may be the heart of the bill, but I support the motion to amend.

SEN. REINY JABS. I support it also, especially Section 8. What is a "reasonable time"?

CHAIRMAN CRIPPEN. I am tempted to ask the Committee about the term "reasonable". **VICE CHAIRMAN GROSFIELD.** I believe it would be not tying up a park owner on weekends.

{Tape: 1; Side: A; Approx. Time Count: #17.8; Comments: None.}

Valencia Lane. I have noted the inconsistency in language.

CHAIRMAN CRIPPEN. Section 4 is sort of a neutral statement. We can't do Section 6 anyway, so we could leave it in or out.

SEN. SUE BARTLETT. A park owner in the business of buying and selling essentially has the owner of a mobile home in his park over a barrel, if the mobile home owner goes to sell his home. I believe it is unreasonable to expect that the mobile home owner will find a way around the leverage of the park owner.

SEN. HOLDEN. I'm not following your example. In my case I was delighted to sell to the park owner for cash when I had to move.

SEN. BARTLETT. What if you had already promised to sell it to a friend for \$2000 more?

Motion/Vote: VICE CHAIRMAN GROSFIELD WITHDREW HIS MOTION AND MADE A NEW MOTION TO INCLUDE THE LEAD-IN PAGES AND SECTIONS 5, 6, AND 7, AND TO STRIKE SECTIONS #1, 2, 3, 4, AND 8. THE MOTION CARRIED WITH ALL SEN.S VOTING AYE EXCEPT SEN.S DOHERTY, BARTLETT, AND ESTRADA WHO VOTED NO.

Motion/Vote: SEN. HOLDEN MOVED TO TABLE SB 215. THE MOTION FAILED WITH ALL MEMBERS VOTING NO EXCEPT SEN. HOLDEN WHO VOTED AYE.

Motion/Vote: SEN. BARTLETT MOVED SB 215 DO PASS AS AMENDED. THE MOTION CARRIED WITH ALL MEMBERS VOTING AYE EXCEPT SEN. HOLDEN WHO VOTED NO.

EXECUTIVE ACTION ON SB 227

Motion: SEN. STEVE DOHERTY MOVED SB 227 DO PASS.

Discussion: SEN. DOHERTY. This limits rent increases in mobile home parks with very broad exceptions. A Colorado corporation has raised some rents 23 percent within a twelve-month period.

SEN. HOLDEN. We heard in testimony that this is reverting to Communism. This bill is price-setting, and it doesn't work. People won't set up parks if there is no gain, and then mobile home owners will have no place to park.

SEN. DOHERTY. When the market fails and the rapacious out-of-state corporations put the screws to Montana citizens, historically, the government has come to their aid. Take Theodore Roosevelt, for example.

Vote: SEN. DOHERTY'S MOTION THAT SB 227 DO PASS FAILED WITH SEN.S ESTRADA, BISHOP, HALLIGAN, AND DOHERTY VOTING AYE, AND ALL OTHERS VOTING NO.

Motion/Vote: SEN. HOLDEN MOVED SB 227 BE TABLED. THE MOTION CARRIED IN A REVERSE VOTE.

{Tape: 1; Side: A; Approx. Time Count: #30.5; Comments: 8:40 a.m.}

EXECUTIVE ACTION ON SB 279

Discussion: CHAIRMAN CRIPPEN. If we strike Subsection (e) on pages 28-29, the rule will then revert to general statute concerning noncompliance of tenants in Subsection (d). If we strike the language regarding two or more violations within a twelve-month period (74-24-422, MCA), we may be back to the more stringent rules we had before. Subsection (e) was an exception to Subsection (d).

Greg White. On line 14, there is the word "and", so it appears the list is exclusive and would not revert back to 422, MCA.

CHAIRMAN CRIPPEN. I don't think so.

{Tape: 1; Side: B; Approx. Time Count: #00; Comments: 8:52 a.m..}

SEN. HOLDEN. I don't believe we should pass this bill at all. We should look at what we're doing.

SEN. MIKE HALLIGAN. It is possible to put language in concerning violations, "none of which are remedied within a certain period

of time (15-30 days)"? **Greg White.** I believe remedy is implied within violation of the rules.

Derek Birney. I believe leaving the section in and putting the number of violations up to four would be a substantive improvement over what we have now.

Motion: VICE CHAIRMAN GROSFIELD MOVED TO INSERT THE LANGUAGE CONCERNING FOUR OR MORE VIOLATIONS.

VICE CHAIRMAN GROSFIELD. I looked at one mobile home park's rules. It was six or seven pages long, and contained a lot of inconsistencies concerning the number of days of violation. If each day of delay constitutes a separate violation, we need to look at the rule process and maybe we can address this when we get to **SEN. HALLIGAN'S** bill.

VICE CHAIRMAN GROSFIELD AMENDED HIS MOTION TO INCLUDE STRIKING "to" IN SUBSECTION (e) AND INSERTING "for", AND ADJUSTING THE TITLE AS NECESSARY.

Vote: VICE CHAIRMAN GROSFIELD'S MOTION TO AMEND CARRIED UNANIMOUSLY.

No further executive action was taken at this time in order to hear SB 255.

HEARING ON SB 255

Sponsor: SEN. CASEY EMERSON, SD 14, Bozeman

Proponents: Jack Paulson, Chairman of the Committee to Reform
the Commission on Practice
Walter Hammermeister, Conrad
Jeani Wolfe, Sidney
Ralph Bouma, Conrad
Joe Bridgley, Three Forks
Scott Johnson, Bozeman vendor
Milton (last name unclear and not on visitor
register)
Louise Bowman, Park County

Opponents: John Conner, Department of Justice and Montana
County Attorneys Association
Russell Hill, Montana Trial Lawyers Association
(MTLA)

Opening Statement by Sponsor: SEN. CASEY EMERSON, SD 14, Bozeman. This bill is simple, but will have good results for Montana. It would set up an inspector general to deal with wrong-doings not being investigated now. This inspector general will be appointed by the Legislature. If a state official were involved in wrong-doing, the inspector could start the impeachment process, and if it is someone other than a state official, the inspector could

start the grand jury process. This would be controlled by the Legislature.

The last impeachment in Montana was in 1927. There are many accusations of wrong-doing now, and we need to find out the truth. I gave the Committee the Roe Report to read (**EXHIBIT #1**). I began calling a few of these people in this report who said this information is true, but that it is only the tip of the iceberg.

They called FBI Agent Wilson in Great Falls who said he didn't remember, or sent the information to headquarters in Billings. The Billings office said they didn't know about it, and referred them to Glasgow, who didn't know anything either. Yet, Mr. Perry told me he handed this information to Mr. Wilson. I also had given each of you a book to read by Mr. Bidwell, a news reporter (**EXHIBIT #2**).

Proponents' Testimony: Jack Paulson, Chairman of the Committee to Reform the Commission on Practice. I was born in Chinook, attended Eastern Montana College, and obtained my undergraduate and masters degrees in Electronics at Northern Montana College. I bought 96 rental units, and now have 16. My wife is on the State Board of Realty Regulation. We pay \$60,000 plus in taxes to the state and federal governments.

I built a home for Frank Morrison, Jr. who wouldn't pay me, so I sued him. After two and one-half years the Commission dismissed my case without a thorough investigation. I spent \$20,000 trying to get back the \$3500 owed me, and I failed.

Letters and articles in area papers caused people to send information to me. The Commission on Practice didn't contact my expert witnesses nor view the alleged holes in the ceiling said to be caused by squirrels. I have responses from: 1) an individual who lost his land; 2) a man afraid for his life; 3) Bill Edwards in Great Falls, who lost his farm; 4) a Realtor in Great Falls whose complaint was dismissed; 5) an invasion of privacy case against a young woman which nearly ruined her life; 6) a conflict of interest case; 7) a Kalispell man whose attorney didn't want to deal with Judge Keedy because of a divorce; 8) and Mr. Loney's charges of fraud against a lawyer.

I wrote to Senator Baucus, the Committee on Practice Chairman, Governor Racicot, Attorney General Mazurek, and Chief Justice Turnage, all of whom could provide no help (**EXHIBIT #3**). I urge you to support this bill.

Walter Hammermeister, Conrad (EXHIBITS #4 and #5). I was the sheriff of Pondera County 20 years ago, and am an FBI Academy graduate. I am now a private investigator. I was involved in the Bouma case in 1963. I did not believe that a minimum statute of time for posting did not exist. The banker never notified the defendants. They found out many years later. Ultimately, the

bank got the real property on a sale. Then Ralph Bouma got involved.

In July 1995, I was asked by a prosecutor to find the car or photos listed by a Montana Highway Patrolman where a driver went over an embankment. Organized crime was involved in this. I received over 70 detailed photos which show the car went 266 feet straight in 4-5 inches of gravel, and then went off the interstate backwards. I believe it was pushed off the interstate backward, and that the man survived and crawled out, but was hit in the skull again, only to die later on in the hospital.

Since September 1, 1991, I have helped Native Americans in Blaine County. Their son was killed in a traffic accident. The officer involved then harassed a woman passenger who survived, when they found out about my investigation.

One of these officers repeated three times that I would die in a one-vehicle accident. This officer had an involvement with M. Sullivan a Butte police officer who was killed three weeks before his trial for robbing a pharmacy.

I sent a letter to Janet Reno in October 1995, and received a generic return letter in May, 1996. The lady survivor was framed and is not in Montana State Prison. On December 17, 1996 that attorney was fined \$500 and had to repay the lady the \$2500 she paid him to appeal her convictions. The secretary at the Commission on Practice later acted as if she'd never heard of this case.

A man, his livestock, the FHMA, and federal attorneys were involved in another situation. A U.S. attorney asked a federal judge for permission to use this case approximately one year before ruling. The Montana Federal Judge disregarded the Ninth Circuit Court's instruction, but the Ninth Circuit Court upheld the Montana Federal Judge's decision.

An immunity defense was upheld December 4, 1990. SB 154 limited immunity and the Montana Supreme Court denied a rehearing. We heard rumors of bribes to various courts and judges the past five years. I interviewed a man who was a victim of the bribery. The Court documents backed up all he told me. Allegedly, the judge was paid \$50,000 by the bank to get the case dismissed.

In one case I worked on, I believe law enforcement gunned down a person. This bill would provide relief via an independent investigator who wouldn't cost them a fortune. I urge passage of this bill to help the unfortunate people who need it.

Jeani Wolfe, Sidney (EXHIBITS #6, #7 and #7a). On December 15, 1993 my son and his friend were found dead in their car, burnt beyond recognition. Coroner Mike McCallum felt the position of the bodies was suspicious. There were holes in the side of

Madsen's head, and there also appeared to be pieces of broken ribs.

Two shell casings and one rifle bullet were round. The report determined they were asleep, but their bodies were not in a sleeping position. Their heads were far back over the seats, indicative of strangling or slashed throats.

A field autopsy was done in the back of the fire hall. Dr. Smith refused to retain the skull of Madsen. Fire Marshall, Don Temple, wanted to do a grid on the vehicle, and Dr. Smith refused. The body parts were mixed and the x-rays were very contaminated. No small bones in the foot of Madsen were burned.

{Tape: 2; Side: A; Approx. Time Count: #13.3; Comments: None.}

A North Dakota officer made statements as to how the fire started, which we disproved. Mike feared for his life for two months prior to this incident. The names he gave us were of two law enforcement officers. Bruce Madsen's house was arsoned two month's before their deaths. We are still receiving death threat calls three years later.

North Dakota closed the case on March 11, 1994, and said the deaths were the result of thermal injury and were accidental. We hired a forensic pathologist, Dr. Ken Miller from Billings, to do an autopsy. All of his findings were completely different from the North Dakota findings. Dr. Miller determined the deaths were a result of homicidal violence. The insurance investigator determined the driver died before the fire was started, and that the occupant was dying. The fire was probably set with gas to the inside and outside of the vehicle.

We obtained 2,753 signatures in Sidney on a petition and sent them to state and federal law enforcement, who turned us down. We have concluded that there is no one in the criminal justice system to go to for help. We desperately need this bill.

{Tape: 2; Side: A; Approx. Time Count: #18.9; Comments: None.}

Ralph Bouma, Conrad (EXHIBITS #8, #9). I believe this is the most important legislation ever introduced. The Montana courts, under 'color of law', have become an institute for injury. In my case, the banks were allowed to unjustly enrich themselves by millions of dollars. Over 200 case laws of legislation before the Montana Courts have been ignored.

I have fairly detailed information on the atrocities of the Judiciary in Montana. So, we are asking for civil rights violations in Montana to be a crime.

Section 245 of Title 18 provides, "only upon certain written consent may any prosecutor prosecute." In my case, they were denied while I was at sea. Congress didn't want to create a

federal police state, and gave the states responsibility to enact their own civil rights laws, and to conduct their own investigations and prosecutions. Now there is nothing in federal law to allow the federal government to prosecute such cases, but the feds can't prevent states from prosecution of violation of citizen rights. Until it becomes a crime to violate civil rights, there is no prosecution for doing so.

Keith Burroughs, a Bureau of Indian Affairs Judge, pleaded for a special investigation and for the Honorable Edwin Mays to appoint a special investigator to prosecute my case (pages 57-58 in the book about conspiracy).

{Tape: 2; Side: A; Approx. Time Count: #26.5; Comments: None.}

Robert H. Burnett, a Federal Postal Inspector invested three years into this, and gave an affidavit which says the District Courts were used in the furtherance of abuse against Bouma and others.

Section 30-9-504(2), MCA, regarding Secured Property Rights to Dispose of Collateral by Default, provides the secured party must account to the debtor for any surplus.

Carl and Mabel Iverson had a judgment of \$75,000. The bank had a sheriffs sale through the Secretary of State instead of Pondera County, and purchased the property for \$5,000, and then resold it for \$150,000, but only credited the judgment for \$5000. Three million dollars in livestock was bought for \$400. The Iversons were not notified until one year later, and my purchase was voided later on.

Two terms ago, I ran for U.S. Senate against Max Baucus. Different people came to me regarding operating loans to buy other land. The banks made them give a mortgage on their original property, and then began to foreclose on them, cleaning the people for \$6 million on a \$60,000 debt in one case. They even took the son's 4-H steer.

Our judiciary system and banking system are part of a criminal conspiracy that can't be touched. The local County Attorney got permission from the County Commissioners to get a special prosecutor, but the judge denied it, and the bank told the County Attorney they'd pull his loan if he didn't desist, so the County Attorney backed off. This is an urgent thing. In Louisiana, people are being fleeced in this way, according to Reader's Digest.

Joe Bridgley, Three Forks. I'm not here with my own situation, but as a concerned citizen of Montana. The Article 1 of the Bill of Rights provides for redress of grievance. Thomas Jefferson wrote that the U.S. Constitution is a chain to secure and bind the load. We all need that binder, and I believe this bill is it.

{Tape: 2; Side: A; Approx. Time Count: #39.5; Comments: None.}

Scott Johnson, Bozeman vendor. I have an ex post facto law suit against Montana, as I caught state officials manipulating the bid process. There is now a bill in the House to make this null and void retroactively, and prevent my case from ever coming to court. This shows the average citizen has no recourse to fight the bureaucracy. The bureaucrats are served and not the taxpayer.

Milton (last name unclear and not on visitor register). I have a situation where the Attorney General said he could do nothing. In April of 1996, I took this information to his office. Two days after the November elections I got this response. Mike Batista, in the Attorney General's office said he'd respond to my inquiry the next day, but he hasn't called me yet, and it's been three weeks.

Louise Bowman, Park County. I believe we don't have these rights and we need them now. This type of corruption will not stand.

Opponents' Testimony:

John Conner, Department of Justice and Montana County Attorneys Association. I heard the frustration of the proponents and I sympathize with them. I supervise prosecution requests from 56 counties. This also involves misconduct against county officials - sheriffs, deputies, treasurers, clerks, and county attorneys. We are not well staffed to handle these kinds of things statewide as there are only three of us.

We receive about 150 complaints per year, ranging from legitimate to tragic. Some complaints are about cases that county attorneys have dismissed, and we have ordered county attorneys off some of these cases. We don't make presumptions about legitimacy. In nine years we've never had either Attorney General (Racicot or Mazurek) make a suggestion about the outcome of a case.

We are not free of error, but we must have convincing evidence in order to proceed to charge someone, and we often end up without enough evidence. We are obligated to follow the law, and the law we follow is not corrupted. If there is probable cause, it goes to court, and a jury makes the decision.

I don't share their views about having an appointed judiciary. We must have judges responsible to the electorate. There are legal problems with this bill. Everyone in Montana State Prison would find a violation of their civil rights if this bill were to pass. J. Joe Holland in Indiana wrote a letter threatening officials with body bags. He was ultimately prosecuted in Ravalli County.

This inspector general calls for a free service, and I can't think of anyone who could fill this role now. The system of a

grand jury would be secret and would probably be less responsive than the system we have now.

I apologize for the lack of staff and time. I believe what we have now may be imperfect, but it is better than the proposal, as I can't see how the proposal will help the people we heard from today.

Russell Hill, Montana Trial Lawyers Association (MTLA). This bill presents a mixed message. We oppose the solution in this bill. The conspiracy is one of complexity - incredibly complicated corporate law, and is self serving. Common people simply can't navigate this system.

We hear constantly in the Legislature that the courts, and in particular, the Montana Supreme Court, are out of control. But, in our system we don't have to risk perjury if we know how to manipulate. I believe it is important to speak out strongly against this bill.

{Tape: 2; Side: B; Approx. Time Count: #18.8; Comments: 10:33 a.m..}

Questions From Committee Members and Responses: SEN. SHARON ESTRADA. I had a problem a while back with an attorney, and went to other attorneys who all said attorneys will police themselves. I was frustrated and angry and can imagine what the people of Montana feel. **Russell Hill.** I am somewhat familiar with your situation, and the facts weren't there to justify it. I know that attorneys do sue other attorneys.

SEN. ESTRADA. I didn't discuss my situation with you. The attorney I talked to in the Billings area said I had a legitimate complaint, but that it would cost a fortune to pursue.

SEN. DOHERTY. Assuming there is a civil rights violation by a county attorney in Montana, what avenues are available to you to bring redress in that situation? **John Conner.** If a violation of law came to our attention, we would investigate it through the State Criminal Investigation Bureau, and if we thought it appropriate, we would prosecute that county attorney. I have prosecuted cases involving public officials who were also involved in violation of civil rights.

STEVE DOHERTY. Under current Montana law, do you have authority to bring charges for violation of civil rights? **John Conner.** It depends on the Criminal Act in the Code.

SEN. DOHERTY. I am looking at Section 1 of the bill. If that occurs now in the bill, and a county attorney or the Department of Justice brings civil rights charges now? **John Conner.** The concept of civil rights in this bill is as generic as it is in the Federal Civil Rights Bill. I believe we have sufficient

statutory authority, and there are provisions now for the Montana Legislature to increase that authority.

{Tape: 2; Side: B; Approx. Time Count: #28.1; Comments: None.}

VICE CHAIRMAN LORENTS GROSFIELD. I am troubled by addressing this problem as it is outlined in this bill. The bill is general in nature. The problem is that everyone in Montana State Prison thinks they're innocent. What would stop them from all using this bill to appeal? If this is done, the fiscal note would mean millions of dollars instead of \$350,000. So, how do you suggest we deal with this? **SEN. EMERSON.** The people I brought are solid citizens, not criminals as in Montana State Prison. The proposed three-man oversight committee would help the inspector general decide which cases would take precedence. It will take time to get these cases addressed.

VICE CHAIRMAN GROSFIELD. It seems to be a full-time job to sit on the proposed oversight committee. **SEN. EMERSON.** I don't think so.

CHAIRMAN CRIPPEN. The book you gave us to read does raise a certain amount of concern, but the bill could be a two-way sword. For example, you are accused in the press of violating students rights, and the President of the Senate has received numerous letters to this effect. The advice given is that you have the right to be faced by your accusers, who must come forward with proof or there is nothing the Senate can or will do otherwise. This is being done under the power of law. So, under this bill your accusers could go to the inspector general, even though a court refused their accusations as allegations with no proof. Such people would find themselves in deep, deep trouble with this bill. Impaneling a grand jury to investigate is a serious matter. **SEN. EMERSON.** I would be happy to submit to this, as I believe they will find nothing. That is happening because of this bill.

CHAIRMAN CRIPPEN. My concern is where you would be protected by due process. **SEN. EMERSON.** The purpose of a grand jury is to separate the truth from fiction.

CHAIRMAN CRIPPEN. I am concerned about the deaths of the two young men we heard about, and your delay in getting back to the man who testified. **John Conner.** Mr. Batista is out-of-town, but I will get back to you on this.

CHAIRMAN CRIPPEN. The fact that they're Montana citizens gives them right of redress in Montana. I am asking you to get back to the Committee on this Mr. Conner. **John Conner.** There was a substantial amount of time spent on this. Vicious circles are encountered all the time when our results don't satisfy the complainants.

CHAIRMAN CRIPPEN. There is an old saying. He who acts as his own counsel has a fool for a client. Is there any relief at this stage for Mr. Bouma? **John Conner.** I didn't know the information pertaining to the special investigation request until now, but I will check on this. **Russell Hill.** I'm not at all familiar with the facts, but my gut reaction is the law simply doesn't allow many times what we would see as a just result.

SEN. WALTER McNUTT. Why did you refuse the settlement offered? **Mr. Bouma.** I decided to represent myself after seeing five different attorneys, but I hired an attorney for my wife. I also hired a civil rights attorney from Salt Lake City, and involved the U.S. Department of Justice, who sent members out of Colorado and Utah to look at my allegations against the Department of Justice. They said, "Don't bring out the evidence. We're not going to allow him to take 100-plus people down in Montana history." So they offered \$6 million to make me whole and to drop the case. I told them I was not for sale, as I knew this was fundamentally wrong. I wasn't aware that under Montana law it would have been a felony to do so. My concern is that my life has been threatened, and people are being killed all over Montana. I am concerned with Robert Crop going to the Montana Supreme Court to buy me for \$35,000, as he was then murdered.

Closing by Sponsor: **SEN. EMERSON.** I have a small amendment, in addition to the others' testimonies. I am deeply ashamed that people must speak about their fear. Grand juries were the protection of this country. Many states hold grand juries at least annually, and I believe Montana should, as well. In 1985 the conspiracy part of Montana law was passed, but it was never accepted. The attorney referred to by Mr. Bouma, Lynx Lund, was elected as inspector general under the control of the Governor in Utah.

Mr. Perry in Chinook has many stories to tell. One time the Montana Supreme Court told Mr. Bouma to represent himself so they didn't have to go through the preliminaries again, then they requested, at the time of court appearance, Mr. Lund to defend Mr. Bouma, even though he was hired to represent Mrs. Bouma.

Concerning the allegations of some of my former students - if I did these things why didn't they go after me sooner? It is because of this bill. Five days after it's introduction, I was attacked. I know these people, and an inspector general would be a threat to them. I believe I will be attacked again. I had caught their leader in Missoula, Langon, stealing money in the locker room.

{Tape: 3; Side: A; Approx. Time Count: #18.3; Comments: 11:12 a.m..}

These witnesses have already gone through being threatened. I ask the Committee to pass this bill to protect Montana citizens. We have a bill in now to protect seniors against tele-marketing

scams. SEN. SHEA said "even one scam is too many". It is far worse to be scammed by the government than by crooks.

This problem is far-reaching. Last session a lawyer said he'd get this declared unconstitutional if it passes. That happened in the Senate Judiciary Committee. Five minutes after the Committee recessed, this attorney apologized over and over again. I investigated this on tapes and in the minutes last summer, but it was gone from the tapes in both the House and the Senate. It is time for the Legislature to take its rightful place and get on with its work. The Legislature is the only group where we can use impeachment powers. I ask you to pass this bill, and appreciate this hearing.

EXECUTIVE ACTION ON HB 200

Amendments: Valencia Lane. The amendment requested by SEN. FRANKLIN affects Subsection (b) of SB 219, with no changes to HB 200. This way they can both pass without conflicting. The Code Commission asked me to include a coordination instruction to put both of them together into one section of the Code, if they are both passed and approved (page 2 of the amendment). I thought it better to have similar criminal sanctions in Subsection (4) of SB 219 and Subsection (4)(b) of HB 200. So you are incorporating HB 200 into SB 219.

Motion/Vote: SEN. ESTRADA MOVED HB 200 BE CONCURRED IN. THE MOTION CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 219

Discussion: VICE CHAIRMAN LORENTS GROSFIELD. I do not understand the amendment. Valencia Lane. Both sponsors wanted their bills to pass, to stand alone.

Motion: SEN. BARTLETT MOVED TO ADOPT AMENDMENTS sb021901.av1. - EXHIBIT 10.

Substitute Motion: SEN. RIC HOLDEN MOVED TO AMEND SECTION 1, (4)(A) TO MAKE IT CONSISTENT WITH HB 200, "\$15,000 AND NOT TO EXCEED TWO YEARS".

Discussion: Valencia Lane. If they're going to be identical we don't need subsection (a) and (b), we only need one. SEN. HOLDEN. We need to simplify this for law enforcement.

Vote: SEN. HOLDEN'S SUBSTITUTE MOTION FAILED WITH SEN.S ESTRADA JABS, MCNUTT, BARTLETT AND DOHERTY VOTING NO.

Motion: SEN. BARTLETT MOVED SB 219 DO PASS AS AMENDED.

Discussion: VICE CHAIRMAN GROSFIELD. I'm troubled by how general the language is concerning "loitering" and "the vicinity . . ." Could this be used in a threatening manner by some

parents, in ways other than intended? I believe the video-taping and peeping-tom part are fine.

SEN. HOLDEN. What is your impression of a news reporter taking a new picture? SEN. BARTLETT. That was addressed in the amendment, by striking lines 15-16, and inserting "any person within the residence".

SEN. HOLDEN. I don't support such behavior, but I do see SEN. GROSFIELD's concerns.

SEN. DOHERTY. With a telephoto lens, a camera could be a long way off. I believe language limits it to within the residence.

Vote: SEN. BARTLETT'S MOTION THAT SB 219 DO PASS AS AMENDED CARRIED WITH ALL MEMBERS VOTING AYE EXCEPT SEN. GROSFIELD AND SEN. HOLDEN WHO VOTED NO.

EXECUTIVE ACTION ON SB 250

Discussion: CHAIRMAN CRIPPEN. I talked to the Chief Justice about a study resolution since this is such a change in the system.

Motion/Vote: VICE CHAIRMAN GROSFIELD MOVED SB 250 BE TABLED. THE MOTION CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 283

Amendments: sb028301.avl - EXHIBIT 11

Motion: VICE CHAIRMAN LORENTS GROSFIELD MOVED TO ADOPT AMENDMENTS sb028301.avl.

Discussion: Valencia Lane. The amendment says "if parents are available", and so removes the reference that parents must appear in person before the Court, but at least must submit a written statement.

Vote: VICE CHAIRMAN GROSFIELD'S MOTION TO ADOPT THE AMENDMENTS TO SB 283 CARRIED WITH ALL MEMBERS VOTING AYE EXCEPT SEN. BISHOP WHO VOTED NO.

Motion/Vote: SEN. ESTRADA MOVED SB 283 DO PASS AS AMENDED. THE MOTION CARRIED UNANIMOUSLY.


CHAIRMAN CRIPPEN. Tomorrow's hearing will be interesting, as we are hearing the appointment of a judge. SEN. DOHERTY will present the resolution, then we will hear testimony for and against the appointment, as well as have questions from the Committee. There will be a little lunch following the hearing, sponsored by the Montana Defense Trial Lawyers and the Montana Trial Lawyers Association.

ADJOURNMENT

Adjournment: 11:50 a.m.



SENATOR BRUCE D. CRIPPEN, CHAIRMAN



JOANN T. BIRD, SECRETARY

BDC/JTB