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MONTANA CONSTITUTIONAL CONVENTION

STATE CAPITOL • HELENA, MONTANA 59601 • TELEPHONE 406/449-3750

BILL OF RIGHTS COMMITTEE

Place of hearing: Convention Hall Date of Hearing: 2/12/72
Hour of Hearing: 1:30 PM

Committee Chairman: Wade J. Dahood

MINUTES OF THE ROMNEY HEARING OF THE BILL OF RIGHTS COMMITTEE

Subject of Hearing: Bill of Rights

Roll Call:

Wade J. Dahood, Ch.	<u>present</u>
Chet Blaylock, V. Ch.	<u>present</u>
Bob Campbell	<u>present</u>
Dorothy Eck	<u>present</u>
Donald Foster	<u>present</u>
R. S. (Bob) Hanson	<u>excused</u>
George H. James	<u>present</u>
Rachell K. Mansfield	<u>present</u>
Lyle R. Monroe	<u>present</u>
Marshall Murray	<u>present</u>
Veronica Sullivan	<u>present</u>

INTERESTED PERSONS TESTIFYING:

Mike Meloy	Individual
Kayle Jackson	Individual
Dan Neal	Beartooth Mountain Men
Daniel J. Masse	KABA, Montana Rifle and Pistol Association
Don Osburn	Cascade County Wildlife Association
Charles L. Bartelt	Individual
Raymond Lay	National Association to Keep and Bear Arms
Robert D. McDonald	Individual
George B. Eusterman, Jr.	Individual
Lewis E. Yearout	Montana Arms Collectors Association
H. W. C. Newberry	Individual
Orsen Topham	National Association to Keep and Bear Arms

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Francis Mitchell	Montana Common Cause
Representative George Darrow	Individual
Cecil Garland	Individual
Representative Dorothy Bradley	Individual
Patti Meier	GASP of Missoula
Earl J. Barlow	Indian Education Supervisor
Bonnie Wallem	League of Women Voters of Montana
Noel Larrivee	Individual
Don Holtz	Montana Common Cause
Miss Gerry Fenn	Montana Advisory Council on Children
Jim Pippard	Community Coordinated Child Care
Robert D. Watt	Montana Student Presidents Association
Martin L. Staley	Individual
Joe Roberts	Individual
Sister Providencia	Individual
Ray Gulick	Individual

DISCUSSION:

Mr. Dahood welcomed all the delegates to be with us on Lincoln's Birthday for our Romney hearing. He then proceeded to introduce the committee and the staff.

Rick Applegate made an opening statement regarding the basic principles of the Constitution, especially the Bill of Rights. He stated that the time when rights are needed most is when they aren't there. He also gave a brief history of the present Constitution.

Chet Blaylock introduced Sections 1, 2, 12, 29, and 33. He stated very strongly that he is in favor of cutting down on words. We left #1 alone. We made some changes in #2. #12 is the right to bear arms. We left that one alone. In #29, we omitted "corruption of blood". In #33 we include all the rights as may be determined by the wisdom of the courts and those which are not previously mentioned.

Bob Campbell introduced Sections #10, 25, 28 and 35. He presented changes that we have made in #25 - the right to a speedy trial - unanimous jury verdict in all jury trials. In #28 we added that the landowner should receive full compensation for his losses. #10 guarantees the right to privacy. We could be the first state in the nation to provide its citizens with this right. #35 gives adult rights to those 18 years old and older.

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Dorothy Eck presented Sections 8 and 9. #8 is the right of participation. This would give citizens the right to know the proceedings of all public transactions - city councils, school boards, town meetings, legislature, etc.. #9 is the right to know. She feels that people are beginning to associate the right to know with this Convention. It has been very open and receptive to citizen suggestions.

Donald Foster presented Sections 14, 30, 31, and 32. #30 limits the types of laws which may be passed. #31 is the civilian control of the military, and #32 is the regulation of the importation of armed persons. These three sections are taken entirely from the present Constitution. #14 has to do with a high quality environment. This section came from delegate proposal #132 and may point the way for the Legislature to continue improving the quality of our environment for the people of the state.

George James presented Sections 11, 19 and 27. Section #11 deals with electronic surveillance. #19 is initiation of proceedings. #27 restores the rights to persons automatically upon termination of state supervision.

Rachell Mansfield presented Sections 4, 6, and 7. #4 would prevent discrimination to any person because of race, color, sex, culture, social origin or condition, or political or religious ideas. #6 is freedom of assembly. #7 is freedom of speech.

Lyle Monroe presented Sections 5, 15, and 3. Section 5 grants the freedom of religion. This section has been shortened from 127 words to 19. Section 15 deals with persons under the age of majority giving them certain rights and protections. #3 guarantees persons their inalienable rights and has the same intent as the corresponding section in the present constitution.

Marshall Murray was given Mr. Bob Hanson's Sections to report on as well as his own as Mr. Hanson was excused from this hearing. Section 16 deals with the administration of justice. #17 - due process of the law. #18 - habeas corpus, #20, bail, which corresponds with #19 in the present constitution. #21, excessive sanctions is also the same as the present. #22, detention is the same as is #23, rights of the accused. #34 is new - non-immunity from suit. This comes from the old theory that "the King can do no wrong". This section removes sovereign immunity.

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Veronica Sullivan reported on Sections 13, 24 and 26. Section 13 remains the same, as does Section 24 on self-incrimination. #26 dealing with imprisonment for debt remains the same as in the present document.

Mr. Dahood then answered questions from the delegates.

Mr. Carl Davis asked if qualifications were to be necessary for 18 year olds who may hold office. A. Yes, qualifications would be necessary for those 18 year olds who would be elected to public office. Q. Does the language make itself clear? A. We intend to expand on the language. Also inquiring of #9 on the right to know. Who makes the determination as to when privacy exceeds public disclosure? A. We have to depend on the discrimination of the courts.

Mae Nan Robinson inquired of Section 14. She asked if this were merely a hope or a goal, or are we to be promised more? A. It does have force and effect on those we elect. Q. Does this section so imply that the citizen will have recourse to the state of Montana if the legislature does not legislate adequate environmental laws? A. Not unless it threatens their health.

Paul K. Harlow - regarding #15 - He hopes this will give rights to kids, but does this give school boards the right to tell him what color shirt he should wear and how long his hair should be? A. This right would give the young people of Montana the right to be individuals.

Mr. Charley Mahoney asked if the "right to know" section would open up even his income tax returns. A. No, it would not.

Jean Bowman asked if section 3 would give us the right to basic necessities, or would it give us the right to pursue this right. She suggested the insertion of the word pursue in this section. A. We will take this under consideration at our next meeting

Arlyne Reichert asked if in section 3 the consumer would be guaranteed his money's worth, and would the consumer have recourse to the courts if he did not? A. No, not under this section. This will have to be solved through federal legislation.

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Louise Cross asked if it were possible to define the term "high quality environment? A. Yes, based on reason and facts that are presented.

Jean Bowman asked if the fetus were to be defined as a person? A. No, not for the sake of this section.

Several other questions were asked of the committee before a 20 minute recess, after which testimony of several citizens was heard. Mr. Blaylock requested that the testimony be limited to 5 minutes due to the great number of people wishing to be heard.

Robert Kelleher testified on the right to die. He stated that no other rights are even necessary if we don't have the right to be born. It is the mother's obligation to protect the fetus. He also feels that the person with an incurable disease should have the right to choose his own death. He would also like to see solitary confinement outlawed and involuntary Sunday servitude.

Mr. Tom Towe presented a written statement on wiretapping. Also testifying on wiretapping was Mike Meloy, attorney for the Legislative Council, although he is testifying as an individual. Kayle Jackson feels that interception should be entirely out of the hands of the state.

Several individuals testified on the right to bear arms. Mr. Lewis Yearout was chosen as their spokesman. He spoke for the Cascade County Wildlife Association, Treasure State Outfitters, Montana Rifle and Pistol Association, The National Association to Keep and Bear Arms, Montana Muzzle Loaders Association, Beartooth Mountain Men and Montana Arms Collectors Association. These groups are in agreement and complete support of the Section. Several of the men he spoke for presented written statements to the committee, which are attached.

Mr. Francis Mitchell commended the entire Convention for being open to the public. He was in favor of a high quality environment. He spoke representing Montana Common Cause.

State Representative George Darrow presented a proposed new section to the committee on the environment.

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Mr. Cecil Garland felt that no one had been given sufficient time by the committee to prepare statements and appear to give their testimony. He wanted to have more hearings.

Speaking in support of a public trust were Representative Dorothy Bradley, who presented a written statement and Patti Meier representing GASP of Missoula.

Mr. Earl J. Barlow, Indian Education Supervisor, spoke on the rights of Indians. He feels that the Indians have been exploited and that they need more understanding. He wants a section relating to the funding of furthering the culture of the Indians residing within our state.

Bonnie Wallem spoke on a clean environment, the right to know and the clarity of the Article as it will be written.

Noel Larrivee and Don Holtz both testified in favor of the right to know.

Miss Gerry Fenn and Jim Pippard both testified on the rights of those under the age of majority.

Mr. Robert D. Watt and Mr. Martin L. Staley testified on the rights of 18 year olds.

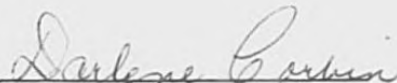
Joe Roberts spoke on the right to die. He submitted a statement to the committee.

Sister Providencia spoke on capital punishment and presented a prepared statement.

Mr. Ray Gulick concluded our hearing with a brief history of our present constitution.

The hearing adjourned at 6:30 P.M.


Wade J. Dahood, Chairman


Secretary