EXHIBIT 18
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SB 236

Justice John C. Sheehy (Rtd.)
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Submitted at Committee Hearing
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Testimony of John C. Sheehy as a proponent of the Act Abolishing the Death Penalty And Replacing it with Life Imprisonment Without Possibility of Release.

HONORABLE REPRESENTATIVES:

I am John C. Sheehy, a native of Butte and a resident of Helena, duly admitted to the practice of law in all the courts of Montana. It has been my honor to serve in every branch of Montana state government, first as chief deputy insurance commissioner, then as a member of the state house of representatives, then in the state senate, and finally as a justice on the Montana Supreme Court. My private trial practice of criminal and civil cases was chiefly in Billings for 30 years

I rise and stand in support of this Senate Bill because it has the effect of abolishing the death penalty in criminal cases, to which punishment I am unalterably opposed. I have come to this position over a long period of close observation of the adverse workings and effects of the death penalty on the justice system.

I did not start that way. Early on in my court career, I wrote or participated in two cases approving the death penalty. One defendant was eventually executed, the other was not, saved by a later appeal process. However in later cases, it seemed to me that the prosecutors were sometimes over-reaching, that some judges were posturing, that deals were often made where some defendants were sentenced to death while their co-defendants were not, for the same offense. Ever present was the dismaying thought that if we had the wrong defendant or one really innocent of the crime, the result to the defendant could not be revoked. Just as bad, we have later learned that a laboratory technician in the state laboratory had for years falsified his lab results in important criminal cases.

On the court, I came eventually to the point where I announced that I would dissent in death cases from any further approval of the death penalty. I was vindicated at least once, in a case where two young men were given the death penalty over my dissent, based on testimony against them from a female accomplice, who received only a jail sentence. The death penalties were later reduced to life sentences by a federal court where apparently it developed that the accomplice female had engaged in obnoxious relations with a jailer while awaiting the district court trial, unknown to the defense attorneys.

Now I want to say to the honorable Representatives on this committee what I would say to you if I were visiting with each of you personally. Because I have been a legislator too, I appreciate the pressures you may be under not to support this bill. Your

constituents are pounded daily with lurid descriptions of homicides, and with sound bytes formed to get higher ratings in readership or listeners. Unfortunately, the public sentiment crosses over from a sense of punishment to revenge. It is difficult for a legislator or a judge to put aside this pressure on issues such as the death penalty.

When one serves as you do in the top echelon of state government, you are shouldered with a solemn duty to view dispassionately how best the state will be served in decisions you make for the good of all. In many of the United States, in fact throughout the civilized world, the death penalty has been rejected as a punishment too excessive in any justice system. No one can point out any adverse effect to the public or to the justice system in those states or countries from such rejection.

It takes political courage to vote against the death penalty. For some of you this bill is a test of your courage. A reasonable answer for the public is that a sentence of life imprisonment with no possibility of release is a reasonable protection of society. In any event it is time for Montana to get out of the business of killing people.

I hope you will support this bill.

John C. Sheehy

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