

MINUTES OF MEETING - ASSEMBLY COMMITTEE ON JUDICIARY, 54th Session, March 28, 1967

Meeting was called to order by Chairman Wooster at 3:00 P.M.

Present: Wooster, Kean, Hilbrecht, Torvinen, Swackhamer, Lowman, Dungan, Schouweiler, White

Absent: None

SB 267: Proposes various amendments to law relating to eminent domain proceedings.

BILL RAYMOND: State Highway Department.

We are asking that line 8, page 1, be deleted. This should have been deleted in 1965. We feel it is unconstitutional.

On page 1, line 17, we are adding "if any". At present we do not plead value of property taken, but if we so wish we could do so. There is another change on page 3, line 3. We ask that Nevada be able to pledge its full faith and credit in lieu of the deposit thereof. This is spelling that out. On page 3 we are deleting line 5 and part of line 6. On page 3, line 14, we are deleting "separate".

Section 4 concerns the amount of money deposited in court. Section 5 spells out the time that the interest will run.

MR. KEAN: Will you give us more detail on that last item you mentioned.

MR. RAYMOND: Now the statute says we pay interest from the date fixed by order on the difference between the sum deposited and the amount awarded.

MR. KEAN: Is there ever a time when someone will vacate and the order is delayed?

MR. RAYMOND: That could be and we would take that into consideration if it did.

AB 468: Abolishes capital punishment.

MR. WOOSTER: The bill has been out for some time and we should take some action on it.

Miss Dungan moved Do Pass

Mr. Hilbrecht seconded

The motion was defeated, with Schouweiler, Dungan and Hilbrecht voting Aye and Lowman, Swackhamer, Torvinen, White, and Wooster voting No.

Mr. Swackhamer moved to postpone indefinitely AB 468

Mr. White seconded

The motion carried with Lowman, Swackhamer, Torvinen, White and Wooster voting Aye and Hilbrecht, Dungan, and Schouweiler voting No.

SB 334: Prohibits bondsman for defendant in criminal matter from employing attorney to enter plea of guilty for such defendant.

MR. HILBRECHT: I talked to Mr. Bunker and he said that a bondsman had been in and requested

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a bill giving them power to do this. This caused Senator Dodge to feel there might have been a problem along this line, and naturally they thought it was bad policy. Apparently they had not considered that it is already illegal. So they drew up this bill. I asked for a specific problem and all I could find was a bondsman coming in and asking to be allowed to do this. Nobody came on strong with it. It was just an act the Senate took to prevent further harassment. I don't think a lawyer can do this now.

MR. KEAN: I understand that in their fine print they may do this. They may take the lesser of the two.

MR. HILBRECHT: It is illegal to submit a plea for anyone unless you are a lawyer. Such an action is unethical.

Mr. Lowman moved to postpone indefinitely SB 334

Mr. Torvinen seconded

Motion passed unanimously

SB 267: Proposes various amendments to law relating to eminent domain proceedings.

MR. KEAN: I will go along with it as long as the state doesn't get to hold property and not pay interest.

MR. TORVINEN: I do quite a bit of condemnation work and I don't see anything wrong with the changes.

MR. HILBRECHT: I am not sure that the way the law is now is not the way it ought to read. It may be different while getting moved out or collecting belongings, but why shouldn't they be able to collect interest?

MR. TORVINEN: In some cases you could collect rent on the property and interest from the state at the same time. That is not right. It will be for the benefit of the people. The judge now has more flexibility.

Only one section applies to the Highway Department. The rest applies to other things. Some of them do not make deposits.

MR. HILBRECHT: I was just wondering if it might not work a hardship. I think it is an inducement to get the State to give you a fair amount for the property and make the proper deposit.

Mr. Torvinen moved Do Pass SB 267

Mr. White seconded

Motion passed unanimously

SB 313: Provides for recordation of master form mortgages and deeds of trust to permit short-form recordings thereafter.

MR. TORVINEN: I was assigned to study the bill carefully and I did so. I read the bill and checked my notes and found it is the result of a request by the FHA. Their trust deeds are quite different from the ones we have in NRS. This is enabling legislation. I can see no problem with it.

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It allows filing one standard document and then other documents may refer to this first one by paragraph number. We now have twelve covenants in law and all trust deeds done locally are just done by referring to the covenant. FHA forms are different because they are under Federal regulations. All they want to do is to be able to do it like we do.

MR. HILBRECHT: This is good legislation from the standpoint of good government. They will have fewer documents to store this way than they would without this bill.

Mr. Torvinen moved Do Pass SB 313
Mr. Hilbrecht seconded
Motion passed unanimously

SB 368: Clarifies and modernizes law relating to professional engineering and land surveying.

MR. WOOSTER: What is this amendment?

MR. HILBRECHT: One that Rowland Oakes brought in. It was agreed upon by the Architects and the Professional Engineers.

Mr. Wooster then read the amendment to the committee.

MR. KEAN: I have a little hesitancy about page one "such other services as may be necessary" etc.

MR. HILBRECHT: This only applies to engineers.

Mr. Lowman moved Do Pass SB 368 with the amendment
Mr. Hilbrecht seconded
Motion passed unanimously

SB 414: Exempts corporate administrators, guardians, and trustees from voucher filing requirement when rendering account.

MR. TORVINEN: This was referred to me. I called Mr. McGee in the Trust Department of the First National Bank, who spoke to the Senate Committee on this bill, and asked him why the bill was requested.

They felt that the Trust Departments of the banks were equally as acceptable for exemption from the voucher system as a public accountant or a CPA. This would save time and paper work and would not take away from the effectiveness of the filing of the account.

MR. WOOSTER: Section 3, page 2: This is testamentary trusts they are talking about here.

MR. TORVINEN: The banks feel it is a waste of everybody's time and efforts to file this voucher system with the court. The canceled check is the receipt.

MISS DUNGAN: I agree. It is ridiculous to keep all these vouchers. I suggest we amend it by inserting on lines 25 and 26 on page 2 "registered public accountant".

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Miss Dungan then moved Do Pass SB 414 with amendments
Mr. Lowman seconded
The motion passed with Swackhamer and Kean voting No

Mr. Wooster asked Miss Dungan if she would take care of getting the amendments.

SB 253: Requires sending of behavior report to and approval by committing court prior to parole from juvenile correctional institution.

MR. WOOSTER: I talked to Senator Monroe about this. He said they had considered it and felt the report should go back to the court.

MR. WHITE: It says "if no objection by committing court". I don't think the bill is a good one. I see no need for it.

MR. WOOSTER: I see your point.

MR. HILBRECHT: I agree with Mr. White. I think it is entirely unnecessary.

MR. WHITE: This would really foul them up on their parole procedures, if they had to get permission from the committing court. It is aimed at the schools at Caliente and Elko. The director now has power to grant parole to these people, based on their behavior.

Mr. White moved to indefinitely postpone SB 253
Mr. Hilbrecht seconded
Motion passed unanimously

SB 357: Permits recording of abstracts of judgments and writs of execution instead of transcripts of original dockets.

Mr. Wooster read the amendments prepared by Mr. Schouweiler. On section 1, page 1, line 6 insert after abstract "or copy".

Another amendment is on page 2, line 25, doing the same thing. It would read "abstract or copy".

Mr. Kean moved Do Pass SB 357 as amended
Mr. Lowman seconded

MR. WOOSTER: Don't you think it should say "certified" on page 2, line 25?

Mr. Kean added this additional amendment to his motion

The Motion passed unanimously

AJR 5: Proposes to amend Nevada Constitution by providing for establishment of commission on judiciary, for alternate method of removal of judicial officers, and for review of district court calendars and salaries of judges and justices.

MR. HILBRECHT: May I take up something that Mr. Guinan asked me to? This resolution has two sets of amendments, one if they get a Court Administrator and one set if they don't.

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Mr. Guinan has asked that we put it through to the Senate, assuming they will not get the Court Administrator.

AB 339: Provides that residence of nominator does not affect priority of person nominated to receive letters of administration.

MR. WOOSTER: This bill is now on the Chief Clerk's desk. It would have died by default last Friday because the Governor would not sign it. Russ McDonald drew up a resolution so that we could get it back from the Governor.

The Governor's objection was as stated in Mr. Morriss' letter. This bill came from the State Bar Association's Probate Division. I think it is a good bill, and I have always thought it was a good bill. I think we should check with Russ and see if he has anything from the Governor on this. I don't want to let this drag. I think it is good and would like to see it passed.

MR. HILBRECHT: I wonder if you would invite Mr. Cummings to come up and speak to the committee on this. I think he would fly up at his own expense.

MR. WOOSTER: I will delegate you to do this for the Committee. See if he can be here on Friday. We will continue the bill until Friday and will also have a report from Russ at that time.

SB 431: Amends 1967 statute requiring regional street and highway commissions in counties with less than 25,000 population to submit certain reports.

MR. WOOSTER: I talked to Senator Dodge about this bill this morning. SB 161 has already passed. It provided that motor vehicle fuel tax would be filed with the Nevada Tax Commission, where the population is under 25,000, in every section except one. This takes care of the one.

Mr. Lowman moved Do Pass SB 431

Mr. Kean seconded

Motion passed unanimously

AJR 21: Proposes constitutional amendment confirming right to bear arms.

MR. KEAN: Isn't that in the Federal Constitution already?

MR. LOWMAN: It has been construed to apply only to the militia. Some 70% of the states have this type of provision and we do not. This is, in essence, from the Colorado provision. It is not exactly verbatim. It is Daykin's idea of how the Colorado provision ought to read. It is what he calls "cleaning up the language".

MR. SWACKHAMER: This would be very popular with the people.

Mr. Swackhamer moved Do Pass AJR 21

Mr. White seconded

MR. WOOSTER: The civil power: Are you talking about law enforcement?

MR. LOWMAN: I don't know. I would have to get it back to find out.

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MR. HILBRECHT: We have a statute which prohibits felons from bearing arms, or even possessing arms. Would this cause a conflict?

MR. WOOSTER: That is a good point. The concealed exception would not apply.

MR. HILBRECHT: I guess we could just make another exception. I am convinced that if we pass this constitutional amendment it will void this other statute preventing felons from carrying weapons.

MR. LOWMAN: I have no objection to such an amendment that would take care of this.

MR. HILBRECHT: A felon cannot even own a weapon. Let's use the same language that is in the felon's section to make sure.

MR. LOWMAN: Let me try to work this out with Mr. Daykin.

MR. WOOSTER: That will be fine.

MR. SWACKHAMER: I think Mr. Lowman's idea is a real good one.

SB 244: Permits judicial review of mandatory suspension or revocation of driver's license.

MR. WOOSTER: This bill is now on the Chief Clerk's desk. I put it there and I would like to explain why I did that. As Mel Close pointed out, it permits the court to re-examine the entire case. It seemed to both of us that while there might be judicial review, it should be limited to the record, and we should not give them the right to reopen the entire case. The language seemed way too broad to us.

MR. SWACKHAMER: Wouldn't this come under the Administrative Procedures Act that we are fooling around with?

MR. WOOSTER: Mandatory revocation sections do not call for a hearing.

It was the opinion of the bar that there should be some provision for review. If we simply delete the brackets, the rest of the bill reopens the entire case. We thought we would add a subsection making it possible for a review of the records of the department of motor vehicles.

MR. HILBRECHT: I would not agree that there might not be a case where the whole thing would need to be reviewed. For instance, a case of mistaken identity. In such a case, the District Judge would want to take testimony.

MR. TORVINEN: We could strike out "case" and say "certified copy of court records showing revocation."

MR. WOOSTER: How about "acts taken by the Department resulting in revocation"?

MR. TORVINEN: "Examine into the facts resulting in the revocation".

MISS DUNGAN: Wouldn't that mean all the facts in previous testimony?

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MR. TORVINEN: You ought to have some way to prove that somebody had stolen your driver's license.

MR. WOOSTER: Let me see if I can't come back to the committee with an amendment to this, now that I know the thinking of the group.

MISS DUNGAN: Mr. Close wanted me to inquire what had happened to the bill he and I introduced.

MR. WOOSTER: If you will give me the number of the bill, I will check on it.

Miss Dungan later reported that the bill is AB 297 and Mr. Wooster said it will be discussed tomorrow.

MR. WHITE: The Highway Department is checking into the complete legal descriptions of the three pieces of property wanted by the University. We should have them soon.

Mr. Wooster passed out the material sent to the committee by the blind people.

AB 377: Establishes rights of visually and physically handicapped.

MR. WOOSTER: This does propose some new language. Mr. Flanders has given us all his comments in writing that he gave to us in person so that we can go over them.

MR. SWACKHAMER: I sure would enact out section 2 without further review.

MR. WOOSTER: I will put AB 377 on the agenda for tomorrow so you will have time to take a look at this material.

Thursday there is a hearing some of us would like to attend so there will be a day off for the committee, on Thursday. We will meet both Wednesday and Friday. We are down now to 16 bills, so we can take a day off.

The meeting was adjourned at 4:10 P.M.