

Meeting was called to order by Chairman Torvinen at 4:05 P.M.

PRESENT: Torvinen, Schouweiler, Swackhamer, Reid, Bryan, Fry, Lowman.
Mr. Kean came in later.

ABSENT: Prince.

AB 392: Requires preliminary notice of divorce actions and provides interlocutory relief.

MR. TORVINEN: I have not notified all of the people that might want to be heard on this, but since some have come, it is my suggestion that we hear these gentlemen who are here today and then hold the bill over for other hearings for additional testimony for those not here today.

REVEREND RICHARD ENGESETH: We were misinformed all the way around on this. We did not know it had been heard already. I think it would be more fair to have the hearing all at one time so the rebuttals can be heard and all, if this can be arranged.

MR. REID: I am in favor of this bill. I think it is unfair to criticize our Chairman about this bill. I think those who wrote those letters should write one of apology.

MR. TORVINEN: We will set this hearing for April 8 at about 3:30.

(The ministers left at this point.)

SB 362: Revises eminent domain procedures.

GEORGE OGILVIE: Las Vegas City Attorney: The first section of the bill really equates the condemnation proceedings to that of the State Highway Department. You can condemn the whole property rather than an easement.

The State Highway Department has been in the position of being able to condemn for the fee interest for a long time.

One good reason: When you go into court for trial for condemnation, the judge and jury will render their decision based on a fee interest anyway, because of the quasi-permanent nature of roads. We should pay for the full thing. If we don't we are foreclosed from ever selling this property that we have paid good money for. This would not come up very frequently, but when it does the taxpayers should be able to benefit from the vacating. The original owner has been fully compensated, so the government should be able to acquire any profit from this vacation.

In the days of the old county section roads were mostly unpaved and not of the same permanency as the better roads we have now.

MR. REID: How is this done in other places?

MR. DAYKIN: I will answer that, so far as I know. In the Federal Interstate Program they go for a fee simple interest for condemnation.

Some states, also, for highway purposes, seek to acquire a fee simple²⁻⁷³ interest but outside of incorporated cities.

MR. TORVINEN: I was involved in some litigation on this condemnation which started in 1952 and ended in 1967, so I am somewhat of an expert in this field.

Courts have held that when a fee is abandoned, it goes back to the joining property owners.

One of the reasons for this legislation is if you want a street and you condemn property for the street, this is fine so far as it goes. You pay for the fee of the land. Then you put a sewer line on it and the seller sues you. He says you did not say anything about a sewer. This condemnation should be for all public purposes.

MR. OGILVIE: The power company does not have a fee interest when condemning for overhead lines.

After condemnation is effected under our present law, you can condemn only the parcel needed. Severance damages to the adjoining property, etc., amounts to about as much as you would pay for the whole property. It is a waste if it just sits there.

MR. TORVINEN: You can only condemn for public purposes and if you bought a little corner that was not needed, well, the courts say you cannot use the taxpayers money for land you don't need.

MR. OGILVIE: It would be a "no-man's land." It would of no use to the owner, but he would be paying taxes on it.

Section 2 is offsetting of special benefits. It may be offset only to the amount of severance damages. Supposing the parcel of land is landlocked. You put a four-lane highway alongside it. The value of the land may increase by \$75,000. Damages attributable to the remainder is maybe \$5,000. Under this, you could offset the full \$75,000 and would only have to pay him \$25,000 if the judgment was \$100,000.

On the basis of appraisal: Under the proposal appraiser would look at the land, the value of the property, before any talking at all and then he would look at it afterward, in the line of what it would be worth with the improvement and the difference would be what the property owner would get. This is statutorily and by case law the way it is being done in many states now.

Section 3 is again a repetition of the portion of 408 applying to the State Highway. It allows you to sell any property for which you paid taxpayers' money. You put it up for public auction. Any deed given to a purchaser at auction is presumed valid. This is the procedure spelled out in the State Highway law. It also allows disposition of these little slivers of parcels.

MR. SWACKHAMER: There has to be safeguards or we will have someone on the City Council getting property for his friends. There should be machinery to stop that kind of hanky panky.

MR. OGILVIE: Could only sell to the adjoining owner. The only other way is by public auction or by sealed bid.

MR. TORVINEN: The owner would have to prove to the court that there was no legitimate public use for the land and the court will have to decide. If they cannot convince the court, they will be turned down.

MR. OGILVIE: The taking is subject to court approval.

MR. SWACKHAMER: It's the same thing the Highway Department is using now?

MR. TORVINEN: They can take a fee but the offsetting on severance damage is new.

MR. DAYKIN: The Supreme Court of California recently rendered a decision going the opposite of this, and their arguments are quite convincing. It is one of the recent Pacific Advance Sheets. There is a strong case to be made by the other side. They could claim they improved the property and take the land for nothing. One point I would question is the new law there in respect to severance.

MR. BRYAN: Should we have a lawyer in who represents property owners? I would like to hear the other side of the coin.

MR. REID: Bill Friedman would be good.

SB 431: Defines "record owner" for mechanics' lien statute.

MR. DAYKIN: This bill simply defines "record owner." In the mechanics' lien notice on the invoice of the record owner is given but there is no definition of "owner." This defines it.

MR. REID: I move Do Pass SB 431.

MR. BRYAN: I feel there is some ambiguity here with this "holds title."

MR. DAYKIN: "Holds an interest in the real estate or the improvements" is the way I would have written this little gem. This would include the trust deed holder.

MR. TORVINEN: Usually the trust deed holder isn't involved in these things.

MR. DAYKIN: If you want to exclude him, you would have to say "any interest except a security interest."

MR. TORVINEN: You might as well notice everybody that shows on the title report.

MR. REID: I move Do Pass SB 431 with this suggested amendment.

MR. BRYAN: I second the motion.

MOTION CARRIED UNANIMOUSLY.

SB 432: Permits delivery of certain mechanic's lien documents by certified mail.

MR. BRYAN: Is this necessary now that we have passed a bill saying "certified" mail may be used instead of "registered?"

MR. DAYKIN: The bill adds "delivery in person" which seems like a legitimate addition.

There are a number of four-digit numbers used because we ran out of

three-digit numbers.

Section 1 is probably superfluous.

MR. SCHOUWEILER: I move Do Pass SB 432.

MR. REID: I second the motion.

MOTION CARRIED UNANIMOUSLY.

SB 433: Repeals mechanics' lien law in effect prior to July 1965.

MR. DAYKIN: This repeals the old mechanics' lien law. It was left on the books in 1965 because there were cases pending. Now it is repealed.

However, section 4 says any work performed before 1965 will still be governed by the old Act. This pertains to liens upon real property. This whole series does by contracts by subs and material.

MR. SCHOUWEILER: I move Do Pass SB 433.

MR. REID: I second the motion.

MOTION CARRIED UNANIMOUSLY.

SB 450: Eliminates mechanics' lien notices where contractors or suppliers deal directly with an owner of property.

MR. DAYKIN: This abolishes the notice requirement for the subcontractor or materials man where they are dealing directly with the owner. The notice requirement is mainly to protect the owner. If the man is dealing directly with the owner, then he is known to him and the notice is not needed.

MR. REID: I move Do Pass SB 450.

MR. SCHOUWEILER: I second the motion.

MOTION CARRIED UNANIMOUSLY.

SB 457: Provides greater flexibility in handling zoning variances and special exceptions.

MR. DAYKIN: The appropriate subtitle for this bill would be "legitimizes zoning practices of Washoe County."

The background of this bill: Under the zoning enabling Act, any variance has to be processed, if it is granted, by the Planning Commission Department. No one read the Act. They had a provision for variances by a number of bodies, all of which were unlawful. This would permit zoning ordinances to be changed by the Planning Commission instead of the governing body. Right now there is nothing on the books on the zoning ordinances.

MR. TORVINEN: It is in the city ordinance.

MR. DAYKIN: Also in the county ordinance, but not in the State laws.

MR. REID: I move Do Pass SB 457.

MR. SCHOUWEILER: I second.

MOTION CARRIED UNANIMOUSLY.

MR. TORVINEN: Should we set a hearing on SB 141?

MR. SWACKHAMER: I think a lot of people would like to be heard on this.

MR. TORVINEN: I don't know for what illegal purpose this Great Seal of Nevada might be used for.

MR. SWACKHAMER: It could be used on the literature offering land for sale, and this would seem to indicate that the State was endorsing the thing. Say a slick little deal advertising a directory type advertising came your way and it looked exactly like a telephone bill. It would have in fine print that it was not so associated.

VICKI NASH: It says "this is not an invoice."

MR. DAYKIN: As it reads now, for instance, you could not put a replica of the Great Seal of Nevada on souvenir items. The reason for deleting for "commercial purposes" is to not hurt people who use it on souvenirs and so on. "Illegal purpose" was put in to prevent the fraudulent use of the Great Seal on documents where it did not belong.

I will investigate the restrictions on the use of the Great Seal and report back if you wish.

The suggested language for the bill came from the Attorney General and I rather tacitly assumed that perhaps he knew what an illegal purpose was.

MR. BRYAN: Unless a statute prohibits something, it is legal.

MR. DAYKIN: You are correct. Therefore, the only illegal purpose would be one forbidden by statute.

MR. TORVINEN: Do you know of any?

MR. DAYKIN: No, except what is given in this section.

MR. KEAN: Couldn't you put in some other language that would do what we want and would not be misleading?

MR. SWACKHAMER: "Misleading" is a very good word.

MR. KEAN: I move we ask Mr. Daykin to prepare an amendment to this effect.

MOTION CARRIED UNANIMOUSLY.

MR. BRYAN: 235.010 is the section on this.

MR. FRY: There is also AB 157 which was signed by the Governor which deals with the same section.

MR. DAYKIN: You should have a conflict of notice on this. If there is a conflict, I will resolve it.

ACR 49: Directs Legislative Commission to study proposed county courts.

MR. TORVINEN: This is for the study of county courts and electronic equipment. Do you have any other changes or suggestions on this?

MR. KEAN: I would like to suggest a bill for 1971 to do this work.

MR. SCHOUWEILER: This does that. It will be reported back to the 56th Session.

MR. SWACKHAMER: I have talked to the Committee on Legislative Functions and they will put it out with a Do Pass as soon as they get it.

MR. BRYAN: I move they hold action until SJR 23 clears.

MOTION CARRIED, WITH MR. REID VOTING NO.

MR. REID: I move we adjourn.

MR. SCHOUWEILER: I second the motion.

MOTION CARRIED UNANIMOUSLY.

Meeting was adjourned at 5:05 P.M.