

The meeting was called to order at 9:10 am.m by Chairman Brand, all members were presen.

Hargesheimer presented his summary - see attachment #1.

SB 11-Sen. Warden, sponsor--This bill proposes to print the proceedings of the 1972 Constitutional Convention. See attachment #2 for Warden's statement.

GREG MORGAN, Montana Bar Association--We are in favor of this bill.

BRIAN COCKHILL, Montana Historical Society--I have brought an outline of the budget request (see attachment #3). The difficulty we have in dealing with the volumes right now is insane. We have had nothing but problems, and since '72, the research has been heavy and the volumes are getting worn. We see the Con-Con as an indication of the interests of the period. We ask your concurrence.

DOROTHY ECK, Con-Con Delegate--I am frequently asked about constitutional intent; I know what mine was, but I realize that my intent was not usually reflected in the intent of the convention. I think it very important to have indexed volumes. I think the proposal is one that will be nearly self-supporting, and would certainly be very useful to attorneys, researchers, and anyone else interested. (see attachment #4 for further testimony)

HB 494-Rep. Gerke, sponsor--This bill allows the state to sell any institution no longer used as such. These sales can be handled through the Interim Subcommittee on Institutions. Two years ago, we shut down Twin Bridges, and we all knew that it had a serious impact on as small a town as Twin Bridges. We had no other state use for it, so it was closed. I asked the Appropriations Committee and the Finance & Claims Committee to appoint an Ad Hoc Subcommittee to find some use for it, and also to take care of it so that it wouldn't depreciate too much. We met several times, and had a number of organizations and people interested in doing something with it. None of the plans worked out...we seemed to come to a dead end. We still have two organizations that are interested in doing something.

BOB LOHN, Governor's Staff Attorney--This is a legal step necessary to firm up our state. We have no way to deal with buildings when the state no longer uses them as institutions. This bill enables the state to dispose of them. There are, at this point, three possible uses for this particular building--(1)to restore the children's center, (2)as a veterans' domicile, and (3)use by the private sector. We want these options available to all institutions as the state's needs change. This bill provides several protections. It has to have ceased to be an institution; and it has to be a decision by the state land board.

KERRY KEYSER, Representative, Twin Bridges--I would like to see you support this not just because of Twin Bridges, but because it also gives the whole state a new option.

JOHN ANTHONY, Dept. of Community Affairs--He showed the committee overlay maps, with transparencies to indicate various buildings, and their assorted uses and ownership. "The Department of Institutions has removed some of the furnishings to the prison, but they will be returned after the new prison is built. Alot of minor damage has occurred." He enumerated on various types of deterioration--breakdown of plasters, wallboards, faulty foundations, burst water pipes, etc.

ANTHONY SUBMITTED AN EXTENSIVE FACTUAL ANALYSIS, SEE ATTACHMENT #5.

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MARIE McALEER, Chairman, Committee for Utilization of Twin Bridges--She expounded briefly upon the details of the impact of the loss of the center - loss of jobs for adults and high school children, loss of income for the community, etc. She then presented the multitudes of towns' people who had come to testify.

RUSSELL EDWARDS, Committee for the Utilization of Twin Bridges--The center had 87 employees who have mostly moved away. Deposits in the bank haven't gained, but are the same as when the employees moved--most other banks in the state have increased.

BYRON BAYERS, Comm. for Utilization of Twin Bridges--We have no particular thing to do with it; but as tax payers, we don't like to see property go down the drain. Whatever you do, we would appreciate your consideration for us, we have had some things proposed in the last two years that scared us.

GEORGE SWAN, School Board--School District 7 has suffered economic dispersion. The closing of the center caused the loss of 80 - 90 jobs and 40 students. The expense of running the school for 100 students is as much as for 150, only the income is less. We must broaden our tax base.

LARRY CLARK, Student Body President, TB High School--The funds for extra-cirricular activities have been lowered and I would encourage the sale so that more families may be brought in.

JEMIMA COOK, Mayor, Twin Bridges--She elaborated on what occupations were helped by the presence of the center--library, law enforcement, sewage disposal, etc. "The business in the town has always been affected by the center. The jobs are not there anymore. You must allow the state to utilize these buildings, but we don't want to tie your hands."

FAWN KAIGHN, Student, TB High School--She explained that the loss of the center had been a drain on the school, and the use of the center grounds would benefit the school.

JAMES KACTZ, Mayor, Sheridan, Montana--I recommend DO PASS. I feel that all other avenues should be checked thoroughly. I know that there are two bills that address this problem, and these should be looked at.

NUMEROUS OTHER RESIDENTS STOOD IN GENERAL SUPPORT, REFER TO THE WITNESS STATEMENTS FOR THEIR NAMES.

OPPONENTS

BOB DURKEE, VFW, Helena--We don't oppose the people of Twin Bridges; we are here to speak on a proposal. We are hoping to create a Veterans' Domiciliary and Nursing Home. The federal government would supply 65% of the funds needed to bring it up to codes. The reason we don't think this is prudent at this time is that we need land for the domiciliary. The feds will not participate if there is no land. We feel very strongly that we could open tomorrow and house 30 people. We would conduct it for 90 days on a state level, then the feds would come in with engineers and planners. This would be a 65 - 35 federal-state agreement. In the language of the bill, I am curious--page 1, line 17 says "after consultation with the legislature's interim subcommittee on institutions," - the Supreme Court determined that an interim committee did not speak on behalf of the entire legislature. Maybe this bill would give them that authority. The opportunity should be afforded to private interests to bid.

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AMY ERB, Sheridan, Montana--I don't think it should be sold to an out of state bidder. The people of Montana have lived here, and this should be our concern. The veterans in this state deserve some considerations. We have a lot of senior citizens and I feel we should be for Montana and Montana people. If we are talking about taxpayers' money, we should look to taking care of Montana people. I recommend the Veterans' proposal.

GERKE--I don't want it to appear that we are trying to promote any individual or organization. What we are trying to do is offer another option to Twin Bridges. We have worked with Durkee; but we are not promoting any one individual or organization. As far as working of the bill, all it says is "consultation" with the interim subcommittee. In as much as all these plans are within the institutions department, this will bring the land board around. As far as sale, I don't believe it says we will make special arrangements with anybody. I urge adoption of HB 494.

MULAR--On page 3 of the hand out you gave us, could you explain what is meant by "full market value"? ANTHONY--We found that the existing laws stated that the land that the institution sits on had to be sold in 5 acre lots and blocks. We had to find out the appraised price before we could sell or lease. We asked the Department of Administration to do this. The appraisal technique has sanction. They had the old inventory to work with. MULAR--What technique are you referring to? ANTHONY--I don't know enough to say what technique, just that we were told that it was required. LOHN--The original appraisal was based upon the replacement costs. In other words, what it would bring if you sold to another buyer. We found that the figure was a lot higher than anyone who had an alternative use wanted to pay. The standard here is simple - whatever terms are in the best interest of the state. MULAR--In line 17 of the bill--would you define "consultation"? LOHN--The sale by the Land Board must be in the state's best interest. The committee may, or may not, recommend. The state land board has the last word. It is the only way we can sell a piece of this size without breaking it into 5 acre parcels. MULAR--There is an economic impact, and have you investigated this corporation to see if they are solvent? GERKE--No, we are not in the business of selling land. If the state sees fit, and if it comes under the present rules and regulations. MULAR--Would there be a revision right on the property? ANTHONY--We have done some investigation through Dunn & Bradstreet. The corporation appears to be very solvent. It appears that any contract that the state enters into would have provisions in the agreement that the institution be maintained in a particular manner, and provide for failure of such agreement. KROPP--I have a question with the title. Are we here to decide whether the state can sell this, or who is going to get it? LOHN--This is simply enabling legislation. Today will not decide what will be done. If the committee has further questions, the Director of State Lands has come in. MULAR--We gave State Lands the authority to sell. Why do you need this legislation?

LEO BARRY, Director, State Lands--Our statutes are presently designed for grazing lands. They aren't able to handle buildings, etc. There are provisions which require that we subdivide blocks within 5 miles of a city. Generally, the present provisions are not designed to sell these types of facilities. MULAR--So this is designed to sell appurtenances? BARRY--When you sell land, you can sell appurtenances. But the present statutes don't cover institutions--either the buildings or the grounds. If there was an attempt by the legislature to administer the property, there would be a problem. I don't want to be the one to decide what to do with it. The consultation clause was put in specifically to prevent me from having the last word. GERKE--One of the people who testified, mentioned what sorts of things have been damaged, but we appropriated \$250,000, and that didn't solve it. More will have to come this year plus some people; so it will mean a supplemental appropriation.

BRAND-How did we acquire the land at Twin Bridges? BARRY-Part was granted to the state by a woman in the area, and the rest was purchased. As I recall, it was granted for care of indigent children. BRAND-Could this bill include that granted land? BARRY-When the purpose for which the grant applies no longer exists, then the state can sell it. BRAND-Who decides the purpose? BARRY-The legislature did when they closed the center. MULAR-Is there no revision clause in the grant? BARRY-No.

HB 549-Rep. Seifert, sponsor--As the title reads, it prohibits any state agency from hiring out of state attorneys. The aim is to protect the taxpayers from paying out of state attorneys. In Workmens' Compensation, the state has paid over \$100,000 in legal fees. DNR hired a Portland firm to represent them in the Colstrip hearings--which took \$280,000 out of the state treasury, and as I understand it, they still have outstanding bills. When we have between 1400 and 1600 attorneys in the state, I see no reason to go out of state. The Attorney General has demonstrated that there are competent attorneys here. Not one of these non-resident attorneys has remained in the state. This doesn't preclude attorneys who intend to move here. If you consider this, I would like to strike "certain" from line 5 of the title.

OPPONENTS

GREG MORGAN, State Bar Association--The Bar Asso. feels this is an inappropriate method for this. There are times when it is in the best interest of the state to hire out of state attorneys. This bill affects young attorneys coming in and taking the bar exam--they would be unable to work because of this. So, with mixed emotions I recommend DO NOT PASS on the basis of a possible violation of the constitutional right to travel.

STEPHEN VEAZIE, Attorney--I graduated from an out of state law school, and if this had been in effect, I couldn't have practiced here. I have no objections to the examples cited, but this prevents people from coming in.

O'CONNELL-Is it necessary to have that phrase "for one year" - isn't passing the bar enough? This would prevent anyone from coming in. SEIFERT-I would have no objection to an amendment to address this. MORGAN-The Supreme Court presently has a residency requirement of 6 months. I went out of state to school and stayed out of state for a few years. I worked in a federal job and had to work for 6 months - so such an amendment wouldn't be enough. Passing the bar wouldn't help, because they wouldn't be admitted for 6 months. The Constitution does provide for the admission to the bar, but I don't see any conflict with the state constitution. The right to travel in the federal constitution could be challenged. RYAN-How many lawyers do we turn out? MORGAN-MU has 75 freshmen a year, so 60 - 75 graduates each year. RYAN-Does the state have any sort of reciprocity agreement with other states? MORGAN-You can Pro Hoc Vece (secretary note - the spelling is probably wrong on that), and associate with a local attorney. As I understand, the people who came for both DNR and the Attorney General were admitted by special ruling of the Supreme Court. It is possible to practice in another state for one case in association with a state firm. RYAN-Are other states as restrictive as this? MORGAN-California has no residency requirements at all. You pass the bar exam, and you can practice. Virginia requires a year prior to taking the exam. D.C. asks 6 months prior to the exam; but I don't think any state has a ruling like this. BARDANOUVE-Is it possible for an attorney to work here without being in the bar? I have in mind the agencies who have attorneys who do research. MORGAN-No. Attorneys that aren't licensed here can practice in federal court. Some of the assistant U.S. attorneys need not have Montana licenses. These

only encompass a few jobs and aren't paid attorneys. It would be uneconomical for an attorney to come in under those conditions. We have a problem where lawyers get admitted to the bar without taking the exam. TURNER-This reciprocity, how many are admitted this way? MORGAN-I only know of one attorney. This deals with the hiring of an attorney by a state agency. Whether the court admits these or the federal government, this would preclude the Attorney General from hiring anyone. BRAND-Aren't some agencies exempt. SEIFERT-No. My intent is to cut down some of our legal costs. I feel we are paying exorbitant legal fees, and I am sure in-state lawyers could do this for less money. BRAND-According to Dick's summary (see attachment #1), the bill doesn't cover much. MORGAN-82-4202.1 is the Administrative Procedures Act.

HB 548-Rep. Barrett, sponsor--In lines 13 and 14, we have changed "may" to "shall". People who reregister, turn 18 would be included automatically. I think we all know that this is needed. With single member districts it is possible for people outside of your district to be voting for you.

JOHN BELL, Association of Clerks and Recorders--In 1937, all were required to reregister. Now, so many people have moved from one district to another that when you have a mailing, the return is sometimes up to 40%. A bill for this in '75 went down so that people who had changed their registration would not be inconvenienced. I have looked at Idaho and Washington, and this is a composite of their laws. This puts some onus on people to notify the clerk and recorder. The second thing is that when they learn someone has moved, the recorder can change the registration; and when he does so, the clerk is obligated to notify the person of this.

HELEN KOVICH, Lewis & Clark County Clerk and Recorder--I think this is necessary so we can get all electors in the right district. I have quite a few house districts that are divided by creeks or highways; and it is helpful that people be placed in the right district.

JO ANN WOODGERD, Deputy Secretary of State--We agree with the change from "may" to "shall". It could be helpful to make people change their address. We would have liked to see a provision to provide that the clerk and recorder may change this by phone. There is nothing in the law now that allows change to be made without the signature of the elector. The provision that the clerk may change this upon learning that the elector has moved is a precedent. We realize this is necessary, but I have amendments.

BARRETT-I think it unfair with single member districts for you to be representing people who don't live there.

O'CONNELL-We can run from any district that we like, so I feel this makes it inconsistent. BARRETT-I'm not taking issue with that, but two wrongs don't make a right. RYAN-What about hospitals, nursing homes, etc., or service men who don't actually reside in the district? BELL-I think you guys are on the wrong track. Residency requires a union of action and intent. You can clear this with the clerk and recorder. I would mention that it costs 84 cents to send out a certified return request. TURNER-If we can register a person, we can certainly allow them to move. MULAR-What about people who have two homes? BELL-You stipulate where your primary place of residency lies. BARDANOUE-If an elector changes his residence, would this be retroactive to those who have already moved, or just who moves from now on? BARRETT-I would say no, because it says if an elector "changed". BRAND-Does this make it more restrictive on the voter or the clerk? BELL-Both ways. However, it

would be retroactive--refer to lines 21 through 25--the recorder would have the responsibility of changing someone who moved 15 years ago. Woodgerd's amendment makes it less restrictive than before. About 40% of the voters are voting in districts where they don't live. WOODGERD--One of the purposes of "shall" or "may" was to allow that if the recorder knows of an intent to keep voting where they had formerly lived "shall" would mean they had no choice to remain in their former district. Anyone who has moved has the right to be notified.

HB 557--Rep. J. Gunderson, sponsor--To begin with, this bill is not directed at Francis. The bill limits membership on the Legislative Council to 6 years. I have always supported the council, and have tried to make it more responsive. Everybody has a pet bill that they want studied, and the Priorities Committee is always made up of the leadership. I felt with a six year term, a senator could serve one and one half terms, and a representative could serve three terms. You need at least one term to get anything done. The members of the legislature feel there's something lacking between the Council and the general body. The purpose of the bill is to try to get a mechanism to make the two bodies closer.

FEDA--Do the six years run concurrently? GUNDERSON--It would be six years total. KROPP--How many years have we had the Council? GUNDERSON--About '61 or '63 - and over the years, there have been various amendments. BRAND--When you are in an interim sub-committee and have hearings, doesn't it still have to go to the Council? GUNDERSON--Yes, but they don't have to approve it. TOWER--You mentioned just two people who had been on for more than six years. GUNDERSON--This is not a problem now. Francis could serve on the Council as long as he wanted to. It would just be good to get some new people on it.

EXECUTIVE SESSION

SB 11--Robbins moved DO PASS, Feda seconded, and the motion carried unanimously.

HB 494--Mular moved DO NOT PASS, Kropp seconded. Bardanouve made a substitute motion of DO PASS, with Kanduch seconding. BRAND--Some of this land is granted, and there is a problem with this; but as long as it isn't used for the purpose intended, there is a difference. This was given by a private individual, whereas the prison was given to the state by the federal government. As far as the Veterans' Domicile and the federal funds, what would be the cost to the state? BARDANOUE--I don't know what the government requires. Most of the facilities are dorms, but the cottages are old and won't be qualified by the feds. So, I couldn't give you a figure. Also, whether it would just be a live-in facility or nursing care - nursing care would be much more expensive. RYAN--If this individual that was mentioned is stupid enough to buy those buildings, I suspect that he has other things in mind. I question whether the money has really been used for maintenance. BARDANOUE--This says that they "may" sell it - if they find a suitable buyer. It isn't mandatory. BRAND--Can we sell land to a low bidder, or would it have to be in the bill that it would go to the highest bidder? BARDANOUE--This is different from state lands. This is trust land, so it isn't covered by the statutes for that.

Bardanouve's substitute motion of DO PASS carried 8 - 7, with Brand, Menahan, Mular, O'Connell, Ryan, Kropp, and Meyer voting no.

HB 548--Feda moved DO PASS. O'Connell made a substitute motion of DO NOT PASS. O'CONNELL--This is extremely inconsistent. When something so restricts the voters,

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I am opposed. MULAR-I have to agree with Helen. We had one bill where the recorders wanted to do away with mailings, and now they want more mailings.

O'Connell's substitute motion passed unanimously, with Lien abstaining.

HB 549-Mular moved DO NOT PASS, with Feda seconding, and the motion passed unanimously.

HB 557-Mular moved DO PASS. Feda made a substitute motion of DO NOT PASS. Bardanouve was excused from voting due to his position in relation to the bill. Lien seconded Feda's substitute motion, and it carried 9 - 5, with Lien, Mular, O'Connell, Kropp, and Meyer voting no.

HB 335-O'Connell moved DO PASS, then proceeded to explain the amendments.

O'CONNELL-This includes all of the state employees, and they can continue to pay out of their former retirement system. BRAND-So the intent isn't changed? O'CONNELL-No.

O'Connell moved adoption of the amendments, and the motion carried unanimously. She then moved AS AMENDED DO PASS, and the motion carried unanimously.

HB 351-Mular moved the new amendments (see committee report), and with Feda seconding, the motion carried unanimously. He then moved AS AMENDED DO PASS, and with Lien seconding, the motion carried unanimously.

HB 512-Feda moved to accept the amendments (see committee report), Meyer seconded, and the motion carried unanimously. Meyer moved AS AMENDED DO PASS, and with Mular seconding, the motion carried unanimously.

MEETING ADJOURNED - 11:50 a.m.

Joe Brand, Chairman

Anita C. Sierke
Anita C. Sierke, Secretary