

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
March 7, 1977

The meeting of this committee was called to order by Senator Turnage, Chairman, at 9:30 a.m. on the above date in Room 442 of the State Capitol Building.

ROLL CALL:

All members of the committee were present except Senator Murray who was excused.

WITNESSES PRESENT TO TESTIFY:

Morris Brusett - Legislative Auditor

Representative Driscoll - District 91, Hamilton

Mike McGrath - Office of the Attorney General

Tom Stoll - Administrator, Inheritance Tax Division, Department of Revenue

Frank Cowan - People's Power League

John Bower - Bozeman, Pres. of local Assn. of Federal Employees

E. C. Coey - Bozeman, Pres. of Montana Senior Citizens Assn.

Ralph C. Henry - Joint Legislative Comm. of MT Retired Persons

CONSIDERATION OF HOUSE BILL 500:

Morris Brusett, Legislative Auditor, said that this bill has been introduced at the request of the Legislative Audit committee.

Rep. Driscoll of Hamilton, sponsor of H.B. 500, said that this bill simply asks that the Attorney General's opinions be over-ruling when they are requested by other state agencies, unless they are overturned by a district court or the Supreme Court.

Mike McGrath of the Attorney General's office said that they support this bill and that the National Association of Attorneys General has recommended this bill. He added that it should also save the state some expense.

DISPOSITION OF HOUSE BILL 500:

Senator Towe moved that H.B. 500 BE CONCURRED IN. The motion carried unanimously.

At this time, Senator Turnage assigned Senator Warden to carry the bill on 2nd Reading.

CONSIDERATION OF HOUSE BILL 492:

Rep. Driscoll, sponsor of this bill, said the purpose of the bill was to address the conflict between two bills previously passed in the 1975 session -- the Yardley and the Romney bills. This bill allows a survivor of a joint tenancy to file with the Dept. of Revenue and then to allow the Dept. of Revenue to send back the ADB. As soon as it is received the applicant can go to the clerk of court and have it transferred. He asked that the attorney

fees be amended down to one percent.

Tom Stoll, administrator of the Inheritance Tax Division, Dept. of Revenue, was the first proponent of H.B. 492. He told the committee that the problems they have run into in administering the present law are primarily with the Internal Revenue Service and that there is a chance that they will shortly challenge the law in the courts on joint tenancy transfers from spouse to spouse. He said that they have tried to solve the problems by making one short form to be filed.

Frank Cowan of the People's Power League said that the league was started by Miles Romney and that he did not know if it would last much longer, but that they had discussed these matters quite thoroughly and about 4 of the 14 organizations were present at a meeting in January. They were unanimous in their support of the proposal of Mr. Stoll. He said that the original Romney bill was designed to make a simple, fast and effective law for settling joint tenancy estates between husbands and wives and that they feel that this is taken care of in H.B. 492. They are in unanimous support of this bill.

Ralph C. Henry of Helena, representing the Joint Legislative Committee of Montana Retired Persons and Teachers, said that they support H.B. 492.

The next proponent was John Bower of Bozeman, president of the local Assn. of Federal Employees, who said that they support this bill because they think it gives the right to settle joint tenancies without attorneys and, also, it will relieve the crowded courts from handling so many probate cases.

An opponent of the bill, A. C. Coey of Bozeman, president of the Montana Senior Citizens Association, testified that the Romney bill was the people's bill and they had put much work into it and believed it to be very good. However, he asked that the committee give them two more years to work on the present law rather than pass H.B. 492 at this time. He thought that, if there were any problems in the present law, that would give them time to iron them out. He said that the People's Power League had not approved H. B. 492 and that, at the meeting previously mentioned, there were only 4 out of 25 or 30 people present. He felt that the present law is working very well. He said that last year he and his wife talked with Bill Groff, director of the Department of Revenue, who said: "It is working too well. There is a force working to repeal it." He told the committee also that 2 years ago Judge Lessley of Bozeman was advocating another judge in the 18th judicial district, but now, since the workload has been lessened by there being less probate cases, Judge Lessley does not want another judge. He said that H.B. 492 is very hard to understand and that he fears it will take people back into court to dissolve joint tenancies.

At this time Representative Driscoll was allowed to close.

He asked that the committee spend a little time on this bill and, if it could be simplified, maybe that would improve it. He said the words "that no person needs an attorney" are not in the Romney bill and perhaps they should be in this bill so that people will not be afraid of it.

Senator Turnage said that he understands the fear about changing it but is sure that basically the Romney bill is being kept.

Senator Roberts, as vice-chairman of this committee, took over at 10:10 a.m. as Senator Turnage had to appear before some House committees on legislation. He excused the witnesses and thanked them at 10:20 a.m..

CONSIDERATION OF HOUSE BILL 46 (resumed from 3/5/77):

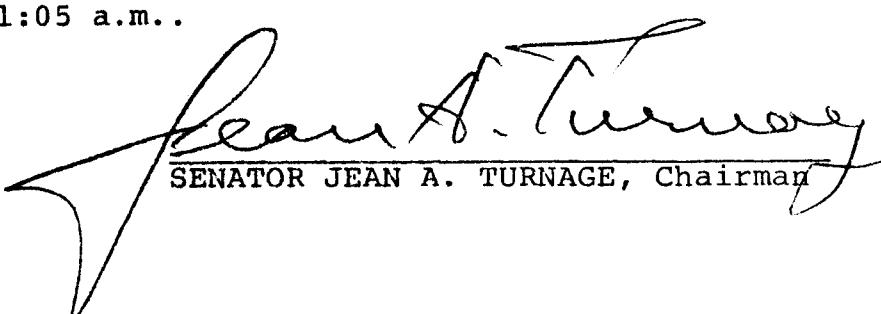
The committee reviewed the two amendments which had been made on Saturday, March 5, 1977. Joan Mayer of the Legislative Council then continued to go over the changes which had been made in the recodification of this bill.

Senator Turnage returned at 10:50 a.m. and resumed his seat as Chairman of the committee, and the committee continued the study of H.B. 46. Joan was authorized to amend page 43, line 6, without objection.

DISPOSITION OF HOUSE BILL 46:

Senator Warden moved that H.B. 46 as amended BE CONCURRED IN. The motion carried unanimously.

There being no further business before the committee at this time, they adjourned at 11:05 a.m..


SENATOR JEAN A. TURNAGE, Chairman

ROLL CALL

JUDICIARY COMMITTEE

45th LEGISLATIVE SESSION - - 1977

Date 3/7/77

FRANK T. COWAN
411 WEST GARFIELD
BOZEMAN, MONTANA 59715

Ex. 1
HB 492

3 - 7 - 77.

To. Senate Judiciary Committee - Senator Jim Turnage, Chairman
Subject. H.B. 492.
From. Frank T Cowan, Acting President
People's Power League.

Subject bill proposes the repeal of sections
91-4321-1, 91-4469 and 91A-3-1205 R.C.M. 1947.

Section 91-4321-1 is more often referred to as
the "Romney Bill," named for its author Senator
Miles Romney and presented to Senate in 1975.
In the main it provided for creation and termination
of joint tenancy estates between husband and
wife without recourse to probate and court
action. It was felt by Mr Romney and his
supporters, particularly members of the People's
Power League which he conceived and directed
as President, that such action was necessary
to protect small estates held in joint tenancy
by husband & wife, from needless delays and
expense of attorney's, court and other fees.

Many times such delays and expenses would
and did place a surviving tenant in the
position of having to liquidate property in
order to clear the estate. Senator Romney's
bill (S.B. 202) was introduced in the 1971 Legislature.

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into law by the Governor in 1975. On the death of Miles Romney I inherited the presidency of Peoples Power League and have acted in that capacity since.

The present House Bill #492 is a combination of the thinking and work of a number of individuals and organizations. On January 11, 1977 I called a meeting of the Power League in Helena at which time a rough draft of the proposal contained in HB. 492 was presented to those members of the P.P.L. in attendance. Unfortunately there were only 4 or 5 of the 14+ organizations represented. However, the information given to me by Mr Stoll Inheritance Tax Division - Bureau of Revenue and Mr Discoll Speaker of the House of Representatives was thoroughly discussed. Several passages taken directly from the "Romney Bill" ^{were} added to those in the proposal and subsequently incorporated therein. The result is HB. 492 which is before you today for consideration. It was the unanimous opinion of those members present at the January 11, 1977 meeting, that the proposal as presented with suggested addition was quite acceptable since all of the provisions of the "Romney Bill" were incorporated.

Later when the first copies of the completed bill were available, copies were sent to all members of the Executive Committee of Peoples Power League

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I received little response from that mailing which I interpreted as acceptance of the bill as presented. This feeling was further enhanced by the large attendance of proponents of the bill at the Judiciary Committee hearing in the House of Representatives. There were in fact no opponents present.

Therefore, Ladies & Gentlemen of this great Committee; on behalf of the Peoples Power League I humbly request that you give favorable consideration to H.B. #492 in as near its present form as possible and allow it to come before the Montana Senate with a "do pass" recommendation.

My sincere thanks for allowing me to present to you, what I sincerely believe to be the majority opinion of Peoples Power League concerning H.B. #492.

Frank T. Cowan
Acting President P.P.L.

3/7/79 ⁶ Sept. 2
HB 492

Mr. Chairman & Members of the Committee:

I am John Bower, president of the Bozeman Chapter of the National Association of Retired Federal Employees. I am also Chairman of the legislative committee for State Federation of the above mentioned association which has nine chapters in Montana.

I have been instructed to encourage the passage of House Bill 492 because it:

1. Permits surviving joint tenants the opportunity to settle an estate without involving Court & legal costs
2. It will relieve our overburdened Courts of the need to handle many probate cases.
3. It does not prevent anyone from utilizing legal help and the Courts if they desire to do so.

Thank you for the opportunity to consider this bill with you.

Testimony of E.C. Clegg from
Chairman Representing Montana
Senior Citizens Ass. of District

No. 9 - Ballotin Park & Meagher Counties
before the Senate Judiciary Committee March

No. 442 Helena Mt. March 7 1977

Mr. Chairman and members of the committee:
I am here to testify against the passage
of H.B. No. 492 for the following reasons:

I^{It} provides for the repeal of Section
91-4321.1 R.C.M. 1975. This law is a people's
law. More citizen time was put into
this law than most any other law on
our R.C.M. It was the result of two
years work of a volunteer committee
of 25^{people}. In 1975 it was introduced
as S.B. 223. It was sponsored by
forty-six senators. See attached copy
of the bill.

(2)

II last year was our second year. We
held several town meetings for the
purpose of interesting ~~the~~ people
in our government and why they should
be involved. We were very involved
in the passage of this bill which
became law - July 1, 1975

III This law is working very well. Last
June my wife and I visited Bill
Growth in his office to inquire of him
how this law ^{is working} and he said "It is
working to ~~well~~ well. There is a force
working to amend it or repeal it."
Several times during the past year
I have asked our clerk ~~and~~ and recorder
Parl Stuckey, how this law is working
and each time he said, "No problems
in my office."

(3)

I Two years ago Judge Lockley of the 18th Judicial District was advocating for another judge for this district. This year she has stated the we do not need another judge in this district. We can handle the load. Our people's law has evidently reduced the work load in our district courts.

II Our law 91-4321.1 makes it too easy and convenient for a ~~widow~~ ^{widow} spouse to transfer property held in joint tenancy. It is very hard to understand where as the original house bill No. 492 is very difficult to understand. We fear that this bill will take us ~~far~~ back into court action to ^{decide} settle a joint tenancy ~~estate~~ between spouses.

(3)

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I think

VI This reason why section 91-4321-1
H.D.M. should not be repealed will really hurt
your hair. I visited with a moisture
~~lawyer~~ in Bozeman about section
91-4321-1 ~~about~~ a month ago. Here
is what he said about it. "This law is
no good, it is not a lawyer's law"
Of course it is not a lawyer's law,
it is a people's law. If a
serious problem arises it should
stay on our law books. We should have
more people's ^{laws} and fewer ^{lawyers} laws.

VI Finally we who wrote this law beg you
to give us more time to consider
any problems that has arisen in
the administration of ~~the~~ law. We will
report back to you at the next
session of the legislature. ~~Please~~

(5)

Please note that there ^{are} two places
in HB 492 that calls for the repeal
of our peoples law 91-4321-1, viz;
line 7 page one and on line
eight page 5. Our ~~representatives~~ want
S.B. No. ⁴⁹² to make doubly sure our law is
repealed.

Thank you

L.C. Coey

~~Director~~

Board member

Montana Senior Citizens

Bozeman, Montana.

SENATE

COMMITTEE

BILL 102

VISITORS' REGISTER

DATE

Please note bill no.

(check one)

SENATE

COMMITTEE

BILL HB 492

VISITORS' REGISTER

DATE

Please note bill no.

EE Bill No.:
(check one)

SUPPORT | OPPOSE

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY