

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
March 8, 1977

The meeting of this committee was called to order by Senator Turnage, Chairman, on the above date at 9:40 a.m. in Room 415 of the State Capitol Building.

ROLL CALL:

All members of the committee were present except Senator Murray who was excused. Also, Senators Turnage and Towe were excused at 10:00 a.m. to attend meetings in the House.

WITNESSES PRESENT TO TESTIFY:

Rep. Menahan - District 90, Anaconda
Tom Dowling - Sheriff's Assn. and County Attorney's Assn.
James R. Burns - Montana Sheriff's Assn.
Larry Huss - Montana Contractor's Assn.
Robert Holding - Montana Wood Products Assn.
Ross Cannon - Montana Savings & Loan Assn.
Rep. Gilligan - District 38, Great Falls
Rep. Meloy - District 29, Helena
Cliff Christian - Montana Board of Realtors

CONSIDERATION OF HOUSE BILL 177:

Representative Menahan of Anaconda, sponsor of this bill, had Tom Dowling who represents the Montana Sheriff's Assn. and the County Attorney's Assn. explain the bill to the committee. Mr. Dowling said that this was piece of legislation that had been killed by the Senate Judiciary Committee in the 1975 session, and that it is simply an act to amend and limit the liability of sheriff's when holding property which has been seized.

Jim Burns, Cascade County Deputy Sheriff and vice-president of the Montana Sheriff's Assn., was the next proponent to testify. He said that they feel that it is unfair when a sheriff is held liable for property he is holding although he has no interest in it.

Tom Dowling told the committee that the intent of the legislation is to relieve the sheriffs of the liability for property being held by them because the moving party is the one who should be held liable. He then offered to prepare an amendment for the committee's consideration that would make the moving party responsible for any costs incurred. Senator Towe suggested that the moving party have to put up a bond. The Chairman accepted Mr. Dowling's offer to prepare an amendment.

CONSIDERATION OF HOUSE BILL 513:

Rep. Gilligan of Cascade County, sponsor of this bill, said that it adds a new subsection for a felon apprehended carrying a concealed weapon.

Tom Dowling explained that carrying a concealed weapon should be an offense anywhere.

At this time, Senator Roberts assumed the chair since Senator Turnage had to attend a House meeting. Senator Towe was excused also to attend a House meeting.

CONSIDERATION OF HOUSE BILL 456:

Rep. Meloy, sponsor of this bill, was delayed so Larry Huss who represents the Montana Contractor's Assn. explained the bill to the committee. He said that it simply requires simultaneous notice to the owner of a property at the time a lien is filed on his property. There is also a requirement that this must be filed with the Clerk of Court.

Robert Holding, representing the Montana Wood Products Assn., agreed with the comments made by Mr. Huss.

Cliff Christian, Montana Board of Realtors, appeared as a proponent of the bill.

Ross Cannon, representing the Montana Savings & Loan Assns., said that he had a simple amendment to offer and which he distributed to the committee. The amendment would require that notice be given also to prior mortgagees.

Larry Huss asked permission of Chairman Roberts to answer to the proposed amendment. He said that it is not really simple because it will require a title search to be made and this will be an extra cost and needless expense. He said the amendment is to all intents worthless.

The Chairman asked Ross Cannon to reply to Mr. Huss's statements. Mr. Cannon agreed that the position of a lien would not be altered by this title search, but said that the savings and loan associations should be notified so that they would know about a lien before final settlement of an account was made by them. He said that this shifts the burden from them having to check the records.

Mr. Huss said a laborer would be put in a bind if he had to check the records; that this is an effort to speed up building and that the amendment would slow things down; and that the only different thing is that this would require a mailed notice. He also said that this bill would expedite the payment of contractors by the owner.

Rep. Meloy, sponsor of the bill who had been delayed in the House, appeared and Chairman Roberts allowed him to testify on his bill. He looked over the proposed amendment and said that he did not believe it is needed. He said that the bill had been designed to give an owner of property a notice of a lien on his property.

CONSIDERATION OF HOUSE BILL 43:

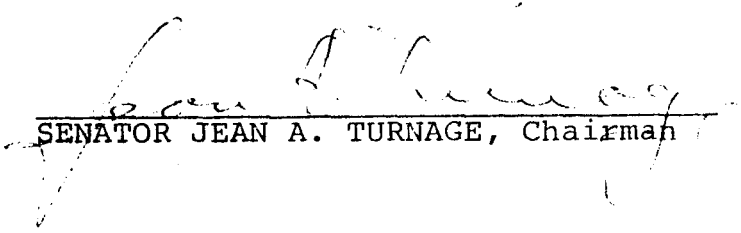
Chairman Roberts placed H.B. 43 before the committee for their further consideration as it had been considered on Saturday, March 5th, and had not been completed. Joan Mayer, the committee researcher and an attorney from the Legislative Council, had been requested by the Chairman and Senator Towe to check on several sections of the bill, including the repealer section. She reported on these to the committee.

Senator Warden told the committee that she had talked to Joan Woodgerd of the Secretary of State's office and Rosie Weber of the Legislative Council on the distribution of the Journals and the State Reports. She said that they would sooner have this bill go through as is and put in a bill next session to correct the situation of the disbursement of copies of these items.

Senator Warden then moved that H.B. 43 as amended BE CONCURRED IN. The motion carried unanimously.

The Chairman, Senator Turnage, assigned the carrying of House Bills 43 and 46 to Senator Warden.

There being no further business, the committee adjourned at 10:40 a.m..



SENATOR JEAN A. TURNAGE, Chairman

