

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
March 17, 1977

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

ROLL CALL:

All members were present except Sen. Roberts who was excused to attend another meeting.

WITNESSES PRESENT TO TESTIFY:

Rep. George Johnston - District 13, Cut Bank
Clem Duaime - Silver Bow Volunteer Firemen's Council
Rep. Kimble - Missoula, District 94
Linda Sandman - Womens Political Caucus
Rep. Huennekens - Billings, District 68
Greg Morgan - Montana Bar Assn.
Rep. Dussault - District 95, Missoula
Rep. Mike Cooney - Butte, District 83
Lynna Scott - Helena Women's Center RAR
Rick Coonen - Montana County Attorneys Assn.

CONSIDERATION OF HOUSE JOINT RESOLUTION 7:

Rep. George Johnston of Cut Bank, sponsor of the resolution had Clem Duaime of the Silver Bow Volunteer Firemen's Council explain it to the committee. He said that permits to burn are given by the sheriff's office. Nobody in the fire department is notified of the burn. He asked that the fire departments be given notice of burns, and urged that this resolution be passed.

Sen. Towe moved to reconsider the former committee action on HJR 7. The motion carried unanimously. He then moved to strike "approval" on line 17 and insert "notification" and to also do the same in the title, line 9. The motion carried unanimously. He next moved that HJR 7 as amended BE CONCURRED IN. The motion carried unanimously.

CONSIDERATION OF HOUSE BILL 472:

Rep. Gary Kimble of Missoula, sponsor of this bill, said that any woman may restore her maiden name upon request, under this bill, after a marriage is dissolved, and not have to go to court to change her name as at present.

Proponent, Linda Sandman, representing the Montana Women's Political Caucus, said they support HB 472.

There were no other proponents or opponents present on this bill.

DISPOSITION OF HOUSE BILL 472:

Sen. Regan moved that HB 472 BE CONCURRED IN. The motion carried unanimously. Sen. Regan volunteered to carry HB 472 on 2nd Reading.

CONSIDERATION OF HOUSE BILL 567:

Rep. Huennekens of Billings, sponsor of this bill, told the committee that this bill proposes to amend the constitution and to take control by the Supreme Court over the bar and give it to the legislature. He further said that he is opposed to the Supreme Court's decision that correspondent school graduates or law readers could not take the Montana bar examination. There is a concentration of power in the legal profession, perhaps more even than in the American Medical or Montana Medical Associations. In the minds of the public this whole business of the judiciary and the bar is a closed circle. He proposed that we need this new type of input into the legal profession and the Montana bar. He said he thought that the constitution gave away power that should be still in the legislature and submitted that people who come out of these correspondence schools and pass the bar examination are just as good as graduates of law schools. There are very few people who actually pass the bar exam because it is a very tough exam. The correspondence route allows a person who would like to be an attorney later on in life to study and become one. The legislature will listen to the attorneys on a matter of law. Law school does not necessarily make attorneys capable to practice law.

At this time, Rep. Huennekens said that he would like the opportunity to rebut testimony by opponents.

There were no other proponents of the bill present.

The first opponent to testify was Greg Morgan, representing the Montana Bar Assn., who said that the 1972 Constitution went through this subject thoroughly and decided who was to practice law in Montana. The Supreme Court, he said, is the final authority in Montana for every legal question. Further, if he believed that the Supreme Court was not better than the legislature, he would not want to be a member of the Montana bar. He told the committee that the question here is who is the best to decide who should be put out in the public trust.

Rep. Huennekens was allowed to rebut these statements. He said that we may have heard a statement to the effect that law is too important a matter to be left to the lawyers and that he thinks that is so. Also, he thinks that the legislature, which does set the authority for all other provisions, is the group of people who make the decisions. The person who goes through law school does not have to have the "grit" that a person who pushes himself to study law has to have. Therefore, they will make better lawyers. He is proposing a system here that will help our judiciary and state.

At this time, the Chairman allowed committee members to ask questions. Rep. Hunnenkens said he was amiable to any amendments the committee thought necessary to make the bill work.

CONSIDERATION OF HOUSE BILL 411:

Rep. Dussault of Missoula, District 95, sponsor of this bill, said that it is a bill which deals with the person who is developmentally disabled and lacks the fitness to be charged in court. A person who is developmentally disabled usually cannot regain fitness to proceed in court. If the developmentally disabled person commits a crime, the person must be given care and treatment under the commitment law.

At this time, Rep. Dussault answered questions by committee members, as there were no witnesses present.

CONSIDERATION OF HOUSE BILL 363:

Rep. Mike Cooney of Butte, sponsor of this bill, said that it authorizes the use of videotape equipment in a rape case. The reason for this is to spare the victim the humiliation of testifying about these things before curious spectators. This bill hopefully will make victims more willing to testify.

The first proponent to testify was Lynna Scott of the Helena Women's Center RAR who said that rape victims are practically always unwilling to report the crime. They are reluctant to have to go through testimony before the whole world. This organization supports HB 363.

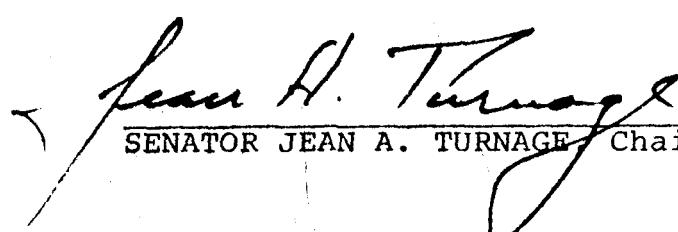
The next proponent was Linda Sandman of the Women's Political Caucus who said that they solidly support this bill.

Rick Coonen, representing the Montana County Attorneys Assn., said all of the members of this association believe that this bill would sensitize the criminal justice system to the needs of the victim and, thus, they support the bill.

There were no opponents to the bill.

Rep. Cooney proposed an amendment to help clarify the bill which was to amend page 1, section 1, line 17, following "evidence." by inserting "The victim need not be physically present in the courtroom when the videotape is admitted into evidence." The hearing was closed.

There being no further business, the committee adjourned at 11:10 a.m..


SENATOR JEAN A. TURNAGE Chairman

ROLL CALL

JUDICIARY COMMITTEE

45th LEGISLATIVE SESSION - - 1977

Date 3/17/17