

JUDICIARY COMMITTEE
EXECUTIVE SESSION
January 24, 1979

Following the regular meeting the committee went into executive session and took action on the following bills. The meeting was called to order by Chairman Scully at 9:00 a.m. in Room 436 on Wednesday, January 24, 1979. All members were present.

HOUSE BILL NO. 148:

Representative Keyser reported to the full committee the findings of the sub-committee and offered their recommendation. (copy attached) Representative Keyser moved the adoption of the committee recommendation and the motion carried with the vote unanimous.

Representative Keyser moved to table the bill, and Larry Weinburg will prepare a committee bill. The motion carried with the vote unanimous.

SENATE BILL NO. 4:

Mr. Weinburg reported to the committee on research he had been doing. The history did not give much information. He proposed a series of amendments.

Representative Kemmis moved to strike "satisfaction" and insert "discharge and release" wherever it appeared in the bill. The motion carried with the vote unanimous.

Representative Kemmis moved "be concurred in as amended". The motion carried with the vote unanimous. Representative Kemmis moved to place the bill on the consent calendar. The motion carried since the vote was unanimous. The bill will go to the consent calendar.

HOUSE BILL NO. 184:

Representative Kemmis reminded the committee that this was the bill that revises the criminal procedure, both search a person and seize a person, which wording bothered him a great deal. He moved several clean-up amendments wherever the words "persons to be seized" appeared. The motion carried with the vote unanimous.

Representative Iverson moved "do pass as amended" and the motion carried with the vote unanimous. Representative Kemmis moved to place the bill on the consent calendar. The motion carried with the vote unanimous. It will go to the consent calendar.

HOUSE BILL NO. 194:

Mr. Weinberg reported on his investigation of affinity (about the 1st degree). Representative Scully explained about the relationships as determined in sub-section (2). It was suggested that on page 8, the section be repealed starting on line 18 and renumber. Representative Keyser moved this amendment and the motion carried with the vote unanimous.

Also on page 3, lines 9 and 10, to strike and renumber. This motion also passed with the vote unanimous, as moved by Representative Keyser.

Representative Lory moved "do pass as amended" and the motion carried with the vote unanimous. Representative Kemmis moved to place the bill on the consent calendar. The motion carried with the vote unanimous. The bill will go to the consent calendar.

HOUSE BILL NO. 203: It was noted that the sheet of new amendments presented would supersede the earlier ones. Representative Anderson moved the adoption of the amendments. The motion carried with the vote unanimous after Larry explained them and following discussion.

Representative Anderson moved "do pass as amended" and the motion carried with the vote unanimous.

HOUSE BILL NO. 223: Representative Keyser questioned page 3, line 15, the California statute was discussed offered an amendment but then withdrew it.

Representative Keedy moved an amendment on page 3, line 15, to strike "cut". Representatives Uhde and Anderson talked in support of the amendment. After some further discussion the question was called and the roll call vote of 12 to 7 carried.

Yes: Anderson
Curtiss
Day
Holmes
Keedy
Kemmis
Uhde

No: Conroy
Daily
Eudaily
Iverson
Keyser
Lory
Pavaovich
Rosenthal
Roth
Seifert
Teague
Scully

Representative Kemmis offered an amendment on page 3, line 19, following "employee" insert "or other telephone company official. The amendments presented by the telephone company were moved and carried with the vote unanimous.

Representative Lory moved "do pass as amended" and the motion carried with the vote unanimous.

HOUSE BILL NO. 225: Representative Scully read a letter from Tom Honzel (copy attached). Representative Conroy moved the stockgrowers amendments be adopted. Representative Day moved a substitute motion on line 12 insert

"after 48 hours notice of the alleged trespass". The motion was defeated with a roll call vote.

Yes: Anderson
Conroy
Curtiss
Holmes
Kemmis
Pavlovich
Rosenthal
Roth
Teague

No: Day
Eudaily
Iverson
Keedy
Keyser
Lory
Seifert
Uhde
Scully

Representative Daily was absent and did not vote. He returned later in the meeting.

The motion now reverted back and this vote also failed. The amendments by the Stockgrowers Association will not be adopted.

Representative Conroy moved "do pass". The motion carried with Representatives Roth, Day, Holmes, Kemmis and Seifert voting "no".

HOUSE BILL NO. 226:

Representative Conroy moved "do pass" and Representative Kemmis moved to amend line 12, strike "other than the county attorney" and insert "the count attorney may not be appointed for this purpose." Representative Keedy moved to add "and the deputy county attorneys". The substitute motion failed.

Representative Keedy moved to reconsider the previous action on the amendment and spoke on the motion after the motion carried with Representatives Day and Lory voting "no". The motion again failed, thus the original motion is back on the table. The question was called and the motion carried with Representatives Kemmis and Eudaily voting "no". Mr. Weinberg suggested that an amendment was needed to fix the title. Representative Conroy moved the amendment and the motion carried with the vote unanimous.

Representative Conroy moved "do pass as amended". The motion carried with Representatives Kemmis and Eudaily voting "no". It was noted that lines 15 and 16 on page 2 needed to be amended. It was so moved and carried.

HOUSE BILL NO. 229:

Representative Conroy moved "do pass" and Representative Scully commented.

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that in his opinion the bill is unconstitutional. Representatives Keedy and Kemmis stated that the bill would not do what was wanted.

Representative Keedy offered a substitute motion "do not pass". The motion failed. The motion then reverted back "do pass". The motion carried with a roll call vote of 12 to 7.

Yes: Anderson
Conroy
Curtiss
Daily
Holmes
Iverson
Keedy
Keyser
Pavlovich
Seifert
Uhde
Teague

No: Day
Eudaily
Kemmis
Lory
Rosenthal
Roth
Scully

SENATE BILL NO. 63:

unanimous.

Representative Lory moved "be concurred in". The motion carried with the vote

HOUSE BILL NO. 238:

On page 2, line 23. Representative Eudaily moved the amendment and the motion carried with the vote unanimous.

Mr. Weinberg offered a small clean-up amendment for the committee to consider.

Representative Uhde moved on page 2, line 20, to strike "6%" and insert "11%". Representative Lory explained how the amendment would be ineffective because of the wording in an existing law. Representative Uhde then changed his amendment to "the current statutory amount". The motion carried with the vote unanimous.

Representative Scully suggested that the Department be directed to send a statement of intent to the committee. Mr. Weinberg will do so, and discussion and it was agreed by the committee members.

Representative Keyser moved to "pass for the day". The motion carried with the vote unanimous.

HOUSE BILL NO. 242:

Representative Eudaily moved "do pass" and the motion carried with the vote unanimous. Mr. Weinberg has amendments that were overlooked so the bill will be held for reconsideration.

HOUSE BILL NO. 250:

Representative Keyser moved "do pass" and the motion carried with the vote

unanimous.

HOUSE BILL NO. 270:

Representative Kemmis moved "do pass", Representative moved to amend line 12

strike "may" and insert "shall". Representative Kemmis moved a substitute motion strike "may be" and insert "is". The substitute motion carried with the vote unanimous.

Representative Kemmis moved "do pass as amended" and the motion carried with the vote unanimous. Representative Kemmis moved to place the bill on the consent calendar. Representative Seifert voted "no". The bill will not go to the consent calendar.

SENATE BILL NO. 33:

Representative Lory moved "be concurred in" and the motion carried with the

vote unanimous. Representative Day moved to place the bill on the consent calendar and the motion carried with the vote unanimous.

SENATE BILL NO. 41:

Representative Daily moved "be concurred in" and the motion carried with the

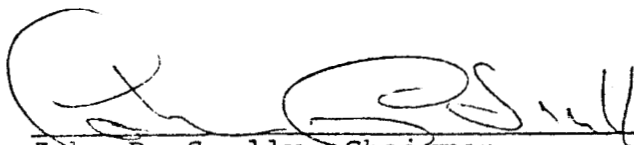
vote unanimous. Representative Lory moved to place the bill on the consent calendar. The motion carried with the vote unanimous and the bill will go to the consent calendar.

SENATE BILL NO. 56:

Representative Keyser moved "be concurred in" and the motion carried with the

vote unanimous. Representative Keedy moved to place the bill on the consent calendar. Representative Keedy voted "no" and the bill will not go to the consent calendar.

The meeting adjourned at 10:55 a.m.



John P. Scully, Chairman

STANDING COMMITTEE REPORT

January 24,

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SPEAKER:

We, your committee on Judiciary

SENATE

Bill No. 4

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO MORTGAGES, PLEDGES, AND LIENS; AMENDING SECTIONS 71-1-213, 71-1-229, 71-3-401, 71-3-1003, AND 71-3-1201, MCA; AND REPEALING SECTIONS ~~16-2101~~-THROUGH-~~16-2104~~, 45-1112, 45-1113, AND 52-111, ~~ANS-52-213~~, R.C.M. 1947."

Respectfully report as follows: That We unanimously recommend that SENATE Bill No. 4

Third reading copy, be amended as follows:

1. Page 2, line 14.

Following: "may"

Strike: "satisfy"

Insert: "discharge or release"

2. Page 2, line 16.

Following: line 15

Strike: "satisfaction"

Insert: "discharge or release"

3. Page 2, line 22.

Following: "with the"

Strike: "satisfaction"

Insert: "discharge or release"

(Continued)

Chairman

SENATE BILL NO. 4
Page 2

4. Page 2, line 24.

Following: "the"

Strike: "satisfaction"

Insert: "discharge or release"

5. Page 2, line 25.

Following: "was"

Strike: "satisfied"

Insert: "discharged or released"

6. Page 4, line 5.

Following: "months for"

Strike: "1 horse, 2"

Insert: "2 horses, 8"

7. Page 4, line 6.

Following: "calves,"

Strike: "4"

Insert: "12"

Following: "hogs, and"

Strike: "50"

Insert: "100"

Following: "fowls,"

Insert: "; 1 lamb, 2 turtle doves, and a partridge in a pear tree;

AND AS AMENDED BE CONCURRED IN

A motion was made and passed unanimously to place
SENATE BILL NO. 4 on the CONSENT CALENDAR.

STANDING COMMITTEE REPORT

January 24, 1919

MR. SPEAKER:

We, your committee on JUDICIARY

having had under consideration HOUSE Bill No. 184

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
CLARIFY THE LAWS RELATING TO CRIMINAL PROCEDURE; AND
REPEALING SECTIONS 95-1709 AND 95-2010, R.C.M. 1947."

Respectfully report as follows: That ~~We~~ we ~~unanimously recommend that~~ HOUSE Bill No. 184

Introduced copy, be amended as follows:

1. Page 2, line 3.
Following: line 2
Insert: "or"
Following: "things"
Strike: ", or persons"
2. Page 2, line 5.
Strike: "persons or"
Strike: "them or"
3. Page 2, line 17.
Strike: "or persons"

AND AS AMENDED
DO PASS

A motion was made and passed unanimously to
place HOUSE BILL NO. 184 on the CONSENT CALENDAR.

STANDING COMMITTEE REPORT

January 24,

MR. **SPEAKER:**

We, your committee on **JUDICIARY**

having had under consideration **HOUSE**

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVERSE LAWS IN TITLE 1, MCA, COMPOSED OF GENERAL LAWS AND DEFINITIONS; REPEALING SECTIONS 12-212 AND 93-1101-1, 1947; AND REPEALING SECTIONS 1-5-501 THROUGH 1-5-507, MCA

Respectfully report as follows: That We unanimously recommend that **HOUSE** Bill No.

Introduced copy, be amended as follows:

1. Page 3, lines 9 and 10.
Following: line 8
Strike: lines 9 and 10 in their entirety
Renumber: subsequent subsections
2. Page 8, line 18 through line 7, page 9.
Strike: section 10 in its entirety
Renumber: all subsequent sections

AND AS AMENDED
DO PASS

A motion was made and passed unanimously to place HOUSE BILL NO. 194 on the CONSENT

STANDING COMMITTEE REPORT

January 24, 1979

MR. **SPEAKER:**

We, your committee on **JUDICIARY**

having had under consideration **HOUSE** Bill No. **203**

**A BILL FOR AN ACT ENTITLED: "AN ACT TO ADOPT THE REVISED
UNIFORM ENFORCEMENT OF FOREIGN JUDGMENTS ACT."**

Respectfully report as follows: That **HOUSE** Bill No. **203**

Introduced copy, be amended as follows:

1. Title, line 5.

Following: "ACT"

Insert: "; AMENDING SECTION 26-3-203, MCA"

2. Page 2.

Following: line 20

Insert: "SECTION 6. THERE IS A NEW MCA SECTION THAT READS:

When execution may be issued. No execution or other process
for enforcement of a foreign judgment filed under (sections
1 through 8) may be issued until 20 days after the date
the judgment is filed."

Renumber: all subsequent sections

~~XXXXXX~~ (Continued)

HOUSE BILL NO. 203

Page 2

3. Page 3.

Following: line 15

Insert: "SECTION 9. SECTION 26-3-203, MC,

"26-3-203. Effect of judicial record of another
effect of a judicial record of a sister state is
state as in the state where it was made, except that
be enforced here by an action or special proceeding
in (sections 1 through 8) and except that the powers of a
guardian or committee or of an executor or administrator
extend beyond the jurisdiction of the government
invested with his authority."

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HB 223

Previously designated

2. Page 3, line 15.

Following: "employee"

Insert: "or other telephone company official to arrange"

3. Page 3, line 19.

Following: "officer."

Insert: "The serving . telephone company within the geographical area of a law enforcement agency shall designate a telephone company security employee or other telephone company official and an alternate to provide all required assistance to law enforcement officials to carry out the purposes of this subsection

Following: "A telephone security employee"

Insert: "or other telephone company official"

ENDED
CLASS

January 24

SPEAKER:

MR.

Judiciary

We, your committee on

having had under consideration HOUSE

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING INFORMAL
CONTESTED CASE PROCEEDINGS; PROVIDING FOR JOINT WAIVING OF
FORMAL PROCEEDINGS; PROVIDING FOR JOINT WAIVING OF
ADMINISTRATIVE PROCEEDINGS; RESTRICTING MODIFICATION BY THE
AGENCY OF THE PROPOSAL FOR DECISION; AND AMENDING SECTIONS
2-4-601, 2-4-603, AND 2-4-621, MCA."

Respectfully report as follows: That HOUSE

Introduced copy, be amended as follows:

1. Page 3, lines 8 through 11.

Following: "examiner"

Strike: remainder of subsection (1) (a) in its entirety

Insert: ":

2. Page 3.

Following: line 11

Insert: "(i) written or oral evidence in opposition to
agency's action or refusal to act;
(ii) a written statement challenging the grounds
upon which the agency has chosen to justify its
action or inaction; or
(iii) other written or oral evidence relating to
the contested case;"

AND AS AMENDED

DO PASS

SPEAKER:

MR.

JUDICIARY

We, your committee on

having had under consideration HOUSE..... Bill No. 226.....

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT THE
COUNTY ATTORNEY MAY NOT BE APPOINTED COUNSEL FOR A MINOR IN
DIVORCE OR GUARDIANSHIP PROCEEDINGS; AMENDING SECTIONS
40-4-205 AND 72-5-225, MCA."

Respectfully report as follows: That..... HOUSE.. Bill No. 226..

Introduced copy, be amended as follows:

1. Title, line 5.

Following: ATTORNEY

Insert: "OR DEPUTY COUNTY ATTORNEYS"

2. Page 1, line 12,

Strike: "other than the county attorney"

3. Page 1, line 14.

Following: "visitation."

Insert: "The county attorney and the deputy county
attorneys, if any, may not be appointed for this
purpose."~~DO PASS~~
~~XXXXXX~~ (continued)

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Speaker:

MR.

Judiciary

We, your committee on

having had under consideration HOUSE Bill No. 270

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION
70-1-408, MCA, TO CLARIFY THE STATEMENT OF THE RULE AGAINST
PERPETUITIES."

Respectfully report as follows: That HOUSE Bill No. 270

Introduced copy, be amended as follows:

1. Page 1, line 12.
Following: "shall"
Strike: "may be"
Insert: "is"

AND AS AMENDED

DO PASS