

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
February 3, 1981

The eighteenth meeting of the Senate Judiciary Committee was called to order by Mike Anderson, Chairman, on the above date in Room 331, at 10:00 a.m.

ROLL CALL:

All members were present.

CONSIDERATION OF SENATE BILL 288:

IMPLEMENTING CONSTITUTIONAL AMENDMENT
#9, REGARDING CONFIDENTIALITY OF PROCEEDINGS
BEFORE THE JUDICIAL STANDARDS COMMISSION.

Senator S. Brown presented the bill, which he described as an attempt to balance public right to know with a judge's right to be free from unfounded allegations. He then spoke to the several sections of the bill, and ended by recommending that this bill be kept in committee until a similar one introduced by Senator Ochsner can be considered at the same time.

CONSIDERATION OF SENATE BILL 182:

REVISE METHOD OF EXECUTION; 46-19-103.

Senator B. Brown, District 10, Whitefish, presented the bill as its sponsor. He feels that hanging is an outdated and cruel method of executing a prisoner. He said that the language of his bill came from the New Mexico and Oklahoma statutes.

Gary Jensen, of the Montana Conference of Seventh Day Adventists, spoke in support of the bill because he felt it presented a more humane, dignified method of execution.

Judy Olson, representing the Montana Nurses Association, stated that nurses won't want to be the ones to administer the lethal injection.

Curt Chisholm, Deputy Director of the Department of Institutions, opposed the bill because he feels that medical personnel will refuse to carry it out, and because the warden does not want the task of performing the injection.

Senator Crippen asked about the condemned man who wants to

have someone present at his execution. Senator B. Brown said that the intent is not to disallow such witnesses, just to reword the law so that their presence is not mandatory.

Senator Olson stated that under no circumstances can a physician take a life deliberately.

Senator O'Hara asked what alternatives existed for carrying out such a death penalty. Discussion then centered around hired executioners, advertising for someone who would be able to and willing to perform the task, and teaching the warden to administer the injection.

CONSIDERATION OF HOUSE BILL 52:

TO CLARIFY THE REVISED MONTANA UNIFORM
GIFTS TO MINORS ACT.

Representative Feda, District 4, Glasgow, presented the bill, saying that the probate code had been copied wrong and that this bill merely clarifies the law.

CONSIDERATION OF HOUSE BILL 66:

AN ACT CHANGING THE TIME WHEN INTEREST
IS DRAWN ON AN AWARD IN A CONDEMNATION
PROCEEDING.

Representative Bennett, District 15, Flathead County, presented the bill. He said the intent of the bill is to correct an iniquity which exists in condemnation actions. Under current law, a landowner who is a defendant in a condemnation action in which the plaintiff is put in possession of the property receives interest on the award of damages as of the day the plaintiff is put in possession by the court. The purpose of the bill is to give the landowner ten percent interest on the award from the day the summons is served in the condemnation action.

Dale McGarvey, Kalispell attorney who represents many landowners in the Flathead area, spoke on behalf of the bill. He pointed out that such landowners lose the advantage of the appreciation of their land when a long time period intervenes between condemnation and possession of the land.

Speaking in opposition to the bill was Beate Galda, attorney for the Department of Highways. She said that usually the Highway Department is in a hurry to obtain possession of the property, so that most time lapses are fairly short. She said that passage of this bill would have the effect of making the Department less apt to negotiate with the landowners because the interest would be accruing during the time

of negotiation.

Bob Gannon, of the Montana Power Company, opposed the bill because of the increased cost in obtaining land which would result from its passage.

Pat Wilson, representing Montco, a new coal mining company, spoke in opposition to the bill because of the increased costs its passage would impose on a beginning company.

In closing, Representative Bennett spoke of the automatic loss by the owner of the full use and enjoyment of his land in any condemnation, and of his right to be compensated for that loss.

DISPOSITION OF HOUSE BILL 52:

David Niss pointed out that the deleted language on page 1 also appears on page 3, lines 5 and 6, and suggested that it be deleted there as well. Senator B. Brown moved to amend House Bill 52 on page 3 by striking all of line 5 and "minor," on line 6. The motion passed unanimously. Senator Crippen moved that the committee CONCUR IN the bill AS AMENDED, and the motion passed unanimously. Senator Crippen will carry the bill on the Senate floor.

FURTHER CONSIDERATION OF HOUSE BILL 66:

Senator Anderson suggested that interest should be paid from the date of service of summons, but offset by any income received during the delay period. Senator S. Brown suggested that interest accrue from the time a district court judgment is received. Senator B. Brown agreed to contact Representative Bennett and Mr. McGarvey relative to the committee's problems with the bill, and final decision will be delayed.

Before adjourning Senator Anderson reminded the committee that further consideration of SB 33 will probably be held on February 11.



Senator Anderson
Chairman, Judiciary Committee

ROLL CALL

JUDICIARY COMMITTEE

47th LEGISLATIVE SESSION - - 1981

Date 2/23/81

NAME	PRESENT	ABSENT	EXCUSED
Anderson, Mike, Chr. (R)	✓		
O'Hara, Jesse A. (R)	✓		
Olson, S. A. (R)	✓		
Brown, Bob (R)	✓		
Crippen, Bruce D. (R)	✓		
Tveit, Larry J. (R)	✓		
Brown, Steve (D)	✓		
Berg, Harry K. (D)	✓		
Mazurek, Joseph P. (D)	✓		
Halligan, Michael (D)	✓		

Each day attach to minutes.

NAME: Judy Olson DATE: _____

ADDRESS: _____

PHONE: _____

REPRESENTING WHOM? RIT Nurses Assoc

APPEARING ON WHICH PROPOSAL: SB 182

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? X

COMMENTS: _____

Law would require RN or Physician &
this would be against their code.

NAME: CURT CHISHOLM DATE: 2/2/81

ADDRESS: KELEND

PHONE: 449-3930

REPRESENTING WHOM? INSTITUTION

APPEARING ON WHICH PROPOSAL: 50 182

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? ☒

COMMENTS: _____

(B)

NAME: Sal. E. M. Harvey DATE: Feb. 3, 1961

ADDRESS: 745 S. MAIN KALISPELL, IDN

PHONE: 705-861-32

REPRESENTING WHOM? 3-24-64

APPEARING ON WHICH PROPOSAL: H. B. 66

DO YOU: SUPPORT? V AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

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NAME: Robert L. ... DATE: 11-1-67

ADDRESS: 201 - 14th Ave. S.

PHONE: 407-25-2500

REPRESENTING WHOM? Self

APPEARING ON WHICH PROPOSAL: _____

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

NAME: Mr. Ed Wilson DATE: 2/3

ADDRESS: 443 S. Park K

PHONE: 443-0379

REPRESENTING WHOM? Montco

APPEARING ON WHICH PROPOSAL: HB 66

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? X

COMMENTS: prejudices the judicial review process and place an
economic burden on the plaintiff

February 3, 1981

Judiciary

A snippet of handwritten musical notation on a five-line staff. It begins with a treble clef and a key signature of one sharp (F#). The notation includes several notes, some beamed together, and a final double bar line. The handwriting is fluid and appears to be a personal sketch or a working draft.

SB 182
HB 52
HB 66

SE 288

VISITOR'S REGISTER

(Please leave prepared statement with Secretary)

STANDING COMMITTEE REPORT

February 3, 1921

MR. PRESIDENT

We, your committee on JUDICIARY

having had under consideration HOUSE Bill No. 52

Respectfully report as follows: That HOUSE Bill No. 52

be amended as follows:

1. Page 3, lines 5 and 6.

Following: line 4

Strike: "an adult member of the minor's family, a guardian of the minor,"

And, as so amended,
BE CONSIDERED IN
DO PASS