

Assembly

MINUTES OF MEETING - COMMITTEE ON JUDICIARY, 54th Session, Jan. 24, 1967

Meeting was called to order at 11:05 A.M.

Present: Wooster, Dungan, Hilbrecht, White, Schouweiler, Swackhamer, Kean, Lowman
Torvinen (late)

Mr. Wooster brought up the matter of AB 21. He said this is a statute of 1890 or around there vintage. He said we had given it a Do Pass but since talking to some members of the State, County and City Affairs he had become convinced that it should probably be referred to that committee for further study.

Mr. Hilbrecht moved that AB 21 be referred to the Committee on State, County and City Affairs.

Mr. Schouweiler seconded
Motion passed unanimously

Mr. Wooster said he would take care of it when the Assembly reconvened at 1:30.

Mr. Wooster then said he had a bill^{*} that had been drafted by the university that has to do with their right of eminent domain, and particularly with their general powers of condemnation. He said he would like to have it introduced as a committee bill and have it referred back to the committee so that the university people could have the opportunity to come in and speak on it.

Mr. Swackhamer moved that, to save money for the state, we do not introduce the bill. Mr. Kean seconded, then said that this bill has come up at every session since 1955 and been turned down.

Mr. Hilbrecht commented that the university should have the right to be heard and he urged the committee to allow the bill to be introduced.

Mr. Kean said that the university could be heard without introducing the bill.

Mr. Swackhamer said that the university now has adequate means of general condemnation, that it is specific powers that they want. He said we should keep some control of how the money is spent now and in the future.

Mr. Hilbrecht said he would like to hear all sides of the question.

Mr. Wooster pointed out that introducing the bill doesn't signify that anyone is in favor or disfavor of the bill. He then read a letter that came with the bill from Mr. Humphreys at the university.

Mr. Hilbrecht called for the question. Mr. Swackhamer and Mr. Kean voted yes and all others voted no.

Mr. Hilbrecht moved that the bill be introduced by the committee
Miss Dungan seconded
Motion passed unanimously

Mr. Russ McDonald was present to explain and answer questions on the 13 technical bills. He explained that he, Mr. Close and Mr. Bissett constitute the Commissioners on Uniform Law and that they have asked that these 13 bills be passed.

* Assembly Bill 463

AB 21:^{*} Mr. McDonald explained that this bill brings the Uniform Gifts to Minors up to date. The three main features are: 1. It adds savings and loan companies to the list of qualified custodians; 2. It adds life insurance policies and annuity contracts to the list of possible gifts; 3. It makes it possible to add a successor custodian. He said this bill makes the law uniform and that it is recommended by the uniform law committee. Our law is not at present uniform because it does not provide for these three things. The purpose of this bill is to provide a means by which the gross value of an estate can be reduced by means which have been accepted by the federal government.

Miss Dungan: What is the advantage of uniform law between states?

Mr. McDonald: It facilitates all these legal transactions and gives to each citizen the IRS protection to which he is entitled.

AB 11: Mr. McDonald explained that this is a back-up bill. It changes the wording in paragraph 6 to "an exemplified copy of the official record of judgment of a felony."

Mr. Wooster: Would you recommend that we hold this until we see if AB 84 passes?

Mr. McDonald: Yes, I would, but if 84 doesn't pass until the last part of the session you folks will be sitting here playing cards while technicalities are being ironed out.

AB 12: Mr. McDonald explained that this bill has one section that was declared unconstitutional by the Supreme Court in 1966. It has to do with unexplainable possession of stolen property.

AB 15: This bill proposes to answer a problem that was brought to the attention of the Legislative Counsel Legal Division by Mr. Wooster when he was with the D.A.'s office. It spells out the minimum sum of property tax that must be due before the D.A. can commence an action. This is something that must be corrected.

Miss Dungan: When are taxes delinquent?

Mr. McDonald: They are due and delinquent on July 1 unless the man elects to pay them quarterly.

Mr. Wooster: This is really just a clarification of when to sue. Previously we sued when tax delinquency became three thousand dollars. This just clarifies what has always been done.

Mr. Torvinen: Shouldn't this law be changed to sue when the county commissioners feel it is the thing to do? Why file suit against a pauper? It is a waste of the court's time and jams up the court calendar.

Mr. Swackhamer: It reads "where suit is required". This gives the D.A. some leeway.

Mr. Wooster: Perhaps this law does require some substantive change in addition to the clarification.

AB 16: Mr. McDonald explained that this has to do with a school district's sovereign immunity and deletes language from section 5.

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AB 17: Mr. McDonald explained that this bill deletes paragraph 4 of the old act which said that the county, its officers, agents, servants or employees could not be sued for negligence.

AB 18: Mr. McDonald said that this bill proposes to correct an oversight which occurred in the original drafting of the bill in 1965. It inserts a reference to the new law. He then said that about 50 different people have been in to see him with as many different ideas for correcting the mechanics lien law. He said he is holding all the suggestions till all are in to see just what he has. The matter does need attention.

Mr. Lowman: Who will take the responsibility for coordinating this with the senate.

Mr. Wooster: I will

Mr. Torvinen asked who knows exactly what is in the hopper on this and Mr. McDonald replied that he is the only one who knows and anyone should come to him who wants this information.

AB 19: Mr. McDonald explained that this is a clean-up bill to repeal a section that was declared unconstitutional by the Supreme Court in 1965 and that was enacted over the objections of his department.

AB 24: Mr. McDonald said that this bill sets a definite figure of \$4.00 credit to be received by anyone who is serving in jail in lieu of paying a fine. Before this it has been various amounts in various places.

Mr. Wooster: This would not apply to cities?

Mr. McDonald: Yes, it does have reference to cities. This bill you could hold to see what happens with AB 84.

AB 26: Mr. McDonald said that the obscenity bill passed in 1965 removed the ban against obscene performances and since this was not the intention of the legislators who passed the bill, this new bill has been drafted to put it back in. He said that sometime a district attorney will be very much in need of this bill.

AB 27: In 1965, in the case of Scott vs. State, the Supreme Court made some observations which made this bill necessary. It requires a record of preliminary hearing in criminal cases. Mr. McDonald said this bill should be confirmed while we are awaiting the outcome of AB 84.

AB 29: In the case of Graves vs. State in April of 1966, subsection 2 was held unconstitutional by the Supreme Court.

Mr. Wooster: Shall we hold this?

Mr. McDonald: No, passing it now will make our job much easier at the end of the session.

AB 32: Mr. McDonald suggested that the committee give this bill their immediate attention, as fast as possible. The hurry is because the Uniform Commercial Code becomes law March 1. He said there were many conflicts at the end of the last session in this code but rather than keep the legislators here another three or four days

they let it go knowing they would have time to make some corrections at this session before the act became law. It has to do with filing fees, for one thing. It was found that fees of 50¢ and \$1.00 would not be enough. Everyone concerned recommended raising the filing fees to \$2.00. Also, appalled by the lack of understanding of this bill on the part of those who will be using it, the Legal Division included in this bill a provision which makes it possible for a pre-filing date of Feb. 1, 1967. This will give time for familiarity with details of forms, etc.

Another provision of the bill is to have the forms approved by the Secretary of State. Without this, any form was acceptable. Additional filing fees are required if you do not use the required forms because it is additional work and expense if you have to file these irregular forms.

Mr. McDonald urged the committee again to move on this bill immediately because it takes care of a lot of conflicts. He suggested that the committee members read Frank Dakin's article on this which was recently published.

Mr. Kean asked if there is any conflict between AB 32 and Ab 60 and 62. Mr. McDonald said this is a correction bill only and must be passed.

AB 33: Mr. McDonald explained that section 2, page 2, preserves an interest in crops which are used to feed livestock which is mortgaged.

Mr. Wooster thanked Mr. McDonald for coming in and said that the committee would now go over these bills again for action.

AB 10:

Mr. Torvinen moved Do Pass
Mr. White seconded
Motion passed unanimously

AB 11:

Mr. Hilbrecht moved to continue this bill in committee
Mr. Lowman seconded
Motion passed unanimously

AB 12:

Mr. Hilbrecht moved Do Pass
Mr. Schouweiler seconded
Motion passed unanimously

AB 15:

Miss Dungan moved to continue in committee
Mr. Torvinen seconded
Motion passed unanimously

AB 16:

Mr. Hilbrecht moved Do Pass
Miss Dungan seconded
Motion passed unanimously

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Assembly Committee on Judiciary**AB 17:**

Mr. Lowman moved Do Pass
Mr. Hilbrecht seconded
Motion passed unanimously

AB 18:

Mr. Kean moved Do Pass
Mr. Schouweiler seconded
Motion passed unanimously

AB 19:

Mr. Schouweiler moved Do Pass
Mr. Hilbrecht seconded
Motion passed unanimously

AB 24:

Mr. Hilbrecht moved to continue the bill in committee
Miss Dungan seconded
Motion passed unanimously

AB 26:

Mr. White moved Do Pass
Mr. Lowman seconded
Motion was deferred for a few moments after Mr. McDonald suggested the committee let that one cook for a while

Mr. Kean asked if this matter might be incorporated in the criminal code and Mr. McDonald said it might be.

Mr. White withdrew his motion for Do Pass

Mr. Hilbrecht moved to continue the bill in committee
Miss Dungan seconded
Motion passed unanimously

AB 27:

Mr. Hilbrecht moved to continue the bill in committee
Mr. White seconded
Motion passed unanimously

AB 29:

Mr. Lowman moved Do Pass
Miss Dungan seconded
Motion passed unanimously

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Assembly Committee on Judiciary**AB 32:**

Mr. Kean moved Do Pass
Mr. Lowman seconded
Motion passed unanimously

AB 33:

Mr. Hilbrecht moved Do Pass
Mr. Lowman seconded
Motion passed unanimously

Mr. Wooster reported that 5 chairmen of legislature committees met to work out the times for the various committee meetings and the suggestion was that the Judiciary Committee meet at 9:00 in the mornings.

Mr. Hilbrecht suggested meeting at the recess period on Tuesdays and Thursdays, not meeting at all on Monday, which would leave only Wednesdays and Fridays for the early 9 o'clock meetings.

Meeting adjourned at 12:15 P.M.