

Assembly

MINUTES OF MEETING - COMMITTEE ON JUDICIARY, 54th Session, February 9, 1967

Meeting commenced at 9:10 A.M.

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

Absent: Swackhamer

Mr. Wooster introduced Mr. Lee Burge from the State Department of Agriculture in Reno, Mr. Louis Bergeman representing the Nevada Cattle Association, and Mr. Carl Wakel, also with the cattle association. These men were present on AB 162 and 163. Mr. Wooster asked them if they would explain the background and origin of these two bills.

AB 162: Clarifies police power of field agents and inspectors of State Department of Agriculture.

Mr. Burge explained that this bill is needed for the purpose of enforcing Chapter 49 and Chapter 50 of the code. It would give the director authority to designate certain people to investigate and make arrests and execute warrants. This would be most helpful in certain situations.

Mr. Wooster asked how many field agents and inspectors we are talking about. Mr. Burge replied that it would probably be limited to less than ten individuals.

Mr. Lowman asked if field inspector is a general term and was told that it is.

Mr. Wooster asked for a brief explanation as to what Chapters 49 and 50 are all about. Mr. Burge said 49 sets up the department and 50 is the over-all regulatory chapter.

Mr. White asked how this would be a deterrent to animal theft. Mr. Bergeman explained that many times they have been right to the point of making an arrest in cattle theft and have not been able to do it because they lacked authority to make arrests, execute warrants, etc. He thinks limited police powers for a few of their people would be very helpful. He said while they are looking for someone with power to detain this man who is suspected, the man disappears with the cattle. Northern Nevada is a particularly bad area in which to enforce these laws. The Cattlemen's Association is very much in favor of this bill.

Mr. White then inquired if this bill would cause any harassment to legitimate buyers of cattle. Mr. Bergeman said it would not because the seller makes out a certificate of sale which lists the brand name, etc., and which could be checked by the brand inspectors to match brand on cattle with the brand on the bill of sale.

Mr. Torvinen asked the committee to run quickly through the difference between brand inspectors with authority and brand inspectors without authority. He wondered if we are granting something special here in the last part.

Miss Dungan asked if it doesn't spell out that it will be only peace officers enforcing and was told that it does. Mr. Bergeman said further that the only purpose of the bill is to stop the movement of stolen cattle and he doesn't think the privilege will be abused.

Mr. Bergeman said there had been instances where they knew there were stolen cattle in a truck but there was no one with authority to stop them and inspect the cattle. He said this includes carcasses because cattle can be butchered and the carcasses stolen. There is a requirement that cattlemen butchering cattle save the hides so that they can

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prove the cattle they killed were their own cattle.

It was stated again that the purpose for the bill is to give the inspectors the same rights to stop a vehicle for checking the brand of the cattle against the bill of sale that the highway patrolman has to stop a car and ask to see a drivers' license. Any dilution of these rights would defeat the purpose of the act.

Mr. Hilbrecht asked if we could say "stop temporarily for the purpose of inspection". Mr. Bergeman said he could see no objection to that.

Mr. Lowman asked how long you could stop them and Mr. Hilbrecht said as long as it takes.

AB 163: Authorizes Executive Director of State Department of Agriculture to issue and District Court to enforce subpoenas.

Mr. Burge and Mr. Bergeman explained that the purpose of this bill is to strengthen the authority of the Agriculture Department to enforce regulations. Even if they can make arrests they cannot accomplish anything without the power of subpoena to get people there to try the case.

Mr. Kean asked if there is anything wrong with asking the court to subpoena witnesses.

Mr. Torvinen answered by reading section 3 of the act.

Mr. Wooster asked if this authority that they are asking for is about the same as that given to the State Board of Education. Mr. Bergeman said it was.

Mr. Wooster asked when the Department of Agriculture is authorized to hold hearings. Mr. Bergeman read him a list which included licenses and revocations, livestock yards, pest control, buyers of livestock, implements, and products.

Mr. Hilbrecht said that in sub-section 4, page 2, the first "shall" is all right but the second "shall" seems to him to be invading the province of the judge. This is an inherent power of the judge and should not be preempted.

Mr. Burge and Mr. Bergeman both said they had no objection to substituting "may" for the second "shall".

Mr. Wooster said a subpoena might be regularly issued and still abused. He thinks this is a good point.

AB 131: Provides penalties for wrongful diversion of construction funds.

Mr. William Hancock of the State Planning Board was present for this bill. He said he came to find out whether or not it will affect the planning board. He said there have been occasions when the State Planning Board has delayed or deleted buildings for which the legislature has appropriated money. He asked if this act will preclude this sort of activity.

Mr. Kean said that the intent of this bill was to correct a basic fault of contractors' which is to pyramid. A man takes a contract and is under-capitalized so he takes partial payment from Job 1 and takes Job 2 and on to Job 3, etc. If he is successful

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he eventually comes out of this situation, but in a situation such as tight money then it catches up with him. This bill simply says that if you get paid for a job you must pay the bills on that particular job. California law is much more severe than this bill would be. It smacks of the old law, such as debtor's prison.

Mr. Wooster asked why the \$10,000 and Mr. Kean said the building supply houses went directly to have the bill drafted and then asked him to introduce it so he wasn't up on all the details.

Mr. Wooster asked Mr. Hancock if his complaint was will this bill make the folks at the State Planning Board felons if they didn't comply, such as failure to build a building. Mr. Hancock agreed that this was the problem.

Mr. White said he did not think we should tell contractors where they should spend their money.

Mr. Hilbrecht said he knew a number of honorable men who were contractors who had been put out of business, not through their own ill-advised financial planning but by that of their sub-contractors. He said it didn't seem fair to him to make the contractor liable for the sub-contractors bills. He mentioned that there had been a Supreme Court ruling on the subject and that even the contractors' bonds are liable for payment of the bills. He said he disagreed with White, that he thought that contractors should be made to pay their bills when they came due in 30 days the same as anybody else.

Mr. Torvinen read a section of the California law and Mr. Wooster said it was the same as section 2E of AB 131.

Miss Dungan asked about the guy who buys booze or some other product and sells it and diverts the money into his own pocket, then buys more and sells it and pays the bills for the first batch.

Mr. Hilbrecht said that the only bonding after the first year is job bonding. Oftentimes it is not just the land owner who gets stuck but also the common laborer. The only protection is the financial responsibility of the contractor and what can the laborer do if the contractor is already in chapter or bankruptcy.

Mr. Wooster appointed a sub-committee to study this act further. The Chairman, Mr. Kean. Other members Mr. Hilbrecht and Mr. Torvinen.

Mr. Wooster then said he would hold AB 162 and 163 for further study and take them up again on Monday at 2:00 o'clock.

The agenda for Friday morning will be:

AB 173
AB 176
SB 24
SB 28
SB 40

Miss Dungan requested that no action be taken on SB 28 until she returns from Vegas. Mr. Wooster agreed.

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Mr. Wooster announced that there will be no 9:00 A.M. meetings next week because they are not working out too well and some of the other smaller committees would like that time to meet. The committee on judiciary will meet Monday through Thursday at 2:00 P.M. and stay until the job is done.

Mr. Wooster said he had two more bills that he was going to introduce as committee bills if there were no objections. The first one had to do with assignment of personal injuries compensations and there were no objections.

The second one was requested by Mr. Hilbrecht. It would permit additional demerit points before suspension of a drivers license, in cases where the driver earns the major portion of his income from driving. There were no objections to introducing it.

Meeting was adjourned at 10:00 A.M.