

March 11, 1980

LB 440

SPEAKER MARVEL: Senator Hoagland, will you yield?

SENATOR HOAGLAND: Yes, Senator Murphy, I do.

SENATOR MURPHY: 24-601 presently provides powers of a trustee, is that correct? I mean that is the existing statute we have with regard to trustees.

SENATOR HOAGLAND: I could check that statute. I will take your word for it, Senator Murphy.

SENATOR MURPHY: In other words, you are bringing in a new act that does not amend or repeal anything and I have some curiosity as to what becomes of the existing powers, and if they are not repealed, do these amendments in any way conflict with those existing powers? Are we going to have two propositions of what a trustee's powers are?

SENATOR HOAGLAND: My understanding of current law, Senator Murphy, is there is virtually nothing in the statutory law that defines powers of trustees, and for that reason, every time a trust is drafted an attorney has to spend two or three or four pages outlining what the powers of the trustee are. That hikes up attorney fees. By spelling those powers out specifically in the statutes which do appear elsewhere in the case law in the decisions of the Supreme Court, why we can save attorney fees and we can shorten trust documents. That is the fundamental intent of that particular provision of the bill. Now if it does change or conflict with any existing principle, Senator Murphy, if it does do that, it is only after trust officers and attorneys, representatives of the Bar Association have spent all summer and fall resolving and working out those conflicts.

SENATOR MURPHY: Well, I won't take the time to explain to you about attorneys who are promoting bills for attorneys but I do sincerely hope that inasmuch as you repeal nothing and are creating a whole new act and now amending it on the floor which is where we do some of our best work without hearings that we are not getting into a conflict with the existing statute and that we are not creating some kind of a problem in trusts.

SENATOR HOAGLAND: Let me say two things with respect to that, these amendments are truly technical amendments, number one. Secondly, I believe Senator Kahle will confirm after having conversations with the attorney that prepared his trust that this indeed is going to bring attorneys fees down, shorten