

MINUTES OF MEETING - ASSEMBLY COMMITTEE ON JUDICIARY, 55th Session
January 21, 1969

Present: Torvinen, Schouweiler, Reid, Swackhamer, Fry, Bryan,
Lowman, Kean, Prince

Meeting was called to order at 9:45

Mr. Torvinen suggested that Mr. Schouweiler be named as vice-chairman of the committee. Mr. Lowman seconded the idea and the group agreed unanimously to the suggestion.

AB 19: Authorizes recordation of notice of real property action in Federal court.

Russ McDonald was present to explain the bill to the committee. He said that his office is presenting this bill and others because of inconsistencies they have found in bills passed by other legislative sessions, or for purposes of clarification. He said they have had many inquiries concerning this particular bill. One was from a Mr. Richards in Sacramento, California. Mr. McDonald then read the correspondence from Mr. Richards and his own reply.

He said he thinks the California law which includes authority for the Federal Courts has merit. He said a person may go to buy a piece of property and check all the usual things but forget the Federal Document. In California they have it on file.

Mr. McDonald: "We recommend this bill. We feel it deserves consideration. You might hold it for awhile to determine the public reaction on it."

Mr. Kean: "Is there any time between the Federal levy. . . .?"

Mr. McDonald: "What you are speaking of refers only to real property."

Mr. Torvinen: "Do we not post a place for all federal liens to be filed?"

Mr. McDonald: "This is actually a financial bill. We have a bill on that floating around somewhere. There are no standard fees throughout the state, among the 17 counties. It just says to pay a fee sufficient to handle the filing fees."

Mr. Torvinen: "I do not concur with your feeling of caution on handling the bill."

Mr. Torvinen then explained to the new members of the committee that the committee can do one of three things with any bill referred to it:
1. It can be sent back to the Assembly with a Do Pass recommendation;
2. It can be amended and then send to the Assembly with a Do Pass as amended;
3. It can be killed in committee.

Mr. Reid: I don't see where we would have any problem on this. I move Do Pass.

Mr. Swackhamer: We will be here for 60 days. Let's let other people have a chance to get a look at the bill.

Mr. Reid withdrew his motion.

AB 20: Abrogates statutory specification of fees for certain county law libraries.

Mr. McDonald: The Legislative Commission Study of the judicial system brought this bill into being. In examining the statutes, they came across a conflict in which the statute is not being followed by 3 counties. In 19.130, what is proposed for deletion is page 3, line 16. Far in excess of \$3 was being allocated to the library fund. This section is out of date. In the present law one section says \$3 and one says \$15. It was last amended in 1959. This is truly a bill to correct a conflict in ordinances.

Mr. Bryan: Do you know what it is in Clark County?

Mr. McDonald: No, I don't. It seems to me that I was told that \$15 was not sufficient.

Mr. Lowman: What about the change on page 5?

Mr. McDonald: Go back to page 2. This proposes to delete the White Pine County's section. This is one of three we are trying to correct.

Mr. Kean: Didn't we make all of these things uniform?

Mr. McDonald: No, we did not. There are a number that are not uniform. In certain places we have uniformity. One time we attempted to collate this but we ran into a bee's nest.

Mr. Torvinen: This should be initiated by the Association of County Clerks.

Mr. McDonald: What happens subsequently is immaterial, but these bills need to be taken care of now.

Mr. Kean: I recommend that we only pass a uniform bill.

Mr. McDonald: There will be some uniformity offered. Someone has already asked for a bill.

Mr. Kean: I move Do Pass.

Mr. Loman: I second

Mr. Swackhamer: My question is does this bill that is being prepared make sheriff's fees uniform?

Mr. McDonald: Yes

Mr. Kean's motion to Do Pass AB 20 passed unanimously.

AB 21: Requires resident agents to file notices of resignation with secretary of state.

Mr. McDonald: This idea was suggested by one or more of the incorporating companies that do business in the state. It has some merit. We should be able to get a current listing of of resident agents. Under this statute, John Doe may have resigned right after the filing of the necessary documents. This says that he has to file a notice of his resignation or let us know that he is no longer the resident agent. Now, the only way we can know is to look at the corporate books, and sometimes even that doesn't help.

Mr. Kean: Let's assume that John Doe does not know this law exists, and he takes off for South America- - -

Mr. McDonald: Chapter 78 provides a method for taking care of this.

Mr. Reid: I have personally had a great deal of trouble with this.

Mr. McDonald: We just want to have someone on whom we can serve documents.

Mr. Torvinen: Another section provides that on July 1 each year the corporation must provide this information. His resignation is not effective until the state is notified.

Mr. Bryan: If he has been served and has not notified the state that he has resigned, then he has been served.

Mr. Kean: I move we amend the bill according to the lines of the comments made here. The resignation will not be effective until filed.

AB 22: Conforms penalties for unlawful conduct in care of mentally ill to related crimes and penalties.

Mr. McDonald: This bill results from confusion in the criminal code. When we analyzed penalties, we found that no consideration had been given to the mentally ill. It provides now for certain misdemeanors, but does not conform to the Criminal Code established in 1967. We propose to establish what is a misdemeanor and what is a felony in this field.

In Section 2 we are changing the spread from 1 to 3 years to 1 to 6 years. Hospital is defined as the Nevada State Hospital in a previous section.

Mr. Reid: How can you have carnal knowledge without consent in a case that did not represent rape?

Mr. Fry: I don't think a person with mental disability is capable of giving consent.

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Mr. McDonald: Because a patient is in the hospital, does not mean that he does or does not have capacity.

Mr. Swackhamer: We also have a minor girl under 16?

Mr. McDonald: Our first inclination was to knock this out and let the section on forcible rape cover it.

Mr. Bryan: Couldn't a hospital case go under the general rape statute under 16? Doesn't this give an extra alternative?

Mr. Torvinen: It makes it a felony for two adult nuts to have a little fun in the hospital. Some psychiatrist I read said they ought to do this.

Mr. Reid: Does "person" mean a patient, or just anyone, as for instance a janitor?

Mr. Torvinen: Yes.

Mr. McDonald: Then you give the District Attorney the choice and maybe that is what we should do.

Mr. Reid: How about if a sex delinquent girl lured a janitor into a room?

Mr. Torvinen: He would be guilty.

Mr. Lowman moved Do Pass AB 22.

Mr. Swackhamer: We will be here for a few days. Let's not be in such a hurry.

Mr. McDonald: The question is whether or not these penalties conform to the general form. They don't. Take a look at (e). The language is shifted. It was only a misdemeanor. We even shifted the word. It only adjusts as to what should be a felony and what a misdemeanor.

Mr. Reid: The old bill has basically the same language.

Mr. Torvinen: Maybe we should send a copy of the bill to Dr. McAllister.

Mr. Lowman: I withdraw my motion.

AJR 5 of the 54th session of the legislature: Proposes to amend Nevada Constitution by providing for establishment of commission on judiciary, for alternate method of removal of judicial officers, and for review of district court calendars and salaries of judges and justices.

Mr. Torvinen: This is a constitutional amendment adopted by the California system of judicial discipline. If you have read the court report of the Interim Committee, they recommend that AJR 5 be allowed

to die, because it is covered in the Court Reform Bill. This bill would put forward two years the time when we are able constitutionally to put forward a court reform. The Interim Committee thought it was best to let this die and include it in the over-all Court Reform Bill.

Mr. Lowman: Do you think it likely the Legislature will do this?

Mr. Schouweiler: Yes, and it should not be done piece-meal.

Mr. Torvinen: The voters will be confused if this is done one item at a time. I want you all to know that I have the bill and that I am going to hang onto it.

AB 23: Corrects list of contents of NRS.

Mr. McDonald: This merely conforms to the way the packages are set up but actually deleting from the work known as NRS.

Mr. Reid: I move Do Pass

Mr. Fry: I second

Motion carried unanimously

AB 24: Clarifies language dealing with theft and fraudulent use of credit cards.

Mr. Bryan: I have one question on AB 24. The only change suggested is "or sought to be obtained" on page 2. Would that be an attempt to commit the crime?

Mr. McDonald: Yes. This was brought to my attention by Judge Barrett. He had to dismiss a case because the fellow said it was only an attempt to use the stolen credit card - he hadn't actually succeeded.

Mr. Bryan: "Attempt" in the law has a very precise definition. By using the word "sought" you interject a different standard.

Mr. McDonald: Your point is well-taken. I suggest you study it more. You may want to amend it.

Mr. Fry: I think it should be changed. I think this language is redundant and doesn't mean a thing.

Mr. Kean: There is already a District Court case on this, so it needs to be changed.

Mr. Lowman: If the case was dismissed with the law as it is, we should consider changing it.

Mr. Torvinen: I think so, too.

Mr. Kean: I think we should do something.

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Mr. Bryan: My concern is with the word "attempt". The word "sought" just might be interpreted similarly but I don't know.

Mr. Kean: I move we change the word "sought" to word "attempt."
Mr. Lowman seconded

Mr. Swackhamer: Let's hold and see if anything else comes up. Maybe we should add the word "attempt" to lines 25, 26 on page 2, also.

Mr. Kean: I think we should add the word "attempting to obtain".
I so move.

Mr. Lowman seconded
Motion carried unanimously
(Amendments to be made to lines 19 and 25).

AB:3 Adopts Uniform Anatomical Gift Act.

Mr. Kean: I move we have a hearing on this bill.

Mr. Torvinen: Is next week too soon? (General opinion was that it would not be too early).

Wednesday, January 29, 1969, at approximately 2:00 P. M. was the time set for the hearing on AB 3.

Mr. Reid was asked by Mr. Torvinen to write letters to the major hospitals in Las Vegas. Mr. Torvinen is to write letters of notification of the hearing to Mr. Nelson Neff and Dr. V. A. Salvadorini.

Mr. Swackhamer: How many states have adopted this?

Mr. Lowman: I can't tell you. It was suggested by Uniform State Codes and Council of State Governments.

AB 7: Removes discretion of district attorney to classify motor vehicle theft as felony or misdemeanor.

Mr. Reid: I think I read where the Supreme Court declared this unconstitutional.

Mr. Bryan: The courts discourage this now. They prefer simple misdemeanor.

Mr. Lowman: This bill is an attempt to clarify the law after the ruling by the court.

Mr. Bryan: In the past, the law has provided three separate acts to take care of car thefts. There was one section on joy riding. A first offense was a gross misdemeanor, the second was a felony. There was one provision for "tapping", where the car wasn't actually taken. This bill seems to indicate that "joyriding" would be a felony.

Mr. Reid: Perhaps we should make this "all-inclusive", a felony.

Car theft has been a difficult area for law enforcement officers. They arrest a person and the person says he didn't steal the car - he was just joyriding.

Mr. Swackhamer: I agree. This should be a felony. On the other hand if we make it a felony, the district attorneys may be reluctant to book the kids.

Mr. Schouweiler: Juries are sometimes reluctant to poll a felony conviction on a kid. It might give the courts the attitude of certifying kids 19 to 20 years or so as juveniles to avoid the felony conviction.

Mr. Lowman: How can we best solve our problem?

Mr. Reid: I move Do Pass AB 3

Mr. Swackhamer: I don't think this is going to answer the real problem

Mr. Torvinen: If we could rely on the courts to do their jobs, we would not have this problem.

Mr. Reid: If we have a hearing on this, George Franklin will be up here and several others.

Mr. Lowman: We have several such bills. Let's put them all together and have some law enforcement people in.

We have a similar problem with the narcotics thing throughout the state in all the schools. We have to make the kids responsible for their own acts. Individual responsibility is the key to the whole thing.

Meeting was adjourned at 11:00 A.M.