

MINUTES OF MEETING - ASSEMBLY COMMITTEE ON JUDICIARY, 55th Session  
January 28, 1969

Meeting was called to order by Chairman Torvinen at 2:10 P.M. /- 25

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

Torvinen: I have had a request from the Family Law Association to introduce SB 401 from the last session. This bill "Transmutes certain community property and joint tenancies into tenancies in common."

Mr. Lowman: What is the history of this bill?

Mr. Torvinen: It was not introduced until the end of February and it died in the Senate Committee. A request for this legislation was also contained in the 1968 Report of the State Bar Association on Family Law.

Mr. Lowman moved the Judiciary Committee introduce the bill  
Mr. Schouweiler seconded

Mr. Torvinen: Most lawyers would try to talk a couple into making some arrangement about property at the time of the divorce.

Mr. Swackhamer: Are you going to have it drafted like it reads here?

Mr. Torvinen: Yes.

Mr. Swackhamer: What about a situation where a couple has not disposed of their property and the wife gets married again and then gets killed. Does the new spouse lose all rights?

Mr. Torvinen: Yes.

Mr. Bryan: The new spouse will get her or his new partner's interest, too

Mr. Torvinen: These things should be disposed of in the divorce action. The way it is now the new wife gets nothing. Under this bill she would get the divided half interest.

Mr. Swackhamer: This seems better than the old way.

It was decided to introduce the bill.

AB 2: Provides for three-judge panel to determine sentence in all capital cases.

Mr. Lowman: The District Attorney's Association is interested in this bill. It springs out of a decision of the U.S. Supreme Court that you cannot for cause keep a juror from serving because he does not believe in capital punishment.

With this measure you would have a three-judge panel which would convene after the conviction of a person by jury when the penalty could be death under the law. If the three judges agree that it should be the death

penalty then it would be valid. Total concurrence is called for to impose the death sentence.

Mr. Reid: The jury brings back a guilty verdict. Would it then be necessary for the three judges to review the transcript? /- 26

Mr. Lowman: One judge would have to have been present at the trial.

Mr. Reid: The only way the other two judges would know is by what someone tells them. You would have to have a transcript made. It takes as long as three weeks to have only a short transcript made. I can see where this bill could delay a trial for months.

Mr. Lowman: I would agree except for capital cases. Last year not one person was put to death. Frankly, I am pro-capital punishment. I think this might be some kind of answer to the "bleeding hearts" who think capital punishment should be done away with.

Mr. Schouweiler: You realize that this will delay things?

Mr. Torvinen: We should not go into this any further right now. We should hear from George Franklin and some of the judges, too.

Mr. Bryan: We are running into a number of bills that should have hearings.

Mr. Reid: It seems to me that such a discussion could take at least an hour. We should schedule these meetings, a couple of them at a time, and get them out of the way as quickly as possible.

Mr. Lowman: With the exception of the narcotics bills.

Mr. Schouweiler: The report of the Drug Committee will be introduced in the Senate.

Mr. Lowman: There should be a joint hearing on that.

Mr. Kean: Three weeks from now the session will be half over. We should have these hearings as fast as the subjects come up.

Mr. Schouweiler: Do we have other bills in which the D.A.'s will be interested?

Mr. Torvinen: We already have some but I have not gone through them yet.

Mr. Lowman: I have several which I have not yet received back from the bill drafters.

Mr. Torvinen: We will set the hearing on AB 2 for Feb. 6th. Would it be wrong or right to contact Judge Hyde. Does he have any contact with the judges?

Mr. Schouweiler: He should certainly have statistics that should help.

Mr. Torvinen: There is an Association of Trial Judges at the University of Nevada and Judge Hyde directs this and might be able to give us some

useful information.

Mr. Bryan: Could we notify the judges in Clark County to see if they would like to send some one up? /- 27

Mr. Torvinen: Maybe we can put AB 7 in at this same hearing.

Mr. Reid: Why did we need a hearing on AB 7?

Mr. Bryan: The changes proposed have to do with or without intent to defraud.

Mr. Torvinen: Mr. Lowman has another bill on grand larceny which will exempt this out. This would get back to "all auto cases have intent to deprive".

Mr. Lowman: If we lose AB 7 then I will introduce the other.

Mr. Torvinen: Maybe you should put it in and we will hear them all at the same time.

Makes it not a felony to steal a car with value less than \$100.

Are there going to be any more obscenity bills come in?

Mr. Lowman: I presume not.

Mr. Torvinen: The D.A.'s put it in their questionnaires which they sent to all of us: Would we be opposed to statutes which would bring obscenity laws as pertaining to minors within the obscenity laws.

Mr. Lowman: I presented this to the Attorney General. My idea, originally came out of Clark County where we have such a law. Washoe did the same thing.

Mr. Schouweiler: Washoe and Reno both have obscenity ordinances but not this one.

Mr. Kean: What do we have on this now?

Mr. Lowman: Nothing. It was declared unconstitutional. This is the opinion I get out of the Legislative Counsel Bureau.

Mr. Torvinen: My point is this: Shall we set up AB 70 up for next Thursday?

Mr. Bryan: There will be other parties interested in this.

Mr. Lowman: Can't we get this in the news media so people will know about it? The League of Women Voters and the PTA are both interested.

Mr. Swackhamer: We had a group of news distributors up here a few years ago and they had some problems that I think this committee should hear about.

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Mr. Torvinen: The hearing on AB 70 will be on Feb. 5th.

Mr. Lowman: I will notify the Attorney General, the PTA and the League of Women Voters.

Mr. Torvinen: I will contact Sierra News. They are the biggest distributors in Reno.

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

Mr. Torvinen: Dr. McAllister called me on AB 22 this morning and said he had no objection to this wording. It has just changed misdemeanor to a felony. The crime has not been changed, just the punishment.

I did not review this bill carefully enough. Dr. McAllister also passed along a request that the prohibition against bringing contraband into the hospital approach also be extended to dangerous drugs and narcotics. It fits into this section that we are amending. Russ doesn't know if another bill is being drafted to take care of this. It fits into 95 doesn't it? We would have to make reference to the sections that define dangerous drugs and narcotics.

Mr. Bryan: I wonder if we should hold this up for the other drug bills?

Mr. Swackhamer: I have one more suggestion if we are going to consider amending this. At the prison they had a guard bringing in narcotics to the prisoners. When they finally nailed him he was fired but he demanded a hearing and was re-instated. What they wanted was something to give the Warden the right to fire a guy on the spot. We had an amendment made that would do this for the prison. Can't we do this same thing for the hospital?

Mr. Torvinen: It seems like this should be applied to both.

Mr. Swackhamer: I can't tell you if it does or doesn't but my recollection is that it applied only to the prison.

Mr. Reid: I move that line 5 be amended to include the words "dangerous drugs and narcotics" and refer to definitions.

Mr. Bryan seconded

Mr. Kean: Question about line 4, "delivery boy".

Mr. Torvinen: This applies only to the State Hospital anyway.

Mr. Reid: We would also have to amend line 7 to "is under the influence of said liquor, drug or narcotic".

Mr. Reid: I move to amend that line and Do Pass AB 22

Mr. Bryan seconded

Motion carried unanimously

Mr. Swackhamer: I move you look into it and see if the administrator<sup>29</sup> at the State Hospital has the same authority to fire employees that the prison warden has. If he doesn't, let's give it to him.

Mr. Kean seconded this motion.

Mr. Torvinen: I am afraid I am going to get too busy with other things.

Mr. Swackhamer: Then you take care of it, Mr. Schouweiler.

It was decided that the other drug bill, AB 37, would also be held up.

AB 56: Conforms Nevada law to Uniform Business Records as Evidence Act.

Mr. Torvinen: It is all right with me if we hold this for a few more days.

Mr. Kean: Line 20 still disturbs me. What would happen if we put the period after the word "business"?

Mr. Torvinen: It is accurate and correct the way it is. If you make an entry from memory you lose the presumption that it was correct at the time you made it.

Mr. Kean: I don't see any fault with this bill except for this one thing. It might rule out a late invoice.

Mr. Bryan: One who remembered making the shipment always testify.

Mr. Bryan moved Do Pass AB 56

Mr. Lowman seconded

Mr. Kean: Do you think if I forget to invoice a carload of material and didn't invoice until about a year later and the man disputes the invoice with me that I could get my money then? This does happen quite often in business.

Mr. Reid: To answer: There are many different ways of getting evidence in at a trial and this is only one of them. If it wasn't at or near the time of the act there are other ways to get the evidence admitted.

Mr. Torvinen: There would be your copy of the Bill of Lading or an inter-office memo or other records kept which could be used.

Mr. Kean: I would like to say that at no time that this situation has come up has the customer refused to acknowledge that he owed it.

Motion to Do Pass AB 56 carried unanimously

AB 58: Requires registration of corporation doing business under assumed name or fictitious name.

Mr. Bryan: I would still like to hold this bill.

Mr. Kean: Do you want me to run around and register in every county?

Mr. Swackhamer: If you were an individual or partnership you would

have to.

Mr. Torvinen: I have 8 bills from the Assembly and 8 from the Senate but I haven't even had a chance to look at them yet.

Mr. Bryan: Some of the Senate Bills are quite simple. Perhaps we could take a look at those.

Mr. Kean: I have a question on AB 58. If a business has an accident in another county than the one where the business is located, where would the man who owned the business be sued?

Mr. Torvinen: I think they have the option to sue you at the place of the accident or in your home town.

Mr. Kean: I would hate to get sued away from home and be judged by a home town jury.

Mr. Schouweiler: That could still happen to you without this bill.

SB 11: Corrects statutory reference requiring written notice of liens to Motor Vehicle Registration Division.

Mr. Torvinen: As far as I can see, this merely amends the statutory lien of garages, etc. that notice is to go to the Motor Vehicle Division. It has been incorrect because we do not have a Motor Vehicle Division. It is being changed to the Motor Vehicle Registration Division.

Mr. Lowman moved Do Pass SB 11  
Mr. Schouweiler seconded  
Motion carried unanimously

SB 12: Clarifies simplified acknowledgment for instruments of conveyance.

Mr. Torvinen: The witness section remains the same. It used to say, "or was proved to be such", which is a handy thing sometimes. I don't really understand this. I think we will hold it and I will ask Mr. McDonald to come in and explain it to us.

SB 13: Corrects internal reference in NRS 463.337 relating to dealers' work permits.

Mr. Kean: Was the number changed because of an error?

Mr. Prince: I don't believe that number is even in the book.

Mr. Reid moved Do Pass SB 13  
Mr. Prince seconded  
Motion carried unanimously

SB 14: Conforms language regarding borrowing for estate of deceased person to Uniform Commercial Code.

Mr. Torvinen: I think I understand this one. When we passed the



Uniform Commercial Code we did away with the term "chattel mortgage" and substituted "security agreement". This is only to conform to that.

Mr. Reid moved Do Pass SB 14  
Mr. Lowman seconded  
Motion carried unanimously

SB 15: Clarifies language concerning declarations by grand jurors.

Mr. Kean: What court did they refer to in the original language? Was it the District Court?

Mr. Prince: I guess it would be the court the grand jury was serving under.

Mr. Reid: It just seems to be to clear the language.

Mr. Swackhamer: There is a state grand jury.

Mr. Lowman moved Do Pass SB 15  
Mr. Reid seconded  
Motion carried unanimously

SB 16: Corrects and clarifies language in certain criminal procedure sections.

Mr. Torvinen: I am not sure I understand this. I have barely glanced at it.

Mr. Reid: Why would they want to take out 176.555?

Mr. Kean: "Correction of illegal sentence" is what it says.

Mr. Bryan: This is a problem for constitutional reasons.

Mr. Reid: So the judge cannot give a man more than he is allowed for the crime. I think the man should be present. If the sentence was improper, it would cause much additional expense.

Mr. Swackhamer: This problem doesn't happen very often.

Mr. Fry: Usually they coordinate these things very well to save expense.

Mr. Torvinen: What about section 2? They are taking out this billing of controllers.

Mr. Swackhamer: We made a law before that county commissioners have to pay for these transportations.

Mr. Torvinen: What precedes 178.140?

Mr. Kean looked it up and said 178.435 "Expenses of examination and the sending of such persons to and from shall be to the county but the county may recover from the relatives".

Mr. Bryan: We ought to hold on this because the new court system has

something about the state absorbing almost all the expense. Small counties are protesting these high costs. 32

Mr. Schouweiler: I don't think there is a conflict but I would like to hear more about it.

SB 17: Corrects tabulation of good-time credits for convicts.

Mr. Kean: There is only one change, the one on page 1. What is the reason for that?

Mr. Kean moved Do Pass SB 17

Mr. Prince seconded

Motion carried unanimously

SB 18: Corrects federal law reference contained in NRS 213.185.

Mr. Torvinen: I assume these are the correct citations. There is only one change.

Mr. Bryan moved Do Pass SB 18

Mr. Lowman seconded

Motion carried unanimously

Mr. Kean: One little problem: How do I know that USC isn't the University of Southern California? I think they should spell out the United States Code.

Mr. Schouweiler: The definitions of all abbreviations used is in the first book of that set.

SB 20: Corrects obsolete reference to number of supreme court justices.

Mr. Kean moved Do Pass SB 20

Mr. Lowman seconded

Motion carried unanimously

Mr. Lowman: Would anyone object to putting AB 80 in the group on which we are going to hear the District Attorneys?

Mr. Torvinen: It doesn't apply to them.

Mr. Reid: I would like to know the reasons for this bill.

While Mr. Torvinen left briefly to take an important phone call, Mr. Schouweiler took over and the committee discussed AB 80.

AB 80: Removes limitations of parents' guardians' liability for tortious acts of minors.

Mr. Lowman: Mr. Schouweiler just pointed out to me that this bill does not say what I wanted it to say. I wanted parents to be responsible for both civil and criminal acts.

Mr. Reid: I did lots of work for insurance companies, some of the first were when the liability was \$300. What I did was to sue people. Then they raised it to \$2,000.



Mr. Kean: We determined that this took the liability off the insurance companies backs and put it on the parents.

Mr. Reid: Mr. Lowman feels that someone should be responsible. He doesn't believe in leaving it on the shoulders of a vacuum.

Mr. Torvinen: We are talking about the property damage case. There is a question of whether or not you can even buy insurance against all the damage that might be done. If you did, you would have to go to some foreign country and the cost would be something else again.

Mr. Reid: I am not sure that we should direct ourselves to things such as this.

Maybe \$2,000 is not enough but unlimited liability is unreasonable. I have seen judgments of \$345,000 and more, and these cannot be discharged by bankruptcy. Even if you set the limits at \$100,000 that person has just got to go somewhere.

Mr. Bryan: A parent may never do anything wrong, for instance the incorrigible kid. You impose an unlimited liability. Look what you have done to parents who have literally done nothing wrong.

Mr. Lowman: That is exactly the problem. The parents have done nothing.

Mr. Reid: There are many cases where kids go bad and there is nothing parents can do about it.

Mr. Bryan: This bill makes the parents act as insurers for any child of theirs from the time he comes into the world.

Mr. Torvinen: What was the judgment in the Steen case? I believe it was \$515,000 and the Steen boy did nothing but stand and look on.

Mr. Swackhamer: I think Zel has a hell of an argument. But of course there are arguments both ways.

Meeting adjourned at 3:45 P.M.