

MINUTES OF MEETING - ASSEMBLY COMMITTEE ON JUDICIARY, 55th Session
January 30, 1969

Meeting was called to order at 3:00 P.M. by Chairman Torvinen

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

Absent: Swackhamer, Kean

SB 12: Clarifies simplified acknowledgments for instruments of conveyance.

Russ McDonald was present to explain this bill.

Mr. McDonald: This came from the title insurance companies as the result of an amendment to NRS. 111.260. This new bill would clear up a conflict.

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

Mr. McDonald: Let's go over this one section by section. We are trying to remove accumulated errors out of the Criminal Act. In Section 1 we are removing "or at a reduction of sentence under NRS 176.555".

Mr. Reid: I don't understand why "reduction" was left in there originally.

Mr. McDonald: It was not there originally. The 1967 session amended it out, so it is completely dead. This is just a means of cleaning it up.

Section two has amended out certified costs to state controller and made it to county commissioners. This was amended in 1968. This is merely cleaning up.

Mr. Schouweiler: Will this conflict in any way with the new court set-up?

Mr. McDonald: No. Section 3 is just taking out reference to 176.555.

AB 34: Repeals requirement that actions against State of Nevada be brought in Ormsby County.

Attorney General Harvey Dickerson was present to give his comments.

The Legislature wisely provided that all suits against the State be filed in Ormsby County. Most of these complaints are state employees and their absence at a trial in some other county might impede state government. It would also be an inconvenience to other witnesses who might be called. Having to file in Ormsby County discourages suits with no merit.

If you pass this bill it will mean an increase in deputies in my office because I could not meet this kind of contingency with my

present staff.

Mr. Reid: Is there a provision for having to file in only one county in any other state?

Mr. Dickerson: Yes, there is. /- 11

Mr. Torvinen: What we are concerned with is the NIC.

Mr. Dickerson: It was decided at one time that the NIC was not a state agency.

Mr. Torvinen: Change of venue has been overlooked by judges in a lot of these cases. You have no opposition to having NIC suits excepted?

Mr. Dickerson: No, none at all, but I think it wise to leave it so that other suits must be filed in Ormsby County.

Mr. Reid moved Do Pass for SB 16

Mr. Fry seconded

Motion carried unanimously

AB 84: Provides for parole under indeterminate sentences.

Mr. McDonald: This came from three different directions. First was the Attorney General; second was Phil Hannup. It has to do with a person who committed a crime prior to July, 1967, but who was not sentenced until after that date.

Mr. Bryan: This is, in effect, the same guide lines that existed formerly?

Mr. McDonald: Yes. We have six or seven men who should not be penalized because of this law, but they were not taken care of when it was passed.

Mr. Bryan moved Do Pass AB 84

Mr. Reid seconded

Motion carried unanimously

Mr. Torvinen: In regard to AB 34: What do you think of a statute that provided that when the governor or any other officer of the state is cited that venue must be in this county?

Mr. McDonald: That might be a good idea. However, the County Bar had some objections because of only two judges.

Mr. Torvinen: There is argument that all the witnesses might be here. But they probably have as many employees in Clark County as anywhere.

Mr. Bryan: Exactly.

Mr. Torvinen: I can see it if you sue someone in their official capacity. Can we make a division so that if you sue someone in his official capacity it would have to be in Ormsby County, but if you sued someone who had an official capacity in the state but you were suing him because of some private capacity it would not have to be here?

For instance, if you wanted to sue some state official because of his work as a member of the Board of Directors of some company and you were suing 5 others at the same time, there is no reason why this person should not go to Clark County for the trial if that was where the company was based and where the suit was filed.

Mr. Fry: Did you find out how many suits we are talking about? /- 12

Mr. Torvinen: 48 for 1968 and 31 are habeas corpus actions. Apparently their big gripe is the big number of these latter that they handle.

Mr. McDonald: Did they break that down as to how many were original?

Mr. Torvinen: No.

Mr. Bryan: The State is better able to bear the cost of traveling than are some of the litigants. Many cases now that have merit are not filed because of extreme expense in getting it tried up here. The greatest amount of litigation would be in Las Vegas and Reno. I don't want this legislature to go on record as making it harder for meritorious cases to be filed.

Mr. Lowman: I agree that if a case is in Clark County it is silly to bring it up here. I can go with a bunch of expenses, but won't they be limitless?

Mr. Fry: We are talking about 17 civil law suits against the state last year. The problem is most of them are necessary. I can't see that there is really that much problem. If the State can afford to go to the other places on enforcement why can't they on trials?

Mr. Bryan: Could we make provision that if it was an undue hardship to take the case to Ormsby County that it might be filed locally?

Mr. Torvinen: I am not sure what the Venue Statute now requires, what discretion rests with the court in these venue things.

Mr. Bryan: I know of no statutory guide lines.

Mr. Reid: We are trying these cases in Clark County right now. The District Judges have declined change of venue. Who do we want to sue other than the NIC?

Mr. Fry: Almost any state agency. I filed suit against the state and filed in Washoe County and they did not object.

Mr. Bryan: I would like to see a statute along convenience guide lines where, on motion, they could show undue hardship.

Mr. Torvinen: I am going to ask Mr. Bryan to research the law and find out what is there.

Mr. Fry: I think we should hold up action on AB 34 until we find out a little more.

AB 98: Permits consumers to avoid purchases from door-to-door salesmen.

Mr. Lowman: Is this feasible?

Mr. Torvinen: There is such a law in about 10 states. I can give you a glaring case of why this law is needed in Reno. There was a fire alarm outfit that sold these systems in Reno door-to-door at double prices. They even had canned pictures of children burning to death to pressure people into buying. They charged \$600 for something you could probably go down to the hardware store and buy for \$200. The next day after a sale they would assign the contract to some finance company and if you tried to rescind the finance company would get rather insistent. This bill would allow you 3 days in which to rescind such a contract.

Mr. Reid: I have not been known as a conservative, but it appears to me that we should look at this very closely. We are always talking about free enterprise and I can't think of a better example of free enterprise than the door-to-door salesman. You have trouble returning an item to a store if you don't have the sales slip.

Mr. Torvinen: This is quite a departure from historic legislation in Nevada.

Mr. Fry: Are we talking about goods only, or are we talking about covering services as well? Columbia Broadcasting has nicked a couple of my more intelligent customers for quite a bit.

Mr. Lowman: If a person is fool enough to buy something, how can we protect him with legislation?

Mr. Fry: This has to be revoked within 3 days.

Mr. Bryan: Could we emasculate this from 3 days to 1 day? I am thinking of the transitory salesman who is in and out.

Mr. Reid: I am thinking of my wife whom I consider to be a smart person. She bought some pictures which were to be taken later but she paid for them, right then. Fortunately, she called me and told me about it and we stopped payment on the check. We never saw or heard anything more from the man. I am not sure that this statute would have protected me in this case. Mr. Lowman's point of "buyer beware" is well taken.

Mr. Bryan: There are two types of situations. One is where you voluntarily walk into a store and one where the salesman comes to your home.

Mr. Torvinen: We will hold this one over.

Mr. Fry: Our main problem is with bad operators. There are a lot of good door-to-door salesmen, such as the Fuller Brush people or the Jewel Tea. They are reputable companies.

Mr. Torvinen: The real problems are the contracts for hundreds of ⁷⁻44 dollars.

Mr. Reid: I agree with Mr. Bryan that we should lower this to one day.

Mr. Torvinen: The bill drafter was asked to follow the Pennsylvania Statute.

Mr. Bryan: How about a contract signed on Friday?

Mr. Torvinen: I think it is worded to take care of that.

Mr. Fry: Here is another thing. Even if the bill is passed, it will not benefit anybody unless they are advised of it. Language should be in there to see that they do know of their rights.

AB 99: Limits application of automobile and aircraft "guest statutes".

Mr. Torvinen: This is McKissick's bill and I wanted to get him in here on it. I guess we had better hold it over.

What is second degree consanguinity?

Mr. Bryan: How about mother and father, or grandmother and grandfather?

Mr. Torvinen: I could not find a definition of this in NRS or Black's Law Dictionary.

Mr. Bryan: There should be something in Domestic Relations.

Mr. Torvinen: There are half a dozen places that refer to "consanguinity" but no definition.

Mr. Fry: It's well defined in common law.

Mr. Torvinen: One more item: I have here, courtesy of Zel Lowman, the Therapeutic Abortion Law as it was finally passed through the Assembly last session. It is a watered-down version of therapeutic abortion law.

Mr. Lowman: I had this drafted because I could not go for open abortion and I knew we would get something on abortion and I thought we could get the jump on them and get a more acceptable bill in ahead of time. Then we can take the lesser of two evils. It is essentially what is in effect in Colorado and California.

Mr. Torvinen: This is much narrower than the one in Colorado. There, a girl under 18 can get an abortion. I think California, also, allows statutory abortion. California has some system of judicial review.

Mr. Bryan: If we do something, maybe we ought to give the Assembly the opportunity to vote on both proposals.

Mr. Lowman: As I understand it, the Senate has a bill on this and also another Assemblyman has one.

Mr. Torvinen: I hear there is a bill which does away with all restrictions to abortion and court review. I think there are 3 bills, all together. / - 45

Mr. Reid: Maybe we should introduce all three so that the entire Assembly can make the judgment. I feel about this one the same as I do the one about door-to-door salesmen.

As I understand it, we are to ferret out the bad bills?

Mr. Lowman: My understanding of this committee's duties is different than that. I feel that if we have not decided yes or no on a bill we have not done our duty.

Maybe if it is very close and tempers are hot, you might want to pass a bill out of committee without recommendation.

Mr. Reid: Then if we have 3 bills on this same thing, we should send out only the best?

Mr. Torvinen: Yes, in my opinion, we should take the bull by the horns and do just that. 3 bills on the floor might use up 3 or 4 days.

Mr. Lowman: Then, if we introduce this legislation of mine, we will hold up on it until we get the other bills on abortion?

Mr. Bryan: I favor that. My question is whether this is the appropriate committee for referral.

Mr. Torvinen: The way it is drafted, yes it is. Where there are any restrictions or judicial review, it belongs here.

Mr. Bryan: Then, this is our job.

Mr. Torvinen: Once we get this one here we might as well get the rest of them here, too.

Mr. Reid: If they know we are going to be working on this one, perhaps they will get theirs in sooner.

Mr. Torvinen: Mr. Hilbrecht has another approach, according to Mr. McDonald.

Mr. Prince moved to introduce BDR 16.793* (Lowman's Abortion Bill)
Mr. Lowman seconded
Motion carried unanimously

Meeting was adjourned at 4:00 P.M.

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