

MINUTES OF MEETING - ASSEMBLY COMMITTEE ON JUDICIARY, 55th Session/-174  
February 14, 1969

Meeting was called to order at 3:15 P.M. by Chairman Torvinen:

PRESENT: Torvinen, Kean, Swackhamer, Prince, Fry, Reid, Bryan Schouweiler.

ABSENT: Lowman

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

MR. TORVINEN: The Senate has returned AB 22 to us and they have deleted lines 14 to 24 on page 1, which takes out all the rape charges. They have left a few minor corrections.

MR. SWACKHAMER: Page 2 is not so minor. They are bumping maximum penalty from 3 to 6 years.

MR. REID: I would say that the suggested amendments leaves our bill meaning nothing. The main thrust is related to the old bill, section 2.

MR. BRYAN: Why can't we just let the general rape statute cover it?

MR. KEAN: Maybe instead of not concurring, we should go talk to them and see what their reasons are for these amendments.

MR. REID: I want to get some one from the Senate.

MR. FRY: I talked to Senator Young about this. We put it in as a felony. I thought in my own mind it was a little severe and he thought so, too. However, they have gone further and deleted the whole thing.

MR. TORVINEN: What is the difference between this section 2 and our rape statute?

MR. FRY: Trouble is people are put there because their folks want to get them out of the way and so on. Just because they are there doesn't mean necessarily that they are mentally off.

SENATOR CLIFTON YOUNG was brought in at this point.

MR. TORVINEN: Can a person who has been committed give consent?

SENATOR YOUNG: What bothered us was that last session we put in voluntary commitment. You are not necessarily incapable of consent under those conditions.

MR. TORVINEN: If a person commits himself as a neurotic and is willing to pay for himself . . . . .

SENATOR YOUNG: There is a period of time where there is no decision on the commitment and this may be a danger to someone.

MR. TORVINEN: Dr. McAllister had no objection to our original bill.

MR. SWACKHAMER: Do we need this?

MR. TORVINEN: It was a misdemeanor before.

MR. BRYAN: Isn't the general law of rape such that consent obtained by artifice, etc. is no consent? Couldn't we make a rape case out of this?

SENATOR YOUNG: We were afraid we would create a booby trap.

MR. BRYAN: I move we concur with the Senate Amendments to AB 22.

MR. KEAN: I second the motion.

Motion carried unanimously.

AB 99: Guest Statute.

MR. TORVINEN: I have given you an amendment on this. It was suggested by Mr. McKissick who introduced the bill. We had considerable testimony on this. Does everyone understand the bill?

MR. SWACKHAMER: Yes. Too well.

MR. SCHOUWEILER: I move we adopt 1381 amendment to AB 99

MR. BRYAN: I second the motion.

MR. SWACKHAMER: I move we indefinitely postpone AB 99.

MR. REID: I second the motion.

MR. SWACKHAMER. Reason: These bills keep coming in. We must remember we have got to take some responsibility for our own actions. The ride was voluntary. As citizens we must accept partial responsibility for our own acts. We should not have the right to sue because of a little bad luck.

I feel that to repeal the guest statute is the wrong thing to do.

On Mr. Swackhamer's motion there were 3 Ayes and 4 Nos.

Mr. Schouweiler: I move Do Pass AB 99.

MR. BRYAN: I second the motion

Motion passed with Fry, Bryan, Torvinen, Schouweiler and Reid voting in favor.

A No vote was cast by Kean, Swackhamer and Prince.

MR. SWACKHAMER: I want a minority report.

MR. TORVINEN: I have made up classifications of bills we have by subject. Would you like to have copies?

MR. KEAN: I would like to have a copy.

MR. REID: How many bills do we have?

MR. TORVINEN: 30 on narcotics alone. We must have about 100 bills. It occurred to me, also, that we should set a hearing on the fair housing.

MR. KEAN: How close is it to the Federal?

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MR. REID: It is identical. I have heard that Mr. Wilson has introduced another that is much broader.

MR. REID: There will be a lot of people coming up on the collection agency thing.

MR. PRINCE: I talked to a fellow in our town that runs a little collection agency and he thinks this is too tight.

AB 182: Makes causing of fires in certain public places of abode a crime.

MR. TORVINEN: I don't know how anybody could over-enforce this.

MR. REID: I move we Indefinitely Postpone AB 182.

MR. FRY: I second the motion.

MR. SWACKHAMER: There is no reason motels can't post this now.

MR. BRYAN: But this would make him guilty. He would be civilly liable for any negligence.

MR. TORVINEN: The motel people would like to talk on this. It would save a lot of problems.

MR. REID: You can always charge him civilly for burning up your stuff.

MR. TORVINEN: My suggestion would be to stick it in my dead drawer and then if some of them come over we can get it out.

AB 153: Provides for direct civil action against agency of political subdivision of State.

MR. REID: Why this came about: Right now it takes more knowledge than you can get by graduating from college to learn how to sue a subdivision. There is a special way to sue a water district and that is true for every other political subdivision.

I will ask Mr. Hilbrecht what he has done with the notes on this matter. We had some wording that was better than this. I don't think this is broad enough.

MR. SWACKHAMER: Would this \$25,000 liability thing cover all this?

MR. REID: Yes.

MR. SWACKHAMER: Then you know what you are going to sue for before you start.

MR. TORVINEN: We have a bill that takes it out for this.

AB 204: Modifies jury exemption provision.

MR. TORVINEN: There is one man who is quite upset about this.

MR. REID: I am willing to take some of these things out. 1-177

MR. TORVINEN: Why did Close leave teachers in?

MR. REID: Teachers should be able to serve on a jury. They can't be excluded automatically.

MR. FRY: Let's hold it for awhile. We are going to hear from people about this bill.

AB 190: Repeals certain provisions relating to dismissal of actions.

MR. TORVINEN: The Supreme Court ruled you had five years to file a lawsuit. This is repealing that.

MR. BRYAN: They felt that it was an encroachment of their domain.

MR. REID: If we are here to expedite justice, I think 5 years is long enough to get it off the ground.

MR. SCHOUWEILER: Roy, didn't you have a case about this?

MR. TORVINEN: I had a case where a kid got his teeth knocked out when he was two years old. I talked the judge into waiting to see if the new teeth would come in.

MR. REID: So fine. I move Do Pass AB 190.

MR. TORVINEN: I hesitate to encourage your motion, because I have it with other bills that we will have hearings on.

AB 303: Prohibits wife beating.

MR. BRYAN: Could we put an exception "no wider than a man's thumb"?

AB 239: Provides that indigent who later acquires financial ability must reimburse for county hospitalization.

MR. REID: Seriously, this is a good bill. I had a case at the hospital where this had already been written off.

MR. TORVINEN: Doesn't anything in here keep it out of the statute of limitations?

MR. SWACKHAMER: This bill was sent by Bill McDonald. He had a person who received a lot of care for nothing and couldn't pay his bill. Later, the guy inherited a lot of money and they asked him to pay his bill and he would not. They filed suit and then he did pay up.

MR. BRYAN: When does the statute start running?

MR. TORVINEN: Thirty days after it was owed and was due.

MR. TORVINEN: Does this in any way do away with the Statute of Limitations?

MR. SWACKHAMER: Couldn't we put a specific in there that it was not intended to limit the statute?

What is the reason for the Statute of Limitations?

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MR. BRYAN: To keep people from waiting until all the witnesses are dead.

MR. REID: I move Do Pass AB 239

MR. SWACKHAMER: I second the motion.

MR. REID: I add to my motion an amendment that says this would not extend the Statute of Limitations.

Motion passed unanimously.

Meeting adjourned at 4:40 P.M.