

MINUTES OF MEETING - ASSEMBLY COMMITTEE ON JUDICIARY, 55th Session
March 11, 1969

Meeting was called to order by Chairman Torvinen at 2:50 P.M.

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

Absent: Kean, Schouweiler (Both came in later).

MR. TORVINEN: We have listed for consideration today a group of landlord and tenant bills: AB 272, AB 275, AB 295, AB 296, AB 337, AB 521 and SB 34. We have with us Mack Wright, Legal Aid Attorney from Reno to speak on some of these bills.

AB 272: Expands unlawful detainer procedures to include mobile homes.

MR. REID: I requested this bill and so did Mel Close. The problem has arisen in the courts wherein if you want to remove someone from an apartment or house you can do so, but a house trailer is in limbo. You can't do anything with them.

MR. TORVINEN: You can't haul them away because you can't take their children out.

MR. REID: Some judges have stated that mobile homes are not real property so the unlawful detainer statutes do not apply to them. But logically there is no difference between a house trailer renter not paying his rent or his payment and the same thing with a house or apartment.

MR. WRIGHT: If you take care of some of the other things in these bills that might make this bill more palatable to me.

AB 275: Limits eviction methods.

MR. REID: This, simply stated: In Clark County there has been a tremendous amount of abuse with Helen Herr's 3-day eviction notice. Our statutes are very broad and you can get people out of your house or apartment but not within 3 days. The 3-day rent provision should be used only for that but they are using it for everything.

The Association of Apartment Owners endorse this bill.

MR. BRYAN: This bill has been erroneously quoted because it is misunderstood. This only applies for the non-payment of rent and there has been wide-spread abuse of the 3-day notice. This bill sanctions punishment for use in any other way, lines 24 through 26.

MR. TORVINEN: They use the lien law thing and come in and lock up everything.

MR. REID: That is true. I had a lawsuit in which this was done. It was a lady of the evening and she was locked out and lost a lot of valuable clothing. We sued and won, but it was a difficult situation.

At this point, Mr. Kean came in with M.R. Sonnenreich, deputy chief

counsel for Bureau of Narcotics and Drug Abuse, Washington, D.C. 2-63

MR. KEAN: We have been talking to the Governor and I want Mr. Sonnenreich to repeat most of it to you.

I have explained to him about all the narcotics bills we have. Since they are doing a study we want to get all we can from him.

MR. SONNENREICH: There used to be separate departments on this but in April of 1968 these two were amalgamated under the Justice Department. One of the immediate problems was the fact that we had disparate laws for dangerous drugs and narcotics. At the Federal level, we decided to begin at once writing a new law which would be good all around. We are now at the final drafting stage and getting the proposal ready for outside executive action. This is going to cover all the dangerous drugs and narcotics.

Our intent was to set up a licensing scheme so that all these people who have anything to do with narcotics or drugs would have to get a Federal license. This would be wholesalers, retailers, doctors, everybody. We are going to rely on the state for some of them. If they are licensed with the state, then we consider them licensed. We must first get a state law. For manufacturers we will require a Federal license no matter if they do have a state license.

We have looked carefully at all statistics we could get from around the country in terms of the enforcibility of these laws. One of our big problems in terms of law enforcement is to make the law credible. The penalties are so severe they are not being enforced. We ran out some statistics on the Federal level on cases that are reported to us. These are not statistics you can pin your hat on.

The average prison sentence for marijuana is $4\frac{1}{2}$ years. Of all the offenders, 53% were first offenders. Average length of time for a sentence with narcotics was $5\frac{1}{2}$ years. That is the sentence in terms of time spent in jail.

What we are discovering is that people that were sentenced almost everybody, except for 18 people out of 537, were sentenced to less than ten years. There has been a lot of ballyhoo about raising the penalties, yet the maximum you are getting in all of your cases is ten years.

The position for marijuana first time 2 to 5 years. Illegal importation minimum 2 to ten first, 5 to 12 second. Position on narcotics is 5 to 20 first time and then 10 to 40 after that.

Hopefully we should never get involved in a situation where a kid has one joint. That is something for the states to take care of. Our main thrust is to get the ones that traffic from state to state and from country to country. Many times we cooperate with the state.

In October of 1968 we took a position on penalties for LSD. My statistics are not official, just something to give you an idea of what we are talking about.

Regardless of how high you escalate your penalties, the judges and the communities themselves are just not imposing the sentences which are

set out in the law. Those receiving sentences of ten years or more: In 1965 27 people out of 778; in 1966 39 out of 777, in 1967 27 out of 638, in 1968 18 out of 537.

We have throughout our drafting considered and analyzed very carefully the kind of penalty we are going to impose. There is a credibility gap between some of these things. You must recognize that there has been a real upswing of interest in certain drugs. Before you go ahead and start to impose sentences you should analyze. If your law on penalties is rational you will find that you will get more jail time. There are certain of these people you want to remove from society. If you end up with suspended sentences, you have accomplished nothing. We especially want to remove from society the traffickers.

We are trying to isolate the Mafia and Cosa Nostra type. To talk of rehabilitation for these people is just frivolous. From society's point of view, we have got to put this type of person away, but the type of thing for these people should not apply to the kid in college who gives his pal a couple of sticks of marijuana or an amphetamine.

In answer to the question about determining amounts: New York established amounts. If below a certain amount it was a misdemeanor, if over it was a felony. But it did no good.

MR. REID: It doesn't appear that you should be able to try one person as a member of the Mafia and another as a college kid. This wouldn't seem to be a fair thing to administer.

MR. SONNENREICH: There is a different burden of proof. You have to prove he is working with five other people, etc. Our interest is in picking up the big man who runs a laboratory producing LSD or heroin. He is the man we want.

MR. REID: Mr. Kean brought to our attention that there are people using raw components and making these things. Does your new code take this into account?

MR. SONNENREICH: Yes, it does. What we have done is to have the type of definition that will pick up these immediate pre-cursors. This way we pick up these other chemicals.

Our biggest problem with LSD is you never know when the guy is making a batch. You break in and find chemicals all over the place but no LSD and he claims he is doing research. This is why we must go to the pre-cursors. You can't go beyond this or you will be controlling too many things, too much.

MR. BRYAN: How close are you to being ready with the new Federal Code?

MR. SONNENREICH: It is almost ready.

MR. BRYAN: Is it definitive enough for us to rely on it to pass some state counterpart to it? No.

MR. SONNENREICH: Our first meeting was February 28. We are going to write a model Uniform State Act to control the drug industry. The

problems at the state level are entirely different from problems at the national level. When the Federal Law comes out, we do not want any state to enact the Federal Law.

MR. BRYAN: Do you have a time table as to when the Uniform State bill will be ready?

MR. SONNENREICH: When I get the time to write it. To be realistic, we are talking a year to eighteen months, in terms of actually sending it through the chain of distribution.

If the Federal bill does get through this year, it will put tremendous pressure on the states. You want a uniform, sensible law for the state. There will be from 100 to 200 new drugs come out this next year.

MR. BRYAN: Have you taken over the classification of dangerous drugs?

MR. SONNENREICH: Yes, we have.

MR. BRYAN: Should we make reference to your bureau as being the one that has the classification of the drugs which are dangerous?

MR. SONNENREICH: The position of Commissioner of Dangerous Drugs does not exist any more. This is all under the Justice Department.

MR. BRYAN: There is no real difficulty with marijuana and heroin. The real problem is with dangerous drugs. Shall we substantiate your particular bureau as being that agency on the Federal level that has the classification of these new drugs as dangerous?

MR. SONNENREICH: No. That still remains with the Food and Drug. We take these new drugs and place them under control of the Federal Government, but as to the designation that it is a dangerous drug or a prescription item, that still remains with Food and Drug.

You would not have the carry over. We have 29 states that plug into us every time we name a dangerous drug.

MR. BRYAN: Is there a list available under the Federal Registration?

MR. SONNENREICH: We publish a list and the Food and Drug publishes a list of all those they control.

MR. BRYAN: Where can we get the list? This law doesn't help us at all unless we have a list.

MR. SONNENREICH: We have the list. The problem is your definition does not meet the list. You are interested in what drugs are being placed on the list.

MR. BRYAN: Would you suggest that we exclude these and refer to your bureau?

MR. SONNENREICH: You can include those, but reserve to your own state the right to veto.

It costs us between \$75,000 and \$100,000 just to run tests on a new

drug to determine if it is dangerous. You want to retain the right² 66
to name your own group.

MR. BRYAN: I would like to see a ready list for both the defender and the prosecutor, one to which they can refer.

MR. SONNENREICH: The real problem is you want to be certain that every time a new drug comes out that it is controlled before it becomes a real problem.

I want to set up a center of drug information so that everyone everywhere can become aware of what is going on at all times.

MR. TORVINEN: We can adopt the Federal Register by reference.

MR. BRYAN: Many places do not even have a copy of the Federal reference in their libraries. You have a person in custody and you cannot wait to get in touch with Washington, D.C. to find out if this is under control.

MR. SONNENREICH: We will give you our resident and regional office numbers and you can find what you want in 20 minutes.

MR. BRYAN: The preliminary hearing might be in six days.

MR. TORVINEN: I can always get needed information from the State Law Library within 24 hours.

MR. KEAN: We are going to create a Bureau of Narcotics. Won't that solve the problem?

MR. SONNENREICH: No, because we are talking about the burden of proof.

MR. BRYAN: There should be something spelled out clearly in the statute.

MR. SONNENREICH: When I run into these problems, I can't tell you what these drugs are. I have to call our chemist and find out. If you are in a bind, you can get one of our chemists to come out.

MR. BRYAN: With the Federal Registration included, that will make it possible to prosecute. How do we get the list before the judge without calling 14 Federal Agencies?

MR. SONNENREICH: We have official orders controlling that particular drug. You can take the order in the Federal Agency which is signed and delivered daily. This is the way of placing it under control. You can get a copy of the order.

Federal Registration is updated yearly. Right now it would not include a lot of things. They are on separate orders and will be put on the list next year.

MR. BRYAN: Wouldn't a current list cover 99% of the things?

MR. TORVINEN: Who is in charge of these orders?

MR. SONNENREICH: I have to issue these orders. If you have your own

bureau we can send a list five miles long "following drugs are legal".²⁻⁶⁷
Another list five miles long will say "these drugs are illegal".

MR. BRYAN: I am talking of the procedural problem.

MR. REID: We have been working on our narcotic statutes this session. You have indicated nothing is ready or will be for at least twelve months. Should we go forward with what we have been trying to do?

MR. SONNENREICH: Rather than set up so many bills, each setting forth one part of the problem, it would be far better to take a look at a statute now. There are definitely some things that should be done, but they should be done within the ambit of one bill. This should be the interim procedure until you get a model bill.

If you are interested in doing this, I will be glad to send out several attorneys from my office to help you work it out. You can also analyze what other states have done and what we have been recommending. We will be glad to give you whatever service is available. If you want to do it next week, I will send out one of my assistants to help you. My reaction is that it is infinitely wiser to go over everything, analyzing it all, to make necessary changes, some of which will be housecleaning and some substantive. You must recognize that you are dealing with an interim thing. You want to consider it fresh.

Whether you accept it or not, every state will eventually adopt some form of the Uniform Act which is coming. We are not trying to step in. We are just throwing out suggestions. I think it would be unwise to put a lot of little phrases of this in. You will benefit a great deal from our planning and discussions because we are going to consult all the Attorney Generals and law enforcement people. At least you will have all the information from the 50 states, from the industry, and from the Federal Government. Certain interim measures could be done at this time.

MR. KEAN: If you were to send out some deputies, how long would it take them to go through it and come up with some interim legislation?

MR. SONNENREICH: If you can send copies of what is pending, I can assign them to make studies and make their comments in a position paper and I will send out a deputy here to help you. The man I would send out is responsible for drafting the Uniform State Law.

MR. KEAN: You have advised us not to do these separate bills. We have already done this. We have gone at least 75% of the way. Maybe it would be smarter to go back. We have a time limitation because we are trying to get through here. Also, people have their names on these bills and so on. How long would it take Mr. Davis to do this, if he had some assistance from your people?

MR. SONNENREICH: If you give me all these passed and proposed bills I can probably have something back for you by the end of next week.

MR. KEAN: No place in any of these acts have we taken care of the precursor situation.

MR. TORVINEN: We have really got two groups of bills under consideration.

One creates a Narcotics Bureau and most of the others are just fitting dangerous drugs into the narcotics situation, adopting procedural and presumptive provisions that are already in the narcotics section, with the exception of a few clean-up things.

GRANT DAVIS: One thing the study committee showed this summer was the need for a general clean-up. These things should be done and then spend the next two years getting ready for this uniform thing.

MR. TORVINEN: We need one piece of legislation that will help us control these pre-cursors that result in the manufacture of dangerous drugs. If we could get help with one statute for that, that is all we will have time for. We have over 100 bills dealing with about 15 to 20 subjects that we have to dispose of within the next two weeks.

MR. KEAN: We will have to narrow the problems down. We have to control pre-cursors and the testimony indicated that we are doing the wrong thing with penalties. Jail time is greater with lesser penalties. The trouble is people will think we are going soft on crime when really we are being tougher.

MR. TORVINEN: We should take care of LSD when it is equal with heroin and we have heard no evidence to the contrary. What we have done is in line with what has been suggested here. We have reduced the inflexibility of our statutes to allow probation in cases where it was not allowed before.

MR. SONNENREICH: In October of 1968 the Federal passed a penalty act for these new drugs. We are happy to do anything we can. If you would like us to take a crack at pre-cursors for you we will be happy to see what we can do.

MR. SWACKHAMER: This gentleman has told us that from time to time they add new things by order. When we get a Board here, could we adopt your new orders by reference?

MR. BRYAN: The State Board of Pharmacy can do this now.

MR. SWACKHAMER: They do have this authority now? Then they could get these.

MR. KEAN: Why do you want to put this in the State Board of Pharmacy? Let's use the Narcotics Bureau.

MR. SONNENREICH: There will be 60 to 90 days to get these things under control. If you do nothing, then we will take over the control.

MR. BRYAN: Did you send Mr. Kean the last Federal Registration?

MR. SONNENREICH: I will have it sent to you from San Francisco tonight.

MR. KEAN: What control have you done on my sort of business - components? Do you have control over this?

MR. SONNENREICH: Under the old law we don't. Under the new law we will have control. We will come out and inspect all new licensees. People say they are researchers and they are just churning the stuff out.

MR. LOWMAN: I move we ask Mr. Sonnenreich to help us prepare legislation concerning the pre-cursors, also the adoption of the list by reference within existing statute and possibly 205 if passed.

Motion was seconded and carried unanimously.

MR. KEAN: You are going to put it under Narcotics, aren't you?

At this point, Mr. Sonnenreich was excused.

MR. TORVINEN: We have Dr. Homer here. He introduced AB 93 and he was not available the day we discussed it. It has to do with a time limit for the sale of real property when taxes delinquent.

DR. HOMER: This was brought to my attention by one of my constituents. As the law is now counties have been taking over land which is going to be valuable. They hold onto this land until the owner is gone or out of the state. Then they sell it and keep all the proceeds. If he knew about it he could pick up his property even though the taxes were delinquent. The county may sell it five years later. All they are really entitled to is the due taxes plus the costs. The balance should go to the owners or their heirs.

My constituent cited several cases in which injustices had been done. I feel we should set a time limit in which the county could take over land. This bill was to correct a situation in which people were being taken advantage of. Sets a time limit of one year after it becomes county property. Surely they could sell it within four years.

MR. REID: I am concerned about page 2, line 24 "not to exceed 5% of the net profit". Why that figure? A real estate broker gets 10%.

MR. TORVINEN: 10% on the sale of bare land. 5% on other.

MR. FRY: What is the net profit?

DR. HOMER: The amount over and above what is owing the county for taxes.

MR. REID: The last paragraph: We will be creating problems here to say "for the purpose of this subsection reasonable diligence, etc." This might lead to abuse. I don't believe we need that last paragraph.

DR. HOMER: I would leave that to the wisdom of the committee. There are definitely cases where this is needed. I don't know why county commissioners should be allowed to hold onto a piece of property for five or ten years. I don't see any sense to it. They are depriving the county of taxes while they hold it for value to go up.

MR. SWACKHAMER: Every case could be different. I can see your point and it is a good one, but there are instances where you will make them act in one year when it would be really better to wait.

DR. HOMER: Where are you going to draw the line?

MR. TORVINEN: When the county takes the tax deed, even after 6 or 7 years, if the man comes in he can still pay the taxes and redeem his property. You are causing him to lose this right by forcing a sale.

This is a two-edged sword that would damage as many people as it would help. 270

DR. HOMER: If you can't see any way to get around this, it won't ruffle my feathers.

MR. TORVINEN: You will be playing right into the hands of the land speculators.

AB 337: Requires notice before certain property rentals may be increased.

MR. REID: If we could make it a lot longer I would take that but 30 days is all we could sell to the people in the Assembly.

MR. BRYAN: Would you settle for a week to week basis?

MR. LOWMAN: Don't you almost have to tie to your pay period?

MR. REID: We might work it that way. I can remember when my Dad was charged by the month but paid by the week.

MR. BRYAN: How about periodical tenancy for less than a month?

MR. WRIGHT: Whether you are on a week to week or month to month basis it still takes awhile to find a place to live, to move to.

MR. REID: Say your rent is raised \$50 per month and you can't afford that and you have to find a place that is within what you can pay. I don't believe this is putting a burden on the landlord.

MR. WRIGHT: You are usually budgeted and would have to have at least one month to find something else before you could move.

AB 521: Establishes detailed procedure for summary evictions.

SB 34: Provides remedy for tenant in summary eviction proceedings and extends notice period.

MR. TORVINEN: There have been lots of complaints about 40.353 which is Senator Herr's bill of last session. I saw one that was just a conclusory affidavit.

MR. WRIGHT: I believe it is unconstitutional if you could ever get it to court.

MR. REID: I think your amendments are just great. I don't see how anybody could oppose.

MR. SWACKHAMER: Wouldn't the tenant know that he had a right to appear?

MR. WRIGHT: No, most of them would not.

MR. REID: Maybe he isn't behind in his rent.

MR. TORVINEN: Let's compare SB 34 and AB 521.

MR. REID: It lengthens the time but I am more concerned that the tenant

gets a fair break. Let's assure that they are really behind with their rent and that they get enough time to find another place.

MR. TORVINEN: Three days covers a week-end.

MR. WRIGHT: The trouble is getting an attorney to act within three days.

MR. TORVINEN: Do we need both acts or shall we combine them?

MR. REID: Let's amend 521 to include the five days and then we will have just one bill.

MR. TORVINEN: SB 34 does just about the same thing in a different way.

MR. SCHOUWEILER: An easier method would be to amend SB 34. That would knock it down to just one house.

MR. LOWMAN: SB 34 is a major change. AB 521 is not.

MR. SCHOUWEILER: So what? We are trying to save some time.

MR. BRYAN: The tenant has a right to be heard. How can he know when this will be without notice?

MR. FRY: Line 18.

MR. BRYAN: This is really what you want, for the purposes of restitution. It is implicit in 521. It provides a hearing and I think there should be some type of summary hearing.

MR. WRIGHT: Could it be at the instigation of the tenant?

MR. TORVINEN: That's what I had in mind.

MR. WRIGHT: If notice is given them that they have the right to be heard, then they can go in and ask for a hearing. If the tenant is not interested in a hearing, then why go through with it?

MR. BRYAN: That puts the monkey on his back. That is a good idea.

MR. TORVINEN: It could go in page 1, around line 19 somewhere.

MR. REID: I move we encompass within SB 34 the amended portions of AB 521 and delete from SB 34 the last paragraph.

MR. FRY: I second the motion
MOTION CARRIED UNANIMOUSLY.

Mr. Bryan was asked to get this amendment prepared.

AB 272: Expands unlawful detainer procedures to include mobile homes.

MR. REID: I move Do Pass AB 272.

MR. BRYAN: I second the motion.
MOTION CARRIED UNANIMOUSLY.

MR. SWACKHAMER: Before we act we should check the description given

on page 3 with the description on a bill in the Taxation Committee." 272

MR. REID: I would move then that our definition be the same as that in the other bill in Taxation.

MR. BRYAN: I second the motion.

MOTION CARRIED UNANIMOUSLY.

AB 275: Limits eviction methods.

MR. REID: I move Do Pass AB 275.

MR. BRYAN: I second the motion.

MOTION CARRIED WITH MR. FRY VOTING NO.

MR. SWACKHAMER: Wait a minute! Can't we ask a question?

MR. REID: This applies strictly to nonpayment of rent. It is not to be used because the man has too many kids, or because they kicked a hole in the wall.

MR. BRYAN: Landlords are using this to any reason for wanting to kick tenants out.

MR. WRIGHT: Usually the tenant does not have the money to hire a lawyer and doesn't know what his rights are.

AB 295: Adds to exemptions from landlords' liens.

MR. REID: I move Do Pass AB 295.

MR. BRYAN: I second the motion.

MOTION CARRIED UNANIMOUSLY.

AB 296: Prohibits use of liens by landlords to remove tenants.

MR. REID: I move Do Pass AB 296.

MR. BRYAN: I second the motion.

MR. TORVINEN: This has been abused by locking people out of their place with everything in there.

MR. WRIGHT: This helps a great deal.

MR. REID: They go in and take everything these people have except the very few items which are exempted.

MR. TORVINEN: It only applies to apartments and bungalow courts. It doesn't apply to houses.

MR. SWACKHAMER: I can see abuses both ways.

MR. REID: I withdraw my motion.

MR. SWACKHAMER: There are always two sides. I would like to hear the other side on this.

MR. WRIGHT: I have two cases right now of this. A lady was ironing for someone and she went out to deliver the ironing and when she came back the place was locked up tight. The weather was very cold and she

had run out without a coat and she couldn't get back in.

Locking the door is just as much an eviction as kicking them out. All you are doing here is saying they have got to have three days notice. 2-73

MR. TORVINEN: The innkeeper and lodger relationship is an entirely different thing, a different situation.

MR. WRIGHT: It might be wisdom to establish that there must be a way to establish that lien.

MR. SWACKHAMER: Unless you have relief for the other side, you will not be able to pass this bill.

MR. REID: The other side has relief already. They can go right in and take anything. The property the tenant has may not be worth much but it is worth a lot to him.

MR. REID: I move Do Pass AB 296.

MR. BRYAN: I second the motion.

MOTION CARRIED WITH MR. FRY VOTING NO.

AB 337: Requires notice before certain property rentals may be increased.

MR. REID: I move Do Pass AB 337.

MR. BRYAN: I second the motion.

MOTION CARRIED UNANIMOUSLY.

Meeting was adjourned at 4:45 P.M.