

MINUTES OF MEETING - ASSEMBLY COMMITTEE ON JUDICIARY, 55th Session  
March 18, 1969 (Second Meeting for that day.)

Meeting commenced at 7:10 P.M.

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

ABSENT: None.

AB 141: Requires consent for certain wiretapping.

MR. BRYAN: I don't see anything in this statute that would prevent the recording of a conversation between two people without the consent of both, nothing to prevent the recording and nothing to require the consent of both parties. This bill doesn't even deal with the wiretapping problem. There may be another bill that says that but I don't believe this one does.

MR. LOWMAN: I move we INDEFINITELY POSTPONE AB 141.

MR. KEAN: I second the motion.

MOTION CARRIED UNANIMOUSLY.

AB 290: Authorizes wrongful death action by surviving spouse of minor.

MR. BRYAN: What is the purpose of the mother and father jointly?

MR. KEAN: Father or mother applies on line 3.

MR. TORVINEN: Mr. McKissick has prepared some amendments to this bill. Do they clear up the problem? It starts with line 2 "and the father and etc." The amendments take care of the one action, don't they?

MR. SCHOUWEILER: I move Do Pass AB 290 with the amendments.

MR. BRYAN: I second the motion.

MR. REID: The way I read it the one action could be the father and mother or the wife.

MR. BRYAN: How is the recovery to be apportioned?

MR. FRY: It would depend on the facts of the case.

MR. TORVINEN: Let's see how we are changing the present law. Does this mean only the mother or the father could sue?

MR. FRY: First come, first served.

MR. REID: Should the parents be able to sue if the person was married

MR. TORVINEN: I personally don't think so.

MR. FRY: What if the guy is sending his mother \$50 a month to live on?

MR. BRYAN: There would be no cause of action if either of the couple was over 21.

MR. REID: It should end with a suit by the spouse and that is not what it says.

MR. BRYAN: This is a policy which we have to make.

MR. TORVINEN: Where is the vice with the bill originally printed in our bill books? I can't see any.

MR. REID: Do we need anything more specifically to say if the minor is married?

MR. SCHOUWEILER: Including his wife, if any?

MR. BRYAN: Or if the minor is unmarried.

MR. TORVINEN: If an unmarried orphan dies who has got a cause of action?

MR. FRY: He could have a cause of action. His mother and father might have been married to other people.

MR. REID: It could be an unmarried orphan who has a child.

MR. TORVINEN: "The following shall have a cause of action in this order: mother and father if minor child is unmarried ----"

MR. FRY: 139.040 on the administration of estates gives this order for us. (Read these). The language that introduces is good.

MR. BRYAN: There should be only one cause of action. 1. Use the same language in the bill already, lines 2 and 3. 2. Unmarried with no child surviving would be the parents; 3. Married and spouse surviving would be the spouse; 4. Unmarried and surviving child would be the child; 5. Estate or personal representative of a deceased minor child.

MR. REID: The child is entitled to the usual number of dollars and I am wondering if he collects this money and takes it away from the spouse then she can no longer collect the money that it will take to raise this child.

MR. FRY: I move to send the amendment to the press and do nothing till it comes back.

MR. TORVINEN: Who is going to take care of this amendment?

MR. FRY: I will do it tomorrow.

Mr. Torvinen introduced Dr. Christian and Dr. Massoff, dentists from Carson City, who wanted to talk on AB 633.

AB 633: Provides for nonprofit health care corporations.

DR. CHRISTIAN: President of State Board of Dental Examiners: I would like to give you a little background on this. In April of 1968, there was a report on the national level of groups to be established by private or public funds to be called Dental Service Corporations.

The role of the Dental Service Corporation is that of a bargaining arm with groups who desire prepaid dental care. Most popular are the various union funds. However, there are more and more Federal Plans which involve prepaid dental care. The primary purpose of Dental Service Corporations would be for the benefit of the public, for companies who desire a prepaid Dental Program and are organized to secure it.

There are basically two types within the United States. One is the Administrative type of Dental Service Corporation which we desire to have, in which we only administer these. The underwriting is done by union funds or employee groups. They might be actually insurance programs or Federal Funds.

The second one is the one which underwrites their own program. I don't feel we are big enough for that, to get into the position of underwriting

MR. REID: Are these in use elsewhere and if so where?

DR. CHRISTIAN: Yes. California, Hawaii, Oregon, Utah --- I have a list here.

MR. REID: Why do you need a statute on this?

DR. CHRISTIAN: After discussing this with Russ McDonald there was some question as to whether a statute was absolutely necessary or not. It was his recommendation that we pursue this course. It would necessitate some changes in the Dental Act.

MR. REID: We would have to change Chapter 81 of the statute because it covers nonprofit organizations, but I just can't see the need for it.

MR. BRYAN: It might be needed because the composition of this particular type of corporation in terms of who would be eligible for this type of corporation might not be sufficiently defined.

MR. TORVINEN: The first section of this bill 629 is Healing Arts. Section 2 of the Act deals only with the Dental Board. It regulates the Dental Profession. The only change I see is page 3, lines 1 and 2. I think the amendment to section 2 may be well taken as clarification.

DR. CHRISTIAN: It would be necessary for at least 25% of the dentists in the state to join this and the Union would connect with the organization, not the individuals.

MR. REID: Doesn't the organization pay the salaries of the dentists?

DR. CHRISTIAN: There is no salary involved. They pay the usual fees.

MR. TORVINEN: You are getting away a little bit from the doctor-patient relationship, aren't you? Or are you?

DR. CHRISTIAN: As I read section 88, it is difficult to keep this under the control of the dentists where dental care is included. They should be consulted about some things, however. I have seen publications put out without consultation with the dentists and they don't make sense.

MR. REID: Sunrise Hospital has had a deal with the Teamsters Union for some time. They did not need any statute. The doctors and hospital are paid by the Teamsters Union.

DR. MASSOFF: The Clark County group is mainly responsible for our going ahead with this. The fee schedule would not be fair to either the dentist or the patient. If you get 60% of \$7 you are being hoodwinked. The individual is under the impression he is getting the work practically free.

MR. REID: Why would he think he is getting this work practically free?

DR. MASSOFF: You pay \$5 per year and there is a listing of each fee. If this is exceptionally low, and it is now in most instances, you get 60% of \$7.

MR. REID: How will this remedy the situation?

DR. MASSOFF: We can deal with these organizations the same as we are now dealing with the State.

We would classify this provision with Sunrise Hospital as a Closed Plan. They are buying a service from one source. Under this program two of the important points are: One, the patient has a free choice of dentist; two, the dentist can choose those whom he wishes to treat.

MR. SWACKHAMER: You say 25% of the dentists in the state will have to become a part of your group before you set up this corporation. Will you be able to represent the remaining 75%?

DR. CHRISTIAN: I will try to explain why this provision is in there. After this was prepared, I sent a copy to the National Dental Association so we could avoid the pitfalls that had been experienced elsewhere. They replied that our Act did not specify the number which must join. We brought this to Mr. McDonald and he reviewed the California situation and then produced this Act as we have it. The purpose is to prevent one or two or three people from forming such a corporation.

I feel safe in saying that we will have the support and approval of most of the other 75%.

MR. SWACKHAMER: Would this Act preclude Blue Cross or someone like that from setting up an organization in this state to deal with your organization? You would negotiate with the public for them?

DR. CHRISTIAN: Yes, and also with the dentists.

MR. TORVINEN: Why was this Act drawn to include these other services?

DR. CHRISTIAN: We were told to do it this way so there would be less trouble in getting it through the Legislature.

MR. TORVINEN: All you really want is to have Chapter 31 included?

DR. CHRISTIAN: Yes.

MR. FRY: The fee schedules that have been set up have been discussed. What are the reasons behind this legislation? I don't see the "why".

DR. CHRISTIAN: (Read a newsletter from the ADA Journal). It told of 52,000 people being included in one plan where not all of them were residents of states which had such a statute. There was no one in those states to discuss and implement the program. They had to get enabling legislation.

MR. FRY: I still can't see the evil we are trying to get to.

DR. MASSOFF: The State has no organization such as this except for the Closed Shop ones.

This organization would help with any group that might be concerned. Furthermore, lots of organizations that will be set up will be inferior organizations. This would straighten them out as far as what services should be allowed and what not to worry about.

DR. CHRISTIAN: Some things on the Oregon Dental Organization: They had a committee within their Association. The Oregon Dental Service was an agreement by the State Dental Society. The Plan was satisfactory to both the people and the dentists.

I have here a pamphlet entitled "Why a Dental Service Corporation?" I will leave it with you to study.

MR. BRYAN: You say the dentist in this would be limited to the assets of the Corporation. I am not trying to oppose. I just don't understand.

DR. CHRISTIAN: We felt they would be better off with a firm organization rather than with an informal committee.

MR. BRYAN: Is this a consideration - to limit the liability?

DR. CHRISTIAN: It is not a primary consideration, no. The primary consideration is to be able to sit down and arrange these plans.

MR. BRYAN: The liability of the dentist should be a separate problem.

DR. CHRISTIAN: As of July 1, 1968, there were 22 states which had the type of organization which we are trying to get.

MR. KEAN: Would the Corporation or the dentist carry this malpractice thing?

DR. CHRISTIAN: The individual dentist.

MR. TORVINEN: The corporation is only a negotiating agent.

I do not read the liability of the dentist in there in any way.

DR. CHRISTIAN: We patterned this after the California Plan.

MR. REID: How many dentists would 25% be in Nevada?

DR. CHRISTIAN: Approximately 50. There are around 200 dentists here.

We are leaving you a publication of the United States Health Service. This issue is something not limited to the desires of our own society.

MR. TORVINEN: Somewhere along the line there is something that is insurance, isn't there? It is paid out in accordance with your negotiated fee schedule. You don't envision handling any of the money, do you?

DR. MASSOFF: No, and we will see that the group that we are negotiating with gives better service to the people.

DR. CHRISTIAN: This will provide the means that the Dental Profession has the opportunity to police, to see that the dental care rendered is of the high quality desired. This would be one of the functions that would be an arm of the organization.



MR. BRYAN: Any statutory model in other jurisdictions?

DR. CHRISTIAN: Russ has one from Michigan which is also an administrative corporation.

MR. KEAN: Where do you get the term "prepaid?"

DR. CHRISTIAN: The Teamsters put this term into their fund for dental care. The employee is paying ahead for his dental care. You get the money from the Union, or the insurance company or whoever is underwriting the Plan.

MR. LOWMAN: Would this tend to standardize the fees?

DR. CHRISTIAN: Not particularly.

MR. TORVINEN: It would say that any dentist doing work under the Plan would get the fee on the schedule. They would pay the usual fee. It would be the lower of the two, according to Dr. Massoff.

MR. BRYAN: Would you negotiate for all the dentists or only those participating?

DR. MASSOFF: Only those participating. Clark County has 98 dentists and I would guess that 95 of them would join this organization.

MR. BRYAN: Membership would be available to any licensed dentist?

DR. MASSOFF: Yes.

MR. SCHOUWEILER: But theoretically it could be only 25%?

DR. CHRISTIAN: Yes, and we only want one organization in the state.

MR. BRYAN: You would have no objection to 50%?

DR. CHRISTIAN: No. Every dentist has the right to be a member.

MR. KEAN: If you have a dentist who is a "dog" would you have to take him in?

DR. MASSOFF: If he wanted to be in.

MR. KEAN: It wouldn't change anything because the patient still has a choice. This is really an organization to collect for the dentists.

MR. TORVINEN: It also keeps out the spurious groups.

DR. CHRISTIAN AND DR. MASSOFF WERE EXCUSED AT THIS POINT, 8:20 P.M.

MR. REID: I can see some problems here.

MR. TORVINEN: It does two things. First it gives the Dental Service Corporation first crack at anyone who wants dental care. Second, it discourages the small groups from forming organizations.

MR. REID: What they are saying here is that if someone is a scrub they have police powers and if he cuts fees, out he goes.

MR. LOWMAN: I move Indefinite Postponement for AB 633.

2-149

MR. SWACKHAMER: I second the motion.

MR. REID: The provision says the individual is a member of the Corporation but is responsible for his own negligent acts.

MR. TORVINEN: All this is is an organization to negotiate these organizations then after that it is a patient - doctor relationship.

MR. LOWMAN: This is the beginning of rate-setting right here.

MR. TORVINEN: That is exactly what they are doing now with Title 19.

MR. REID: Here they will have absolutely no problem collecting the money. I would like to check with some of my constituents on this.

ON THE MOTION TO KILL THERE WERE FOUR AYES, SO THE MOTION FAILED.

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

MR. REID: This has merit to the fact that we need something to standardize the procedure for suing a political subdivision. Attorneys have trouble finding out who to sue. However, this bill will not correct all of the evils. I would like to check with the bill drafter and see what he can do.

MR. TORVINEN: This only concerns one of the problems.

MR. KEAN: I move Do Kill AB 153.

MR. BRYAN: I second.

MOTION CARRIED.

AB 372: Establishes uniform fees for commencing civil actions in justices' courts.

MR. REID: I move Do Pass AB 372.

MR. BRYAN: I second the motion.

MR. TORVINEN: Page 2, line 24, we are raising the fee from \$5 to \$7.

MR. KEAN: Page 3, line 15: Is this free?

MR. TORVINEN: No, it just makes them all \$5.

MR. REID: This is a good bill. I can still remember Mr. Kean's speech about standardizing all fees.

MR. SWACKHAMER: Is there any need for raising the fees?

MR. REID: Yes. How can we go wrong here, fellows?

MOTION TO DO PASS AB 372 CARRIED UNANIMOUSLY.

AB 389: Prohibits exclusion from jury service because of race, color, creed or sex.

MR. REID: I move Do Pass AB 389.

2- 150

MR. FRY: We took care of this in 204.

MR. TORVINEN: All those in favor of Indefinitely Postponing AB 389 say Aye.

MOTION TO INDEFINITELY POSTPONE AB 389 CARRIED.

SB 83: Removes restriction on days when justices' and municipal courts may be held.

MR. TORVINEN: This is to allow Saturday and evening traffic court and Saturday and Sunday arraignments.

MR. REID: I move Do Pass SB 83.

MR. LOWMAN: I second the motion.

MOTION CARRIED UNANIMOUSLY.

SB 163: Removes civil liability of gambling house operators and saloonkeepers for allowing minors to loiter in such establishment.

MR. SWACKHAMER: Gentlemen, this is needed legislation.

MR. BRYAN: (Read 202.070.)

MR. TORVINEN: Now read 465.100.

MR. FRY: How many suits have been prosecuted under this?  
(Read 465.100 to the committee.)

MR. KEAN: I move Do Pass SB 163.

MR. SCHOUWEILER: I second the motion.

MOTION CARRIED UNANIMOUSLY.

AB 395: Provides disposition of unclaimed property of University of Nevada.

MR. TORVINEN: This is a Neil Humphrey bill.

MR. KEAN: On line 7, page 1, why don't we remove University and have it go to the State?

MR. REID: No. Why should it go to the State?

MR. LOWMAN: Don't they have power to do these petty things?

MR. REID: I move Do Pass AB 395.

MR. SCHOUWEILER AND MR. FRY: I second the motion.

MOTION CARRIED UNANIMOUSLY.

AB 390: Creating Law Enforcement Assistance Bureau.

MR. SWACKHAMER: We have discussed putting the narcotics things on and referring to Ways and Means.

MR. TORVINEN: Shall we put it on the board and then re-refer it?

MR. REID: I move Do Pass with amendment 1682 and then refer to Ways and Means.

MR. LOWMAN: I second the motion.

MOTION CARRIED UNANIMOUSLY.



SB 409: Disqualifies judges from hearing capital cases if they are opposed to death penalty.

MR. TORVINEN: This applies to the Supreme Court and District Courts.

MR. REID: What can the judge do? He has to follow the law. The question goes back to Roy's bill to do away with the Court on the Clemency Board.

MR. TORVINEN: The story is that Sam Francovich is going to file some kind of an appeal over there this week.

MR. BRYAN: The judge doesn't even make the decision.

MR. LOWMAN: I move Do Pass SB 409.

MR. SCHOUWEILER: You will have more appeals if we pass this.

MR. REID: Say that a judge sits on a case. Wouldn't I then have the right to appeal on the sole grounds that he was against the death penalty? He can't do anything at the trial level or at the appeal level. He would violate his oath if he did.

MR. KEAN: Then this bill is not the issue.

MR. REID: What Senator Slattery doesn't realize is that it is things like this that have caused a shambles in our courts.

MR. SCHOUWEILER: I think this is all just political or for newspaper publicity.

MR. REID: I would like to have Senator Young in to tell us why he voted for this. Tomorrow?

MR. BRYAN: This is making every judge a witness in a criminal case.

MR. REID: Two Supreme Court Judges are against the death penalty, Zenoff and Thompson.

MR. FRY: This comes from Witherspoon vs. United States. You can't exclude a judge because of the Supreme Court Decision. The approach is to get the Justices of the Supreme Court off this Clemency Board. We are going to get into such a feud with the body across the street it will be ridiculous.

AB 351: Provides for notice of removal of certain abandoned vehicles and limits garage owner's lien.

MR. TORVINEN: On the last day of the last session we passed this. It says if your car is worth under \$100 and notice is sent to you and you don't do anything about it within 15 days that constitutes waiver of any interest in the car. This bill went out of the Assembly in pretty good shape last session but it came back from the Senate in bad shape and because it was the last day we concurred and passed it.

MR. BRYAN: \$100 within 15 days constitutes waiver of the vehicle. Shouldn't it be failure to claim?

MR. TORVINEN: Line 17, page 1, they are trying to duplicate the language of the first bill but it doesn't really fit.

MR. REID: Page 2 should state that "vehicle under \$100, failure to reclaim within 15 days constitutes a waiver of the interest."

I don't like #20 on page 3. Why?

MR. TORVINEN: Because that is elsewhere in the law. There is a statute which provides that if you have a car you believe is abandoned and you don't make an effort to find the owner you can't make claim for more than 30 days storage.

MR. REID: I move Do Pass AB 351 with the amendment reading, on page 1 line 17: "Failure to reclaim a vehicle appraised at \$100 or less, within 15 days of official notification, constitutes waiver of interest in the vehicle by any person having an interest in the vehicle."

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

AB 388: Prohibits certain practice in legal profession.

MR. TORVINEN: This is the Carl Martelero bill. He was on the Mark Twain case. He adjourned the court to go down to Minden to represent a case.

Only a city attorney, district attorney and Attorney General can prosecute. Water companies can't prosecute.

MR. BRYAN: I have a conflict here. Anything I would say would be self-serving.

MR. FRY: All kinds of criminal problems here. How close do you get? Who will get the information first. Probably the company attorney. I think if we just set it out city attorney, district attorney, and Attorney General that will take care of it.

MR. BRYAN: Some of the small counties used to have prosecutors who resided outside the county. Would this mean they couldn't do that?

MR. REID: I move AB 388 be amended line 3: "Any Attorney General, district attorney, city attorney, and or their deputies or assistants shall not" and then go on from there.

MR. FRY: I would add special prosecutor.

MR. LOWMAN: Is there a definition of prosecutor.

MR. SCHOUWEILER: Line 6 should be "accept." I have an amendment on this.

MR. FRY: Leave off the "not" line 6.

MR. FRY: Move Do Pass AB 388 with these amendments.

MR. REID: I second the amendment.  
MOTION CARRIED WITH MR. BRYAN NOT VOTING.

MR. SCHOUWEILER: I will take care of these amendments.

AB 434: Increases penalty for anonymous obscene, and other telephone calls.

MR. BRYAN: I move Do Kill AB 434.

MR. TORVINEN: Mr. McAdam said they thought the first offense should be lower.

MR. LOWMAN: I second Mr. Bryan's motion.  
MOTION CARRIED UNANIMOUSLY.

AB 485: Prohibits trespass in a public building.

MR. LOWMAN: I move Do Pass AB 485.

MR. BRYAN: I second the motion.

MR. FRY: This is wide open for abuse.

MR. TORVINEN: It says you have to be requested to leave.

MR. FRY: How about some law enforcement as well?

MR. REID: Why make it so complicated?

MR. BRYAN: Mr. Fry's suggestion would make the bill stronger.

MR. LOWMAN: What you are proposing is to add a peace officer?

MR. REID: I move line 6 the language be: "guardian, watchman, custodian public agency, or law enforcement officer."

MR. LOWMAN: Why not put peace officer in the line before, line 5?

MR. REID: That would be better. I withdraw my motion.  
I make a new move to include Zel's suggestion.

MR. BRYAN: He might be guilty of a misdemeanor and he doesn't even know who is telling him to leave.

MR. PRINCE: That is a good point. Before our police had to wear uniforms, they would go up to a drunk and start shaking him up a bit and the drunk would hit him and then be guilty of assaulting an officer, etc.

MR. SWACKHAMER: I move we change "agency" to "building" line 6.

MR. LOWMAN: I move Do Pass AB 485 as amended.

MR. TORVINEN: These amendments will include "law enforcement officer" on line 5, "building" instead of agency on line 6.

MR. SWACKHAMER: I second Mr. Lowman's motion.  
MOTION CARRIED UNANIMOUSLY.

SB 139: Outlaws conduct in public area which disrupts normal activities.

MR. TORVINEN: This is a companion bill.

MR. SCHOUWEILER: This is Senator Swobe's University of Nevada riot bill.

MR. BRYAN: This is too broad. We could be running into a real constitutional problem here.

MR. REID: I don't think so. (He read the bill aloud.) I think that is all right.

MR. LOWMAN: What is wrong with it?

MR. SWACKHAMER: I don't see anything wrong with it.

MR. TORVINEN: I happen to be an expert because I have read all of the Shuttlesworth case. I am afraid it is unconstitutional. I think you have to include the notice provision in there. Then if they fail to comply with the notice that their conduct is interfering and don't leave they are guilty.

MR. LOWMAN: I move Do Pass SB 139.

MR. SWACKHAMER: I second the motion.

MR. TORVINEN: How does this fit in with the bill we just passed?

MR. REID: I move we hang onto this for leverage.

MR. FRY: I second that motion.

MOTION CARRIED UNANIMOUSLY.

AB 499: Prohibits manufacture, possession or use of fire bombs.

MR. KEAN: Page 1, line 8: Does intent refer to that paragraph?

MR. FRY: Do we have a real problem with this?

MR. BRYAN: We do down South. They have burned several buildings with these things.

MR. KEAN: Is this really going to help you? I will buy it.

MR. LOWMAN: I move Do Pass AB 499.

MR. PRINCE: I second the motion.

MOTION CARRIED UNANIMOUSLY.

AB 615: Makes expenses of criminal actions commenced by Attorney General's office obligation of State.

MR. TORVINEN: This is a result of the Mark Twain case. Raggio looked over the evidence and refused to prosecute because it was insufficient. Dickerson went ahead with it.

MR. REID: I move Do Pass AB 615 and refer to Ways and Means.

MR. FRY: I second the motion.

MOTION CARRIED UNANIMOUSLY.

MR. PRINCE: I move we adjourn.

MR. LOWMAN: I second the move.

MOTION CARRIED UNANIMOUSLY.

Meeting was adjourned at 9:45 P.M.