Meeting was called to order by Chairman Torvinen at 3:40 P.M.

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

Absent: None.

SB 331: Requires county recorders to note redemptions upon index of certificate of sale when records are photographed.

MR. REID: This looks like a very fine bill.

MR. TORVINEN: This one is a winner.

MR. REID: I move Do Pass SB 331.
MR. SCHOUWEILER: I second the motion.
MOTION CARRIED UNANIMOUSLY.

SB 251: Provides for nomination of substitute by designated executor.

MR. REID: I had a case where a person had been named executor under a will and was unable to serve because he did not live in the State of Nevada. There were other prohibitions, also. We had some trouble finding someone to serve in this capacity. As I understand it, the people he had wanted to take his place could not be appointed because of the law. With this bill, we could rely on that person's wishes.

MR. TORVINEN: By nomination. The only limitation I know of at the present time is that the person nominated must be a Nevada resident and under no other civil disability. This bill makes it so a named executor can name a nonresident to act as executor.

MR. FRY: Look at line 10.

MR. SCHOUWEILER: (Read from NRS 138.020).

MR. TORVINEN: The nominated executor still acts usually as executor. The administrator will act when no nomination is made.

MR. REID: What exactly is the difference and why do we need this?

MR. TORVINEN: It clarifies a little. Somebody must have run into a problem with this. Do you want to hear from someone in the Senate?

MR. REID: I move we ask someone from the Senate to come in.

MR. TORVINEN: Senator Monroe, in looking at the existing statute, we could not see any real need for this.

SENATOR MONROE: When a person becomes unqualified to serve as executor, such as moving out of the State, then it is up to the courts to appoint an executor and many times the banks move in and take over and this increases the costs of settling the estate. This mounts fees on top of the attorney's fees and many times there would be nothing left.

The banks objected but we put in a provision that the alternate executor, suggested by the named executor, had to have precedence before a bank could enter in. That is the only necessity for the bill.

Usually, there are surviving relatives that could be appointed and keep the thing in the family.

SENATOR YOUNG: I don't know who offered SB 251 but we thought it had some merit. The person making the will probably had confidence in the judgment of the one he designated as executor, so that person could probably be trusted to select an alternate.

MR. KEAN: I move Do Pass SB 251.
MR. PRINCE: I second the motion.
MOTION CARRIED WITH FRY AND SCHOUWEILER VOTING NO.

SB 255: Changes methods of furnishing accountings by certain trustees.

MR. KEAN: Page 2, line 6 "periodic", does that mean every other day or once every five years or what?

MR. SCHOUWEILER: (Looked up 165.135 in NRS). It means not less than annually.

MR. TORVINEN: What would you do if the beneficiary is incompetent and in an institution? Just give a copy to the head of the institution?

MR. REID: I can't see anything wrong with this bill.

MR. TORVINEN: You need petition for final settlement only. With the annual reports, you would not have a settlement.

MR. KEAN: I move Do Pass SB 255.
MR. REID: I second the motion.
MOTION CARRIED WITH MR. FRY VOTING NO.

SB 290: Requires demand for retraction in certain actions for libel or slander.

MR. REID: This is the libel and slander bill. We discussed this when only five of us were at the meeting and Roy asked me to do some work on it.

I have spoken to Senator Monroe. This bill is identical with my AB 556. Both are copied from the California statute which was enacted in 1931 and amended into its final form in 1955. For over 30 years this law has been in effect in California. The law is concise and clear and covers the problem quite well.

The Nevada statute, as I understand it, is very difficult to work with. The newspaper people say they are very vicious.

The California law has worked well. It sets out what the law is. Since it has worked well, and ours hasn't, I think we should adopt the statute.

MR. KEAN: Suppose you ask for a retraction and get it in the same size

print and all? 2.198

MR. REID: Then all you could do is sue for your actual damages. You don't go into mental suffering and all that stuff.

If there is not a retraction, then you can go to work.

MR. LOWMAN: Any comment on this from the newspeople who are here?

VICKI NASH: We are in favor of it and my editor said to tell you that.

MR. REID: The newspapers have had difficulty printing what they think should be said because of fear of these suits. They can still sue, if they can prove they were damaged.

I move Do Pass SB 290.
MR. LOWMAN: I second the motion.
MOTION CARRIED UNANIMOUSLY.

MR. FRY: The retraction must be printed in the next issue in the same place, same amount of space and the same size type.

MR. REID: One problem with this: There is a good question as to whether this is criminal or civil. It is under crimes, which is ridiculous.

Additionally, we have the problem that the retraction must be printed the day after and that can sometimes be a problem.

Mr. Frank Daykin was asked to come in and help the committee.

MR. TORVINEN: We have been tussling with AB 290 for nigh onto six weeks and I am not sure we are any closer to solving the problem than when we began.

Gene Wait suggested this bill in the first place and he sent a long letter on it. We had an impromptu meeting about this in the Speaker's office the other day and we tried to work out an amendment that would be simpler than the one discussed here in the committee. We suggested "the following in order of their appearance, etc."

MR. KEAN: Did Gene like that amendment?

MR. TORVINEN: No. He suggested "heirs at law."

MR. DAYKIN: By using the word "heirs" we automatically invoke the laws of intestation which spells out the rules of order. Mr. Wait suggested that 12.080 be amended to be the same as 12.090. Then amend both sections to clarify that there will be only one action.

However, this would make no provisions for the right of action for injury to a minor. With an adult, common law gives him the rights to sue for his injuries. For 100 years the right to recover for injuries for a minor has been statutory only. So I amended 12080 and combined it to the question of injury "when a minor child, who has not been emancipate by marriage is injured by another person, etc."

The amendment ends with "only one such action may be brought."

It confines this particular section to the unemancipated minor and his injuries. Then we go into 12.090 and broaden that statute from its present shape "when the death of any person, whether or not a minor, is caused by the wrongful act of another," and ends "only one action may be brought by "heirs." The use of this word brings in all these other people in the order of their merit. With this, we achieve Gene's purpose of treating them all equally.

The number of this amendment is 1820.

120.90 takes out all the existing language and writes an entirely new section.

The one person who has the right to sue may be joined by others in the action. Our laws already provide for joinder. But the wife might sue and then an adult child might sue and you would have no way to force them into one action without this new law.

MR. KEAN: It sounded like you were making him come into the action.

MR. TORVINEN: We do that in other cases, also.

One thing that bothers me is that the old language said "when death of any person not a minor, etc." You go one step further and you add some language that wasn't in before and I want to be sure that you are not changing the law.

(A comparison was made by Mr. Torvinen and Mr. Daykin of the new law and the old NRS.)

MR. DAYKIN: The only problem would be "injury or" and that is already in there.

I see, though, what went wrong. Our copiest got to copying things and combining and some wrong words are in here. I will get that fixed.

MR. TORVINEN: Wouldn't it be better to leave 12.090 the way it is because the courts have construed it already?

We will need to divide 12.080 into two sections, one for wrongful death and one for injury, both dealing just with minors.

MR. KEAN: Why must you separate them? Why not just say "injury or death?"

MR. DAYKIN: If the child is emancipated you don't have to appoint a guardian. He is considered as an adult.

MR. TORVINEN: If a 20-year old boy were to get a divorce, he has to appoint a guardian "ad litum."

MR. SCHOUWEILER: Not in the Second Judicial Court.

MR. DAYKIN: Then they are departing from the common law.

MR. SCHOUWEILER: Because there is a difference in an emancipated child and an unemancipated child.

MR. TORVINEN: There is no question with an unmarried minor child. It should be the parent or guardian, but with wrongful death we have another situation. What did Gene specifically want to do with this?

MR. DAYKIN: He wanted to change 12.080 and 12.090 to read exactly alike except to minor and not a minor.

MR. TORVINEN: What do you think of my idea of letting 212.090 go for the time being and changing 212.080 into two parts, wrongful death and injuries of a minor.

MR. DAYKIN: We could do that. The only thing is that you would not then achieve Gene's "one action" desire.

MR. TORVINEN: Then we will go on and do the "one action" in 212.090.

MR. KEAN: How do you solve line 3?

MR. DAYKIN: That has to go out if you are going to get an action rule here.

MR. KEAN: In an injury action who is going to get preference, the mother or the father?

MR. DAYKIN: Whichever gets to court first brings the other one in. This could be fun, Tom, I agree.

MR. TORVINEN: The money is all going to go to the kid anyway, so with an injury there is no trouble. With death there is a problem as to who gets to cut up the money.

MR. KEAN: 290 says "injury or death." You haven't separated the two there.

MR. DAYKIN: We are going to break that down.

MR. TORVINEN: We will leave 090 because the courts have interpreted it but we would need 080. Maybe we will have to break it into two sections, one for minors'death and one for minors' injury.

MR. DAYKIN: Then the new section dealing with the wrongful death of a minor would not read identical with 090 because of having to bring in the "one action.'

MR. TORVINEN: This will take care of what Wait wanted and will make it only one action. This is not just my way. I want to get it solved so we can get on to something else. I want to get it passed the way it should be and as quickly as possible.

I will have copies made up of the new amendment for everyone and maybe we will figure this out. Are my objections relevant and good or not?

MR. DAYKIN: Frankly, no. There are four words in that draft that shouldn't be there, "or death" and "injury." They add to the general

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confusion. I will correct this and have copies run off.

MR. SWACKHAMER: I have an emergency here. There is a problem in Gaming Control. As the result of a conversation I had with Mr. McKissick a couple of bills were drafted. Frank Johnson would like to make some statements about these two bills, and then we would like to ask for committee introduction.

MR. MCKISSICK: I had a memo from Mr. Johnson concerning complaints about cheating gaming devices which were manufactured in Las Vegas.

MR. BRYAN: I move Committee introduction.

MR. JOHNSON: Basically, in 1967, we did ask for control of all types of gaming equipment. Two months ago, in Miami, the FBI intercepted a shipment of such equipment that was going to one of the Caribbean islands Among these were some of the best cheating dice you could imagine. These were confiscated by the FBI and the incident created a great flap.

What we would like to do is to license manufacturers of all gaming equipment so we can keep a running inspection going on this equipment.*

In another instance we raided a place and found they were manufacturing cheating dice, but we also found that, under the law, there was not a damn thing we could do about it but stand and look at them.

MR. MCKISSICK: The FBI is just appalled.

MR. JOHNSON: I went to Miami so that we could trace the shipment back and they were horrified that we were not checking or taking any steps to prevent the shipment of such equipment.

This draft we would like you to introduce would simply give us the authority we have on other things.

On Mr. Bryan's move for Committee Introduction:
MOTION CARRIED UNANIMOUSLY.

AB 229: Abortion.

MR. TORVINEN: This is the only bill left that is anywhere near alive and it is barely kicking.

MR. REID: I am not sure the Health and Welfare Committee is going to go for anything. Do we just report this out anyway?

MR. TORVINEN: Section 2, subsection 3: This is the only amendment the other committee did not approve. They want to change the residency requirement from 90 days to six months.

MR. KEAN: Then if we accept the six months we are out in the open?

MR. REID: Personally, I would like to study these amendments tonight.

MR. SCHOUWEILER: Let's study it now. That is what we are here for. There is a problem in the area of the 16th week of pregnancy. Mr. Reid brought this up. It is still of concern and I brought it up to the

*A.B. 746

subcommittee because Mr. Reid had wanted it brought down to eight weeks.

There was fairly good testimony given to the fact that eight weeks of pregnancy is not far enough along. Many gynecologists and obstreticians have told me that the women do not even come in for their first visit until after the eighth week. If we are going to lower it to under 16 weeks, we certainly should not make it any lower than 12 weeks, and most specifically not under ten weeks.

MR. REID: The reason I mentioned this was because of the testimony about the trimester.

MR. SCHOUWEILER: Mrs. Frazzini wanted to go to 20 weeks but I told her this committee would not go for that.

(The Secretary of the committee telephoned Dr. Robert Stewart of Reno and found that a tri-mester is literally 13 weeks. He said some doctors will say a tri-mester or 12 weeks but that it is really 13 weeks.)

MR. BRYAN: Could we talk in terms of a tri-mester as they do in the medical profession?

MR. SCHOUWEILER: Then we would have to define. This should be clearly set forth so we know exactly what we are talking about.

Another amendment requires that the operation be performed in a duly licensed and accredited hospital.

Another one provides that the husband must consent to the abortion. We also put in that the consent of the parent or guardian is required if the abortion is to be performed on an unmarried minor girl.

When a hospital is used, it must be used with the consent of the administrator and no one is required to participate if it is against their desires.

These are the five areas of concern expressed by the two committees. We were given instructions to come up with amendments to these five areas.

MR. REID: I am concerned about the 16th week. We should lower this to 12 weeks and I so move.

MR. KEAN: The Welfare Committee has approved this for the 20th week and so I am opposed to any change. Another thing: Who is going to say exactly when the 20th week is past?

MR. TORVINEN: The doctors say they never get to look at the woman until eight weeks have gone by. Then, if you put it at twelve weeks, you really have a short time in which to arrange everything.

MR. FRY: The residency requirement will be 90 days?

MR. TORVINEN: They changed it to six months in the Health & Welfare Committee.

ALICE KEY: What is the reason for the residency requirement? You don't have to worry about Nevada becoming an abortion mill because New Mexico just passed a darn good bill, with no residency requirement.

MR. REID: I move we change this to 12 weeks.
MR. SCHOUWEILER: I second the motion. This will go in section 2, near t
MOTION CARRIED WITH FIVE AYES AND FOUR NO'S.

MR. REID: On amendment #2 concerning consent of the husband, the word "immediately" is used. Does that mean two hours, one day, two weeks, or what?

MR. LOWMAN: I was going to bring up the same thing. I think it should say "if living together at the time she enters the hospital."

MR. REID: If my wife suddenly got really peeved at me, I would like to be able to prevent her from getting an abortion to get even with me.

MR. KEAN: What if they are married and the husband is in Korea and there should really be an abortion?

MR. REID: I would move to delete word "immediately."

MR. KEAN: And leave it in limbo?

MR. TORVINEN: Why not say "living with her husband at the time of conception?"

MR. REID: That would be fine.

MR. KEAN: I will go for that.

MR. TORVINEN: The law of the State is that if you are living with your wife at the time of conception you are by law the father.

MR. REID: They could find him in Korea and get his consent.

MR. FRY: What if she conceives and then the husband dies?

MR. TORVINEN: Then she is no longer married and can make her own decision.

I would suggest we leave the word "immediately" in there.

MR. KEAN: I will move we adopt "living together at the time of conception."

MR. LOWMAN: The only time he will be concerned is at the time she enteres the hospital.

MR. BRYAN: That concerns me. He could take off.

MR. KEAN: We could add "the above will not apply if the husband has abandoned the wife."

MR. BRYAN: Also, "and with reasonable diligence cannot be found."

(The final draft for this amendment which was decided upon is as

follows: "from the husband of the woman if she is married, unless the husband has abandoned the woman or the husband has departed from the state, or cannot after due diligence be found within the State."

MR. KEAN: Suppose you find him and he just clams up?

MR. TORVINEN: She doesn't get the abortion.

MR. BRYAN: What about this provision for the unmarried, unemancipated girl? Should we set an age?

MR. SCHOUWEILER: There can be no operation performed in the hospital without consent in such a case.

MR. TORVINEN: After six months residency, they are residents under Nevada law.

Shall we change "minor" to age 18?

MR. REID: I so move.
MR. BRYAN: I second the motion.
MR. REID: I would include in this motion the previously decided upon amendment having to do with the consent of the husband.
MR. BRYAN: I second that also.

MOTION TO ADOPT THESE TWO AMENDMENTS WAS CARRIED UNANIMOUSLY.

MR. BRYAN: I don't particularly like this requirement for having three doctors concurring.

MR. TORVINEN: This is necessary now for any operation.

MR. BRYAN: Do any Nevada hospitals comply with this requirement for licensing and accrediting?

MR. TORVINEN: About 13 do. That is about two-thirds of our hospitals.

MR. SCHOUWEILER: 200.210: We should make the first page of this correspond with the NRS, but in talking with the medical people they want some latitude and I think maybe they are right.

MR. BRYAN: What is wrong with it?

MR. TORVINEN: Nobody knows just what "quick with child" means. We are talking about manslaughter. He wasn't prosecuted under manslaughter.

MR. SCHOUWEILER: Probably after the 20th week on they call it a Caesarian Section.

MR. BRYAN: We are talking about the same time, I think.

MR. KEAN: I don't like the six months residency requirement.

MR. BRYAN: Then they can go to New Mexico.
Anyway, it is pointless for us to talk about any changes if the other committee is adamant.

MR. KEAN: I move to Do Pass AB 229 with the approved amendments.
MR. REID: I second the motion.
MOTION CARRIED UNANIMOUSLY.

MR. REID: The bill as it now stands is pretty good, but I am not promising to vote for it on the floor.

Meeting was adjourned at 5:30 P.M.