

MINUTES OF MEETING - ASSEMBLY COMMITTEE ON JUDICIARY, 55th Session
March 27, 1969

Meeting was called to order at 3:35 P.M.

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

Absent: None.

SB 202: Establishes rights of visually and physically handicapped.

SB 221: Grants right of way to blind persons using a guide dog.

MR. TORVINEN: These two bills relate to the blind and visually handicapped. They outlaw discrimination and so on. These bills came from the Senate Health and Welfare Committee.

We have with us Mrs. Jean Savage and Mr. Osmond, who would like to be heard on these bills.

MR. OSMOND: The provisions of this bill have already been enacted in most of the states. The purpose is to permit blind people to have free access to public transportation, motels, and so on. They have in the past been prevented from going to many of these places because people feared the blind person could not take care of himself. Many times they have been prohibited just because of prejudice against blind people.

There are instances of hotels and motels that won't permit blind person with a seeing eye dog with them. Sometimes they are refused transportation on railroads and buses if they don't have a guide with them.

Quite often, blind people who are fully capable of doing a job are prevented from getting a job because the employer doesn't think the blind person can find his way to the job, go up stairs, etc.

The white cane is for a warning. Another aspect of this is that the failure of a blind man to carry a white cane can be outside the other pertinent factors of the case. There was a case in England where a store was being remodeled. The floor had been taken out and the door to the street had been left unlocked. A blind man who sold products to the store came and opened the door and fell 15 feet and injured himself. The court held that it was contributory negligence because the blind man should not have been walking about.

This bill is trying to establish that aside from other factors, blindness itself should not be considered a matter of contributory negligence, whether with or without a dog or cane.

MRS. SAVAGE: I would like to make one point. The blind are only asking for the same privileges and rights as other people, not for anything special.

MR. REID: This bill says no place of accommodation can be refused because the blind person has a dog. What about a motel that never allows any dog in?

MR. OSMOND: If they did not allow a blind person and his seeing dog in, then they would be breaking Federal Regulations, which say that a guide

dog should be allowed any place that a person can go.

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MR. REID: There is, then, a Federal Regulation on this?

MR. OSMOND: There is. Recently I went into a drugstore-supermarket and found they had a sign which said, "all animals prohibited except Seeing Eye Dogs."

MRS. SAVAGE: These dogs are very specially trained and groomed.

MR. OSMOND: The dog can go with the passenger on any public conveyance without extra charge, unless the dog takes up an extra seat and this never happens.

MR. TORVINEN: I think there must be a typographical error on line 4.

MR. OSMOND: "Contributory negligence, per se" is what they meant to say in there.

MR. TORVINEN: Other provisions deal mainly with the right of refusal of service.

MR. OSMOND: A guy comes barreling down the road and hits two people walking alongside and hurts both. The defense lawyer will say the blind man has no case because he should not have been on the street.

MR. TORVINEN: I have an amendment on SB 221. (He read the amendment to the committee.) It includes the limited use of a white cane and includes the use of a guide dog.

MR. OSMOND: The cost of procuring a guide dog is so great that I am sure it would not be practical to get a guide dog unless it were really necessary. Anybody can carry a white cane.

MR. REID: How much does a Seeing Eye Dog generally cost?

MR. OSMOND: Anywhere from \$6,000 to \$15,000. It varies some. There are many schools for guide dogs but only two or three that are considered excellent.

MR. BRYAN: I move Do Pass SB 221.

MR. FRY: It makes it a little different than what you were talking about.

MR. TORVINEN: I can't see that 221 does anything. I think it is a waste of paper.

MR. FRY: Paragraph (b) says that you can't run over a man with a dog. A man with a Seeing Eye dog has the right of way.

MR. TORVINEN: Don't you think line 3 should come out?

MR. REID: No, I think it is OK. I move Do Pass on SB 202 and 221.

MR. TORVINEN: We will have to correct 202 for that typographical error.

MR. FRY: I second Mr. Reid's motion.

MR. TORVINEN: Shall that amendment be "contributory negligence" or "negligence?"

MR. FRY: It should be "contributory negligence."

MR. BRYAN: I like that suggestion.

THE MOTION TO AMEND LINE 4 CARRIED UNANIMOUSLY.

MR. TORVINEN: How often do we have to remind the people? Does it say?

MR. BRYAN: Page 2 of 202, section 2, line 4. I don't think that is unreasonable. We could have the Governor set days or something so that the people could be reminded about these things.

MR. TORVINEN: Section 5 is the discrimination clause.

MR. BRYAN: I am a little hung-up on that.

MR. REID: (Read all the places listed in 651.

MR. TORVINEN: Most of these places already let blind people in.

MR. REID: I move Do Pass as amended SB 202.

MR. FRY: I second the motion.

MOTION CARRIED UNANIMOUSLY.

MR. TORVINEN: I have here a bill^{*} which we have been asked to introduce. It is the Stanley Brown bill. It cost the State \$50,000 to prosecute the Mark Twain case. The Attorney General didn't think they had the right man on their staff to prosecute this, so they hired a special man to do it and paid him over \$12,000 and he expects to get \$1,000 more. Stanley Brown was appointed by the court to defend Frisbee. He was out of his office six weeks defending the case and he got \$300 for it. He was awarded \$11,000 but the Supreme Court would only allow him the \$300.

The only possible way we can give Brown relief on this is by a special Act.

MR. SWACKHAMER: Are there other cases like this?

MR. FRY: No.

MR. REID: In all fairness, we can all think of cases. I have had two cases on this order. Everybody faces these situations.

MR. FRY: I have been through it, too, but I don't think ours were quite like this.

MR. TORVINEN: We would like to introduce the bill and refer it directly to Ways and Means. We just want to get it in.

MR. REID: I move that the committee introduce this bill and that it then be referred to Ways and Means.

MR. BRYAN: I second the motion.

MOTION CARRIED UNANIMOUSLY.

AB 671: Prohibiting discovery of certain medical committee proceedings.

MR. REID: This is a good bill. As the doctors told us, in most hospitals they set up a lot of committees to review what is going on in the hospital, tissue committees, etc. They have all kinds of these committees. The reason for setting these up is so that people will receive better treatment. They specially check on doctors who are doing too many of one kind of operation, etc. This is their way of policing their own activities in the hospital. If they suddenly have their files open to the public, the doctors would be unwilling to step on the toes of their fellow doctors at the hospital.

MR. SCHOUWEILER: These records should not be available for evidentiary proceedings.

MR. KEAN: Didn't we pass this last time?

MR. TORVINEN: No, it was just the reverse that was proposed.

MR. REID: To pass this would be damaging to something we need very much.

MR. SCHOUWEILER: This is limited to this one area, the hospital review records.

MR. TORVINEN: We are clarifying here just what records are discoverable.

MR. REID: The hospital staff may want to review. They may want to get rid of guy who is doing sloppy or unnecessary work and they need to have these records to show what the guy has done.

MR. REID: I move Do Pass AB 671.

Mr. Fry: I second the motion.

MOTION CARRIED UNANIMOUSLY.

AJR 40: Proposes to amend Nevada Constitution by prohibiting life sentence without possibility of parole.

MR. REID: Somebody really loused up this summary and I think that has hurt the bill. The Summers case in Reno is going to be another Morford fiasco and it would not have been if we had had this.

MR. REID: I move Do Pass AJR 40.

MR. SWACKHAMER: I second the motion.

MR. FRY: It is Mr. Raggio's opinion that Morford will outlive every member of the Judiciary and everyone else connected with the case.

MR. TORVINEN: Do you know what you are voting for?

MOTION FAILED WITH FOUR AYES.

MR. FRY: I move we Indefinitely Postpone AJR 40.

MR. TORVINEN: All we would have been able to do with AJR 40 would be a life sentence. I am going to fight for my cause the death penalty, for another two years.

MR. LOWMAN: I hope you are not aiming it at rehabilitation because that is a waste of time.

MR. TORVINEN: I think we are approaching the same end by different methods.

AB 697: Provides reasonable fees for assigned counsel and enables public defenders to contract for fees with Nevada State Prison.

MR. TORVINEN: Mr. Fry are you really serious about this? I go along with the idea, but where would you get the money?

MR. FRY: California is doing this, but then they are a rich state and we are a poor state.

MR. REID: I move to Indefinitely Postpone AB 697.

MR. LOWMAN: I second the motion.

MOTION CARRIED, WITH MR. FRY VOTING NO.

AB 461: Expands venue provisions for civil actions.

MR. TORVINEN: There is a note attached to this that says there is a conflict between this bill and AB 34 which is already passed.

MR. FRY: This permits a person from Fallon to come to Washoe and grab a guy and bring him back to Fallon to be tried by a Fallon Judge and a Fallon jury.

MR. SCHOUWEILER: I move we Indefinitely Postpone AB 461.

MR. LOWMAN: I second the motion.

MOTION CARRIED UNANIMOUSLY.

AB 627: Limits action on surety bonds and similar deposits.

MR. TORVINEN: This was in Agriculture and was re-referred to Judiciary.

MR. REID: Anything wrong with this bill?

MR. TORVINEN: Why did they take out the "unless further limited by the Uniform Commercial Code?" Why are we taking it out?

MR. BRYAN: Because it has already proved to be a real flop.

MR. FRANK DAYKIN: We could hold the deposit for only one year after the auctioneer went out of business. By general law there is a six year limitation on suits based on the bond put up as surety. If it is withdrawn after one year, then the creditors have had it. The Agriculture Committee felt that this was inequitable and that they should provide for a three-year detention of the deposit and an extension of three years on the bond. Also, there is a provision whereby he may replace his deposit by a surety bond, if the surety bond assumes liability for any claims arising for the previous three years.

This applies to the auction yards and to any other situations where a similar surety bond is permitted.

MR. KEAN: I move to KILL but quick. There are a million places where these things are put up.

MR. DAYKIN: Those sections are not amended or tightened because this

bill does not amend any bill or section where the bond is for the protection of the state. This amendment only applies where a bond or deposit is put up for one year.

MR. KEAN: Has any situation arisen where there was a need for this?

MR. DAYKIN: Yes.

MR. TORVINEN: People in Fallon went bankrupt there and then went right back in business.

It would be very rarely that such an action would not be disposed of within one year. Most of them by their terms, such as a subdivision bond, are supposed to have these things finished in one year, so they write a bond for one year.

MR. DAYKIN: You're talking about the situation where you have to wait six years after the bond. The statute you are concerned about is 706, the liability insurance or motor carrier's bond, for the benefit of his helpless customers. 649 is the Collection Agency bond.

MR. KEAN: Why is the bond payable to the state of Nevada?

MR. DAYKIN: They are payable to the State of Nevada for the protection of the people. You can't make a bond out to "whom it may concern."

MR. TORVINEN: Do these all pertain to Chapter 11?

MR. DAYKIN: Yes.

MR. TORVINEN: We make the practice of law a little more difficult with all these things, don't we?

MR. KEAN: On page 3, line 11, that says three years prior? Is that really what it means?

MR. DAYKIN: If you want to take your money out you have to get a surety company to guarantee that you will make good on any claims that come up from the three years previous.

MR. KEAN: Then you are really covering six years.

MR. DAYKIN: Yes. The bond must be there with the limitation upon it of a claim for three years.

MR. TORVINEN: Why is this wanted in the first place?

MR. DAYKIN: In order to equalize the rights of action for the man who puts up cash with the man who puts up a surety bond in the first place. These other acts never actually made any such provision.

MR. TORVINEN: Why don't we make it just for the livestock and have a much shorter bill?

MR. REID: Mr. Daykin, do you think this is a good bill?

MR. DAYKIN: Yes. It is desirable clarification.

MR. REID: I move Do Pass AB 627.

MR. BRYAN: I second the motion.

MR. KEAN: I move Do Kill.

MR. TORVINEN: I oppose the bill only because it makes it more difficult to practice law. This will make it so the statute of limitations is three years on some of these things.

ON THE MOTION TO DO PASS AB 627 THE VOTE WAS THREE AYES, THREE NOES, AND ONE NOT VOTING.

AB 632: Provides that certain license taxes are liens and are held in trust.

MR. BRYAN: Bob Jones, counsel to the Convention Authority, asked for this bill.

MR. KEAN: I don't understand page 2, line 23.

MR. FRY: Why is it a misdemeanor?

MR. REID: I move Do Pass AB 632, deleting lines 10 and 11, with the exception of "board" on line 10.

MR. TORVINEN: Reno has a sewer financing act which collects a lien for sewer use fees. This is actually a utility charge that benefits the property, so you can rationalize the lien. They have restrictions that the lien has to be foreclosed within three months so they cannot pile up.

I would think a limitation on the day you can foreclose your lien would be in order.

MR. BRYAN: What kind of limitation do you have in mind?

MR. KEAN: I would move Do Kill AB 632.

MR. TORVINEN: My thought is not to kill it but to put on a foreclosure limitation.

MR. BRYAN: I wonder if we might call Bob Jones and see if he has any objections to a limitation?

MR. TORVINEN: That is a good idea.

MR. REID: The Senate will not consider anything we send out after tomorrow.

MR. DAYKIN: I don't know just what they are going to do about examining each bill as to the date it came out of the Assembly Committee.

MR. BRYAN: Would you object to the bill if we delete "misdemeanor" and set a limitation? I talked with Bob Jones and he said he would be glad to accept deletions and a six months limitation.

MR. TORVINEN: If we put this out this way no title company is going to be able to clear a title. The Internal Revenue does not file a lien until they actually come in.

MR. FRY: This is really poor.

MR. DAYKIN: Section 1 does not of itself establish a lien. It establishes a trust, a preferred claim.

Section 2 provides for a lien upon the real and personal business upon which the tax was levied.

MR. REID: I think you have the votes to kill it. We are talking it to death.

MR. KEAN: I move we KILL AB 632.

MR. PRINCE: I second the motion.

MR. BRYAN: Consider the absent landlord's situation. The one who is taking care of the property for him pockets the money and says he has to report to his boss back East before he can pay the money.

MR. TORVINEN: With the ad valorem taxes the Title Company can make one call and find out what those are. With this, he can't do that. Do these apply to the 5% Fair and Recreation Board for tax on rooms?

MR. DAYKIN: The proceeds are assigned to the Fair and Recreation Board for collection. This closes the gap that was left before. They would not do anything with 269.

MR. TORVINEN: "Any licensed tax levied for the Fair and Recreation Board."

MR. DAYKIN: "Any room tax." In the City of Reno this applies now. 268.095.

MR. BRYAN: The problem is with the unincorporated towns.

MR. DAYKIN: This is essentially a Clark County bill.

MR. TORVINEN: To satisfy Mr. Kean, we could delete section 1 and pass section 2. Mr. Kean doesn't feel they should have preference over other creditors.

MR. DAYKIN: Bob Jones really wants both sections.

MR. LOWMAN: I move to Do Pass AB 632 with an amendment deleting lines 10 and 11 except for the word "board."

MR. BRYAN: I second the motion.
MOTION CARRIED WITH SEVEN AYES.

MR. SWACKHAMER : I move the meeting be adjourned.

MR. LOWMAN: I second the motion.

Meeting was adjourned at 5:10 P.M.