

MINUTES OF MEETING - ASSEMBLY COMMITTEE ON JUDICIARY, 55th Session
March 5, 1969

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

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

AB 93: Provides time limit for sale of real property for delinquent taxes and for disposition of excess sale proceeds.

MR. REID: I move we Indefinitely Postpone AB 93.

MR. SWACKHAMER: This is not a good bill. It requires sale within a year's time. The idea is fine but the way it is drafted won't do.

MR. KEAN: This is on backwards.

MR. TORVINEN: As I understand the law on these delinquent properties, they go delinquent for three years then they no longer acquire taxes so the maximum you have to pay is for three years.

MR. SWACKHAMER: Until the county takes the deed.

MR. TORVINEN: Don't you still have the right of redemption for the taxes?

MR. REID: Until after the final sale.

MR. TORVINEN: Don't you have one year after that?

MR. SWACKHAMER: After the time of the sale you are dead. That I know for sure. It might be a good idea to get Roy Nixon up here on this.

MR. REID: I don't like the amendments. They don't help.

MR. SWACKHAMER: Let's keep the bill and fix it up. One year might not always be to the best advantage of the county.

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

On the vote, the motion carried, with Mr. Swackhamer voting No.

AB 405: Permits local governments to acquire tax-delinquent properties.

MR. TORVINEN: This is my bill and I explained it in detail to the committee once before. I was asked to put it in by the City of Reno. Many times it would be to the advantage of the City of Reno to get this property, for widening of streets, parks, etc. When you have tax sales there are certain ones that come in and bid everybody out and then they hold for condemnation. I know one man that makes a living this way.

I think only the true owner should get any profit. Also, the taxes ought to be paid. In this bill we are giving the city the opportunity to come in and get this if they want it. There is already a way the

the County Commissioners can get hold of this. They just never hold a tax sale because they are not required to. However, the city cannot do this.

MR. SWACKHAMER: Could we amend so that if the owner had died his heirs would be notified so you would not, in a sense, be stealing from them. Maybe "if such owner fails to redeem" is enough. I don't know.

MR. TORVINEN: Our taxes are paid after the fact, so it is usually four or five years tax delinquent before it gets to this place.

MR. PRINCE: I agree there should be some provision for taking care of the heirs.

MR. TORVINEN: How about if we add "heirs?"

MR. FRY: How about "heirs, successors and assigns?"

MR. TORVINEN: "Assigns" should not be there. If there is an actual successor by deed transfer then that person is the owner. If there has been a successor assigned, then there should be a document.

MR. REID: Let's ask Mr. Fry to get an amendment.

MR. TORVINEN: "Heirs" is enough. We just want to protect successors by operational law.

MR. REID: I move Do Pass with an amendment to page 1 for "heirs."

MR. SWACKHAMER: I second the motion.

MR. TORVINEN: How about adding "heirs" to line 12 "last known owner of the property or his heirs?"

MR. SWACKHAMER: Let's appoint the chairman to get the proper wording on this.

Mr. Reid's motion to Do Pass AB 405 with the amendment carried unanimously.

AB 83: Increases small claims limit in justices' courts.

MR. REID: AB 83 has been passed by both houses but we missed something that is needed, at least in Clark County. The Justice of the Peace will not handle a case that involves an accident.

MR. TORVINEN: "All cases arising within jurisdiction of the peace court."

MR. BRYAN: They will handle some cases but not an accident case. How about a resolution instructing the justices to handle these?

MR. TORVINEN: Let's have the committee introduce a new bill.

MR. BRYAN: Do we want to make it a small claims action?

MR. TORVINEN: We don't need to amend because these should be in small

claims. You can't properly raise a counter claim in a small claims action. If we change 73.10, the judge will not tell them they can take it some place else.

MR. BRYAN: The amendment I asked for has nothing whatever to do with what we were discussing.

MR. TORVINEN: I think the small claims court should be limited to liquidated sums. In Washoe the judge dismisses them and says the case needs to be examined more carefully and he can re-file it in the justice court. Apparently 73.10 applies only to small claims. If it is a fender-denter and there is a \$50 deductible and a counter claim then the proceedings in small claims could not properly raise the issues. I can see a difficulty in trying them without the proper pleadings.

AB 231: Provides for appointment of attorneys for minor children in certain court actions.

MR. TORVINEN: This bill has not been passed out. I have the amendment here that we asked for.

MR. REID: I have since learned how this bill came about. In divorce cases, the husband has an attorney and the wife has an attorney and they are fighting tooth and nail for the kids and the property. A judge in Wisconsin appoints an attorney for the kids and he comes in and says "OK, this is what I think is best for the kids."

One of the judges in Las Vegas tried to use this but I don't think it worked very well. They think the mother and father should be able to bring out to the judges satisfactorily what is best for the kids. They don't see why the state should have to pay for this. The state should not bear the burden. My point is why should the state step into the picture?

MR. TORVINEN: We did away with sections 3 & 4 and amended 2 to add separate maintenance actions. It says that when a court attorney is appointed the fee may be assessed against the county.

MR. REID: I move we kill AB 231.

MR. PRINCE: I second the motion.
Motion carried unanimously.

MR. FRY: Maybe this was a good idea. Maybe neither the father or the mother has one red cent to pay for an attorney. It might then be a good idea for the state to appoint one.

MR. SCHOUWEILER: We have the State Welfare and this is part of their job.

AB 217: Provides immunity from prosecution of narcotic drug violation for certain peace officers and persons.

MR. REID: I move to include the district attorneys and Do Pass AB 217.

MR. BRYAN: I second.

MOTION CARRIED UNANIMOUSLY.

AB 218: Excludes from privileged communications information given to physician to obtain dangerous drug unlawfully.

MR. REID: I am against this bill. I think when a person is a dope addict and he goes to a doctor he goes with the thought that this man can help him. This is a law that has been carried on for years that way. When he talks to his doctor he figures it is going to be confidential. I don't see how this bill is going to solve anything. I have read the entire study but I still don't see where this is right.

MR. TORVINEN: It would appear to me that we already have a similar statute in 453. This says "unlawful." I go and ask for help and the doctor thinks it would be to my advantage to have a shot or a fix. He certainly has the power to do this, doesn't he? It is outside the realm of his regular practice and, too, they would not reach the doctor-patient relationship, he is still reluctant to give out this information.

MR. BRYAN: Do you want to make the doctor-patient relationship not apply in criminal cases?

MR. REID: I think we should kill the bill. You still have not convince me that it is good.

MR. TORVINEN: I can't see any vice in this bill. Where is the vice?

MR. BRYAN: It is ambiguous.

MR. REID: What problem does it solve?

MR. TORVINEN: The reason is this: These people make false presentation to the doctor trying to get drugs and he refuses to give them any, but if he knows they are going everywhere trying to get the drugs then he has information that could be very useful.

MR. FRY: And then what?

MR. KEAN: Supposing an addict decided to go to a doctor. Is that unlawful?

MR. TORVINEN: No, not unless he tries to solicit drugs.

MR. REID: But that is what he is trying to do.

MR. LOWMAN: What about the person calling on the phone asking for illegal prescriptions? Wouldn't that act itself be unlawful?

MR. FRY: No.

MR. SCHOUWEILER: Can a doctor - patient relationship be established over the phone?

MR. BRYAN: What objection is there to making the doctor - patient relationship apply only to civil? It was my understanding that this is the way it is.

MR. FRY: I think we should eliminate it in all cases of crime.

MR. REID: I move we Indefinitely Postpone AB 218.

MR. FRY: I second the motion.

MR. LOWMAN: How about accepting an amendment that would permit this in criminal cases?

MR. BRYAN: You would have to amend chapter 48.080. I am not opposed to doing that.

MR. SWACKHAMER: Why was it established as privileged communication originally?

MR. REID: There were lots of reasons.

MR. TORVINEN: A professional man cannot properly diagnose and treat his patient unless the patient makes a full disclosure of everything; hence the privileges.

MR. REID: It is the same way with a preacher.

MR. BRYAN: In many states this applies only to criminal cases.

MOTION TO KILL AB 218 CARRIED WITH SWACKHAMER AND LOWMAN VOTING NO.

AB 219: Permits probation for minor narcotic supplier on first offense.

MR. REID: I move Do Pass AB 219.

MR. BRYAN: I second.

MR. TORVINEN: What was in AB 218 is already in the law. (Read the law to the committee). It applies already to narcotics. We are just trying to include dangerous drugs. Let's move to reconsider AB 218.

(It was so decided).

MR. TORVINEN: We can put the language of 453.180 into 54.

MR. REID: Why doesn't legislative counsel tell us if we are asking for legislation that is already on the books?

MR. TORVINEN: I agree that a little tag history would have been helpful.

MR. FRY: I move we amend the language of AB 218 to conform with 453.180.

MR. BRYAN: I second the motion.

MOTION CARRIED UNANIMOUSLY.

MR. FRY: I move the same type of amendment to AB 220, dangerous drugs. I move we put "dangerous drugs" in the place of "narcotic drugs" and Do Pass AB 218.

MR. REID: I second the motion.

MR. TORVINEN: Maybe we could add to 218 and -----

MR. FRY: And cut 220. You are adding privileged information and attempt to obtain by fraud.

RUSS MCDONALD: This was discussed very thoroughly at the hearing. Why shouldn't the doctor be able to testify?

MR. TORVINEN: 54.180 does not specify a punishment for this fraud.

MR. MCDONALD: Actually there it ends up as a misdemeanor, unless you go back to the Criminal Code.

MR. TORVINEN: In 220 we are making it a felony. We want to make these conform. If it is a felony for narcotics, it should be the same for dangerous drugs.

MR. FRY: 453.210 is the over-all penalty section which applies to all.

MR. TORVINEN: What is the punishment?

MR. FRY: 1 to 6 and maybe a fine to \$2,000 and then it goes into the second and third offenses.

MR. TORVINEN: Do we want to conform 210 to 180?

MR. FRY: This is the general penalty section. Maybe we should conform 454 rather than setting it out separately.

MR. BRYAN: How about amending to conform? One is 1 to 10 and one is 1 to 6.

MR. REID: I move to amend AB 220 to conform to the statute we have been speaking of, 1 to 6 and a fine.

MR. KEAN: I second the motion.

MOTION CARRIED UNANIMOUSLY.

MR. REID: I move Do Pass AB 219.

MR. KEAN: I second.

MOTION CARRIED UNANIMOUSLY.

MR. SWACKHAMER: I would prefer that drugs be classified only as mind-altering, mind holding, stupefying, etc. rather than each one being names separately.

AB 223: Provides punishment for unlawful supplying of, and raises second offense penalty for possession of dangerous drug.

MR. TORVINEN: Isn't this included in 54?

MR. BRYAN: No. 54 addresses itself solely to the LSD situation as did 222.

MR. KEAN: If we do what I have in mind it would change some of these lines. The Pharmacy people are most enthusiastic about turning this over to the narcotics division.

MR. LOWMAN: Do we know we are going to get the narcotics thing through?

MR. BRYAN: I wonder if we will get it out of Ways & Means?

MR. SWACKHAMER: If it is in the governor's budget it will come out.

MR. BRYAN: Wouldn't it be better to get the narcotics bill out first and then two years from now move it? It doesn't seem right to tie everything to a bill that isn't even out yet.

MR. TORVINEN: I think there will be some money to start the bureau but I don't know how much.

The way this reads now dangerous drugs include reducing pills and makes it a felony.

MR. LOWMAN: How are you going to cover the total situation if you don't?

MR. TORVINEN: I talked with the district attorneys and they would like to see bulk sale of amphetamine a felony, but this is just one of the dangerous drugs. Doctors prescribe these reducing pills by the bushel.

MR. LOWMAN: If you make it a misdemeanor, aren't you setting up a "cop out" situation?

MR. TORVINEN: The way this is, if a kid gives a friend one of his mother's reducing pills to pep him up for an examination he could be guilty of a felony.

MR. KEAN: I move we delay any action on this until after tomorrow. (Committee agreed to do this).

SB 21: Regulates use and possession of drugs and narcotics and practice of pharmacy.

MR. KEAN: We should get Bill Locke in on this bill.

MR. BRYAN: I would like to have the pharmacy people in here.

MR. REID: We can't do this. It is crazy.

MR. BRYAN: Would it be feasible to get someone in here to talk about this?

MR. KEAN: I will get Bill Locke. He's about the best.

MR. BRYAN: Apparently nobody ever cross-referenced this.

AB 314: Increases interest rate chargeable and loan charges by pawn-brokers.

MR. KEAN: I move to amend to 4% and Do Pass AB 314.

MR. FRY: The minimum should be \$3.

MR. KEAN: I will add that provision to my amendment. California has 10% per month right now. Oregon is 3% but they have a bill in the hopper to change it to 5%.

MR. PRINCE: I second Mr. Kean's motion.
MOTION CARRIED UNANIMOUSLY.

MR. TORVINEN: When I said yesterday that I have never known of a case where the collection people knew that only 50% was attachable nobody said anything.

MR. FRY: I think this has got to be changed. If we put a procedure in here, the guy is going to the Justice of the Peace and on from there.

MR. TORVINEN: I have worked for three or four hours to get a District Judge to set aside an attachment. I was thinking of two bills: One to clarify wage attachments in the State and the second to secure just compensation, not treble damages.

MR. SWACKHAMER: The argument against triple damages convinced me.

MR. BRYAN: The collection agencies were not as truthful with us about these attachments as they should have been. They are much more aggressive than the way they talked to us would make it seem.

MR. REID: They have working for them some of the worst rascals known to man and they will use everything in the book to collect even \$15.

MR. FRY: Remember they are working with deadbeats. I can't put law-suits in these guys' hands.

MR. BRYAN: Our attachment statutes would not give fair treatment right now.

MR. FRY: I sued a guy and attached everything. It was on a judgment out of Arizona. He got an attorney and we went in. He did not have a family and the debt was not contracted in this state. The judge exempted everything.

MR. REID: Of course the judge was dead wrong.

MR. FRY: This gives the judge a lee way in these hard cases. We should make it so the judge cannot do this. We should be specific.

MR. BRYAN: These agencies have complete files on these people. The statistics they gave us were completely misleading. I don't question the 25 to 30% of actions but on how much wages they attach they didn't tell us the truth. They attach up to 90%.

MR. TORVINEN: I wish they could be made to know that they can attach only up to 50%.

AB 227: Provides triple damages for defendant when earnings are wrongfully attached.

AB 424: Permits person to collect triple damages when wages wrongfully attached.

MR. SWACKHAMER: Let's put something in the book so these judges can look at it.

MR. KEAN: There are so many deadbeats and there is so much protection for them, that we in our business just don't bother with them.

MR. SWACKHAMER: In our business we have not brought a suit in 20 years. They always wriggle out of it somehow.

MR. REID: The last phrase where it says "triple damages" let's change to "damages" period.

MR. FRY: I still don't like it. What is exempt and what isn't exempt is not made clear.

MR. REID: We have to have something because right now the court can't award anything legally.

MR. REID: This will cover the kind of cases where a man is working for small salary and has 7 children and it is for a nonnecessity. In that case we could look to the statute.

MR. LOWMAN: I only introduced this for the language in the last part.

MR. TORVINEN: This does not accomplish much in terms of defining things.

MR. LOWMAN: That has gone out. The Brackets start on page 1.

MR. TORVINEN: You don't have "vehicle" in there, do you?

MR. LOWMAN: It says "any object."

MR. TORVINEN: I can't go for that.

MR. LOWMAN: Can you clear up the language?

MR. REID: I think we would be better off with my bill and then we can consider Lowman's when we get to it.

MR. BRYAN: We should make an effort to re-define.

MR. TORVINEN: There are three things we must consider: 1. Wrongful attachments; 2. Definition of Exemptions; 3. Service of judgment.

MR. KEAN: I move to kill AB 293 and AB 401.

MR. FRY: I second the motion.

MOTION CARRIED UNANIMOUSLY.

MR. LOWMAN: When you appoint the subcommittee I would just as soon not be on it.

MR. BRYAN: It should not be all lawyers.

MR. REID: Why can't we just take the two bills and go through them right here?

A subcommitteee was appointed consisting of Swackhamer, Fry and Bryan.

MR. TORVINEN: The first part of AB 227 is OK. We should modernize as much of that language as possible.

AB 460: Limiting exemption from execution of mobile homes and prescribing procedure for their attachment.

MR. TORVINEN: The only place this would be different is if a guy had an equity in a house trailer appraised at more than \$10,000. They depreciate just like cars so it would be difficult to have a trailer worth more than \$10,000.

MR. BRYAN: I think we can operate on this in the subcommittee.

AB 202: Revises salary and personnel provisions relating to courts.

MR. SCHOUWEILER: The reason for the bi-weekly bit is to conform to the rest of the state employees, the way they are paid.

I move we re-refer to the Ways and Means committee.

MR. REID: I second that motion.

MOTION PASSED UNANIMOUSLY.

AB 315: Provides for removal of juvenile probation officers by probation committee.

MR. BRYAN: I would like to ask that you defer AB 315 again so that I can check the situations in the small counties.

AB 384: Requires appointment of director of court services in certain judicial districts; requires director of court services to perform administrative duties in certain juvenile courts.

MR. FRY: I move to defer this until we get the great package.

MR. BRYAN: We are trying to take the judge out of both judging and overseeing. He can't judge fairly if he sees to all the details of the court.

MR. FRY: Why are you taking out the word "may" and substituting "shall?"

MR. TORVINEN: Why do we need line 27, page 3? I am afraid we are going to take Washoe County into this.

MR. REID: Russ said it should be decided by the 1960 census.

MR. TORVINEN: Then why line 34? You don't care as long as Clark County is in.

MR. FRY: I don't want to have a Director of Court Services. I don't know anything about it. I don't like this word "shall."

MR. REID: I move to hold up on this until we get the law on the census.

MR. BRYAN: I took a case to court in January 1967. The court said that the last general census holds.

MR. FRY: I want a copy of that decision.

AB 177: Limits liability of officers and agencies of State and political subdivisions.

MR. SCHOUWEILER: Can we defer this? Frank Young says there is man in Las Vegas who wants to write a letter or come up here on this.

AB 195: Prohibits certain practice of insurers.

MR. REID: You have my amendment on that. We wanted to make sure that this would not prevent subrogation with the Uninsured Motorist where applicable. Amended section 1, page 1.

MR. FRY: I move Do Pass AB 195 with Mr. Reid's amendment.

MR. BRYAN: I second the motion.

MOTION PASSED UNANIMOUSLY.

MR. TORVINEN: At the last session we in Washoe County made it our business to research every bill that had 120,000 in, so there should be a list.

MR. PRINCE: I move we adjourn.

MR. SCHOUWEILER: I second.

MOTION CARRIED UNANIMOUSLY.

Meeting was adjourned at 5:15 P.M.