

MINUTES OF MEETING - ASSEMBLY COMMITTEE ON JUDICIARY, 55th Session
April 8, 1969

Meeting was called to order at 4:00 P.M. by Chairman Torvinen.

PRESENT: Torvinen, Schouweiler, Swackhamer, Fry, Reid, Bryan, Lowman
Prince. Mr. Kean came in later.

ABSENT: None.

AB 392: Requires preliminary notice of divorce actions and provides
interlocutory relief.

MR. TORVINEN: This is the time set for a hearing on AB 392. We will
hear from proponents first.

PASTOR JAMES OLSEN: Faith Lutheran Church in Reno: I would like to
speak in favor of this bill which will do much to strengthen families
in our state. We are particularly interested in the people who are
bona fide residents and who, under present statutes, can get a divorce
very readily. These are the ones I am concerned about.

I have had several cases in the last month or two in my own parish
that would have been affected by this bill. One, the husband was working
out of town in Denver and the wife got a call saying he wanted a divorce.
Two days after he got home it was all over. There was no opportunity
for counseling.

MR. REID: Unless she agreed, he could not have gotten divorced in two
days. She has to sign a paper. No one can force her to sign it.

MR. OLSEN: She did not want to sign it but decided there was no use
doing anything else.

This bill would not work a miracle but it would cause a slowing down
process. Another case I had went through so fast and now they are
both sorry about what they did. All I am saying is that a mandatory
30-day wait would give some opportunity for counseling and guidance
for those who want it.

I think a year like in California is too long and 30 days is too short.
This is really a modest change in the law. It would help the image
of our state, also.

REVEREND JEROME BLANKENSHIP: University United Methodist Church, Las
Vegas: Frank Young happens to be a member of my congregation. All of
us are concerned for people, concerned for families, concerned for the
humanizing element in life.

Decisions made under pressure and great stress and strain are bad
decisions, usually. If a little time can be granted, it has a way of
healing problems and rehabilitating living relationships. I have had
members of my congregation coming to me for remarriage.

I am sure that the members of the committee are aware that in California
they have a mandatory Court of Reconciliation for couples with children
who are seeking divorce. They must go for one counseling at least.

It is amazing that even under these unfavorable conditions for counseling, 70% of the divorce actions are dropped, at least for the time being. They are not all saved, but the marriage is given a chance. People should be given some time without pressure to think things over.

I hope you will recommend to the Legislature the passage of this bill.

RICHARD ENGESETH: Legislative representative from the Board of the Nevada Churches Association: I have never seen any one bill receive such support from all the members of the ministry, practically from all the churches of the State. This, of course, comes out of our concern for the family which is peculiar to us as human beings. It seems, as much as anything else, the image we carry abroad of our irresponsibility, of our casualness. It seems a bad thing that a man living in the State can be divorced so easily. It says something about our total attitude to the family which we would very much like to strengthen.

Since I was involved in a marriage bill which did not do so well earlier in the session and am now involved in this I am getting calls and letters from outside the state, almost like I am a foreign correspondent. The letters you have received on this were in reaction from hearing that the committee was not going to be allowed to vote on this bill.

MR. TORVINEN: Correction. I said my inclination was not to set a hearing. I did not know how I was going to explain it to my colleagues in Reno.

MR. BRYAN: Mr. Engeseth, in your remarks you said something about the casualty with which we view divorces. The same casualty, if it is there, applies to the marriages that take place in our state. Yet our marriage law is almost the same as in California. I would not think our marriage laws are so easy. They are more restrictive than in many states as to age.

MR. ENGESETH: Concerning our image: I was asked if we were going to put in a vending machine where you could push one button for a marriage and another button for a divorce.

MR. BRYAN: Our marriage laws will compare favorably with those of most states, with the exception of the blood test.

MR. ENGESETH: This is true. If you take your blood test with you, you can get married on the same day in California.

MR. BRYAN: Is the law in other jurisdictions such that it requires a longer period of time to get a divorce because of a waiting period? Some states have this interlocutory decree but this does not prevent the filing of a judgment and obtaining the interlocutory decree at the same time.

MR. ENGESETH: I am speaking to the image, not to the law.

MR. BRYAN: You are asking for change because of the image problem when maybe the image is erroneous.

MR. ENGESETH: People tell a newcomer to our state: You are now in the right state because after you have been here for six weeks you can get rid of your wife if you are tired of her."

MR. REID: If the husband and wife do not agree, then that divorce will not take place for a long time.

MR. ENGESETH: True. But the things people do in the violent, emotional impact of the moment may be regrettable. We want them to stop and think what this means before taking action, so they will have time to realize what they are really doing. Objectivity may be quite irrelevant when emotions take over.

MR. FRY: I have reservations about this legislation, to the definition of terms, to begin with. "Resident of the State": What if he is, in fact, a resident of the state and he decides to up and pull out. We then, in fact, deny divorce to the complaining party. This may bring things to a halt for quite a while.

I believe this legislation is a bad answer to a bad problem. Consideration should be given to this problem by lawyers and clergy working together as to what we are going to do about this situation. I think this is a hastily-drawn measure.

A Reconciliation Court has been mentioned. Maybe we should look along that line. Maybe we should look into the situation as to an interlocutory decree. I know of no state that has this initial notice that you are asking for here.

MR. REID: Say a lady has three children. She files this notice and her husband skips out. Does this initial notice give her the right to get money from her husband, settle the property, etc.?

MR. ENGESETH: Don Winn told me there was no reaction from the Bar Association when this was first mentioned. According to Mr. Winn, when the bill was first drafted, it was gone over very carefully by Mr. Daykin and others. As far as legalities are concerned, these are the people you would have to talk to.

MR. TORVINEN: We must consider how to really effectuate due process of law, which is service. This bill has put in an entirely new form for divorce, a preliminary notice. The husband might say, boy I am getting out of here. She is after me. Does the wife still have jurisdiction over him? That is our problem.

MR. BRYAN: We had better explain the significance of this lack of jurisdiction.

MR. FRY: Now, she has to give personal service to this individual. If he has skipped town, there will be no jurisdiction to determine her property rights, alimony, or child support.

MR. LOWMAN: How is that different from now?

MR. REID: If the husband is served in the State of Nevada the court can award money judgments. She can still get the divorce under this proposed new law but cannot get what is more important, child support, alimony or a property settlement.

MR. BRYAN: Now divorce is begun by serving the complaint and summons then the husband can say, by God, I am taking off. Then the court does have jurisdiction, because he was served before taking off.

MR. TORVINEN: This is analagous to our attachment of wages. He gets notice his wages are going to be attached so he quits the job and leaves. This is the problem. We are not saying this is a fatal defect but a problem which must be resolved.

MR. MCGEEHEE: Chairman Bar Association Family Law Committee: Our lack of concern with this problem and with other related problems was mentioned at the beginning of this hearing.

I discussed these problems personally with some of the Bar in terms of: Is there really a problem? And can we solve it without creating an even worse problem?

I have never obtained a fast divorce for a local resident and I have never talked to an attorney who has done this. Sometimes people want to act immediately, but there are usually enough problems involved to prevent them from obtaining a hasty divorce even when they want to.

Sometimes local residents have obtained divorces and then have got back together again. Sometimes being really divorced makes them realize the seriousness of what they have done and they get back together again. When you compare the bill, the good it might do against the many problems it makes, you couldn't be for the bill.

If one of the parties is hesitating at all it may be six months to a year before you can get on the trial calendar with a divorce. Giving notice to the father enables him to abandon the family if he so desires, leaving the wife without ability to get an order for support of the children.

Nevada's image about being able to get divorced in the morning and married again in the afternoon relates to people from other states who are able to come here and do that. The fact that Nevada issues a final decree is what makes it physically possible for them to do this. Passing this bill certainly would not change the image of Nevada in that respect and it would create an awful lot of problems.

I can tell you generally that under this bill there will be an attempt to give the Nevada Court jurisdiction to give interlocutory decisions to a person who got here yesterday to obtain a divorce. It is nothing but a pyramid of problems.

What I would like to propose, since there is this concern about the local citizens' ability to obtain a divorce so quickly, is to have the Family Law Committee study the situation in terms of what other states have done to solve this type of problem, to determine how serious the problem really is in our state and to recommend changes if they feel we need them. If we do make changes, see that they are changes that will not create problems that we will not know how to deal with in other areas.

Let me assure you this bill will create a hundred times more problems than it will solve, at least the way it is proposed.

MR. OLSEN: When this Declaration of Intent was discussed, we were concerned that our new bill would not change the six weeks residency for those who come in from out of state. If it did that, it would have dollar signs on it.

Is there some change that could be made to this bill to take care of

this husband who runs away.

MR. SCHOUWEILER: What you would have to change might be the Federal Constitution. It really brings in a whole area of law that you don't wish to attack in this particular conversation.

Did Mr. Winn ever go over this with you or discuss it with you? I understand that he is an attorney.

MR. TORVINEN: In fact, when any divorce is filed in Nevada, one of the parties throughout is a legal resident of Nevada. So we can't pass a law that provides differently for the residents and the nonresidents.

MR. BRYAN: If we file this notice and the husband takes off, then the wife is in much worse shape. By changing the law, you would create a severe hardship for hundreds of families in the state. Now, she doesn't have to tell him in advance. She may be afraid of him for some reason. You can serve him, and then you don't care if he takes off.

MR. ENGESETH: Yes, this was brought up with Don Winn. The notice would provide for this kind of relief. You could get court orders to keep the husband away and for support of the children and so on.

We have many different sets of data here. Some show remarriages with these hasty divorces and some do not.

MR. MCGEEHEE: You are speaking from your experiences with remarrying some of these people and we are speaking from our experience in the law.

MR. ENGESETH: So far you have not seen any need for a delay? I read about some association going so far as to ask for a one-day divorce.

MR. TORVINEN: That was no association. That was an individual lawyer.

I have had no experience with hasty divorces. As long as they are fighting about who is going to get the parakeet and who is going to get the toaster there is no hope for a reconciliation. After this is all settled, they sometimes get back together, but never while they are still fighting over details.

Reverend Olson, do you know of any cases where couples have been divorced in a shorter time than 30 days?

MR. OLSEN: Sure. Less than one week. The man in Denver was only in Reno two days.

MR. BRYAN: Theoretically, you can wrap up the whole thing in one day but practically, it doesn't happen.

MR. MCGEEHEE: All laws are abused in some manner. There may have been some of these one-day divorces but I just can't think the situation is so acute that we have to have this legislation which would cause so many other problems.

MR. BLANKENSHIP: There are three couples in my parish who got divorced within one week and have subsequently remarried.

I would like to recommend for your study some good books on this subject. "After Divorce" by Goode. It is out of print but is available in

libraries. Then there is Dr. Johnson's book "Formerly Married". It is a long survey of what happens to people after divorce. It is a rather detailed study.

MR. TORVINEN: We took a step last session to include "incompatibility" as grounds for divorce so that neither party would feel that all the fault had been placed on him.

MR. REID: I support the concept of this bill, with some changes, but after this discussion at this hearing today I do feel that maybe there should be something done to determine the best way to approach this. Maybe there should be some further study.

One of the big problems we have in the law today is that of husbands not supporting their children. What are your thoughts in that area?

MR. ENGESETH: We would like, and have talked to several legislators about, a whole study of the laws of Nevada concerning the family. We are always told to forget this because you are going to run into two quick money-making deals. We would also like to see a study on marriage.

MR. REID: I am concerned. We have had several bills in this area, most of which we have killed. The concepts have some validity but too many problems.

MR. ENGESETH: There are two different kinds of divorces, resident and nonresident. Also, we have two kinds of marriages, one for residents and one for nonresidents.

MR. REID: It is true that in the past some attorneys have made their living handling these divorces, but this is not true any longer.

MR. ENGESETH: We were told to just try to do something for the local residents, because you can't pass anything for those who come into the state.

I would like a Court of Reconciliation but don't think we can get it. But we might be able to do something with the 30-day waiting period.

MR. TORVINEN: I would like to see someone delve in deeper on this "fact finding" concept, but it is too far reaching to go into this late in the session.

If one party or the other could file a paper saying "I want a mandatory Reconciliation Hearing of some kind" that might help, too.

MR. ENGESETH: We would like to do a little something right now.

MR. MCGEEHEE: The Family Law community would be happy to work with you or your group along this line. I would not want to leave you with the impression that we have been unconcerned about it. I am concerned that Mr. Winn did not call me and tell me that you were discussing this. I long ago wrote to all the members and asked them to get in touch with me if there were any proposed legislation introduced that might be in the areas with which we were concerned. This is certainly one of those areas.

We had concluded that it was impossible to do something for permanent residents and something else for people coming in. It is just impossible.

If there is anything that won't fly at this point, it is this legislation. 2-230

MR. ENGESETH: Two things I would like to put over: One, people do get divorces within a week; two, we were told that legal redress would be possible. While this is all in the beginning, this much could be done and should be.

I would speak for a Do Pass for AB 392 so that we can get a slow-down on divorces.

MR. BRYAN: Frankly, by passing this act, we are going to render a substantial, deserving part of our people in Nevada with a loss of jurisdiction of their husbands over child support, property settlement and alimony.

I am not opposed to a 30-day waiting period, but weighed in the balance it would do more harm than good.

To my knowledge, this legislation is unprecedented. We have nothing to look at to see what it will do. We don't know what kind of can of worms we would be opening up here.

MR. BLANKENSHIP: Does section 3 deal with the question you are raising?

MR. FRY: Section 3 only lists for six weeks, as it is now written.

MR. MCGEEHEE: You are giving the court power to enter support orders, orders concerning property and other things, and at the same time trying to confer jurisdiction on the court over nonresidents.

MR. SCHOUWEILER: How often does your committee meet? It would not be too difficult, would it, for you to meet with the clergy on these subjects? Some good, salient points have been brought up by yourself and by the clergy, but it would be difficult to do within the week or two that is left in the session.

MR. FRY: In the past, Washoe County Bar Association has had various meetings with medical people and with the press people. These sometimes turn out to be very beneficial. I would suggest you get the Bar and the clergy together. Quick divorces are only one of the problems that you could discuss. From those meetings, something may come out that can be introduced but AB 392 won't do. There are serious constitutional problems, the difference between residents and nonresidents. This would kill the bill the first time it came up before the Supreme Court.

MR. ENGESETH: Would your Association support mandatory Reconciliation Courts? Interlocutory decrees?

MR. TORVINEN: That kind of legislation might meet with favorable response from the Bar, but when two people are convinced, both, that they want a divorce, there is nothing much you can do. If one party doesn't want the divorce, then there may be something you can do.

MR. FRY: The Bar Association has a committee for this purpose. If you approach the Family Law Committee, they would have to talk with you.

MR. ENGESETH: The answer we have got up to now is "I don't do it" but "they do it." The verdict seems to be unanimous that you can't get support for this. That is why I ask you now, do you support it?

MR. MCGEEHEE: When you put it in terms of two alternatives the answer is probably NO. The Family Law Committee would work with you on this as long as we do not create a can of worms in the entire domestic relations area as it is now composed.

MR. TORVINEN: There is a bill bogged down in the Senate which enacts a Court Administrator. We are also effecting changes in the Court System. Perhaps in the two larger counties the possibility of having judges more specialized in family matters might bring about a situation where a judge could delay a divorce on his own motion. There are a number of possibilities, all in the working stage.

MR. ENGESETH: This is true, and regardless of the outcome of this bill we will be glad to work with the Bar Association on anything that will help.

MR. FRY: I had prepared a resolution asking that a study be made of family law. Would you like this introduced to give impetus to the thing?

MR. ENGESETH: This would be referring it to the elephant's graveyard.

MR. FRY: Then we will just sit on it.

MR. TORVINEN: The hearing is now closed today on this matter. I feel we have all benefited from the discussion.

MR. SWACKHAMER: I move Do Pass AB 392.

MR. PRINCE: I second the motion.

MOTION FAILED, RECEIVING FOUR AYES AND FOUR NOES
VOTING AYE WERE SWACKHAMER, LOWMAN, PRINCE AND REID.
VOTING NO WERE FRY, SCHOUWEILER, BRYAN AND FRY.

MR. TORVINEN: Tomorrow we will consider AB 608, AB 593 and SB 217.

MR. LOWMAN: I move we adjourn.

MR. REID: I second the motion.

MOTION CARRIED UNANIMOUSLY.

Meeting was adjourned at 5:15 P.M.