

Assembly

MINUTES OF MEETING OF JUDICIARY COMMITTEE, 53rd Legislature, Feb. 2, 1965

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Meeting commenced at 1:45 P.M.

Present: Close, Knisley, Kean, Jacobsen, Delaney, Swobe, Rosaschi, Parsons
Absent: Mr. Olsen

Minutes of the two hearings held Feb. 2 approved.

Mr. Close announced that the Committee will have a number of private discussions on the Civil Rights Bill and will discuss it one section at a time. No public hearings, at least in the early stages. Intent is to avoid demonstrations if at all possible.

AB 19 Public Records Bill

Mr. Kean reported that an amendment to the bill had been passed Feb. 2 as a result of his conversation with Mr. Gray.

This amendment was examined carefully to determine whether it will accomplish the desired purpose. It was decided to amend the amendment and remove the word "officer".

It was further decided to take the bill off third reading on Wednesday.

Mr. Kean is to contact Herr, Wood, and Gray further regarding it and Mr. Swobe is to contact Russ McDonald.

AB 48 Battered Child Syndrome

Mr. Neff, Nevada State Medical Association, was present to speak on behalf of the bill. He suggested that it might be well to schedule a hearing in a week or ten days and hear people who are knowledgeable on the subject, such as Judge Mobray.

Mr. Close said he didn't think this would be necessary as he had given each of the Committee a paper written by the judge which gave his views on the subject. He said further that the Committee's only concern was whether the bill might prevent parents from taking their children in for medical attention when they knew they would be reported.

Dr. Neff replied that he thought the importance of reporting the beating is of more importance than the fear of deterring effect on any parents. He said that the reporting would help to pinpoint the areas of concern and help to prevent the same child from being beaten again and again.

Dr. Neff reported that he had mailed out a questionnaire to 320 doctors asking them how many cases of child beating they had had in a year's time. 105 reported no cases. 60 suspected cases observed and 20 proven cases was the report.

It was Dr. Neff's suggestion that it might be well to add to the bill that anyone knowing of a child beating situation should be required to report it.

Mr. Close said that Judge Mobray had told him that parents who beat their children are neurotic to begin with, beat their children in a fit of anger, and then are usually sorry afterward and will take them in for treatment. He said that the passage of the Lindberg law has not caused kidnappers to commit more murders.

Mr. Knisley: Are the reports confidential?

Answer to this question seemed inconclusive.

Mr. Knisley: Who are the reports made to, the Welfare Department, or the D.A.? There was considerable discussion on this. Conclusion was that the Welfare Dept. was the right place.

Mr. Jacobsen moved Do Pass
Mr. Delaney seconded
Motion passed unanimously

AB 74 Theft and Misuse of Credit Cards

Mr. McAdam, of the telephone company, was present and spoke in behalf of the bill. He said that passage of this bill, together with passage of Bill 126, should take care of the situation for the telephone company. He said that in the past the telephone company has suffered quite a loss due to the misuse of credit cards. This is written off as a loss and it tends to punish the honest users.

He said that it is much easier to apprehend misusers of the telephone than is commonly supposed by the public. The information on the place called has to be given.

In connection with AB 126, Mr. McAdam stated that they did not intend to use \$100 as the cutting off place.

Mr. Swobe, who had been asked to look into amending the bill as to time limitations, reported that he thought the thing to do was to insert "within a 90-day period" right after the word "person" on line 24 and then repeat the procedure on line 35.

Some discussion as to whether this amendment would soften the penalties. Several members thought that it would.

Swobe brought out that under Federal Law you cannot accumulate these offenses.

Swobe moved amendment Do Pass
No second
Motion defeated

Mr. Knisley AB 74 Do Pass
Mr. Jacobsen seconded
Motion passed unanimously

Mr. Kean suggested that it might be well in considering all bills in the future to keep in mind the changing value of the dollar.

AJR 11 Increases JP jurisdiction to \$500

Mr. Close read the Constitutional Amendment which he had had drafted which gives the Legislature the right to change the amount of the JP jurisdiction as the need arises.

Mr. Kean moved Do Pass
Mr. Swobe seconded
Motion passed unanimously

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AB 80 Land Subdivision Act

Mr. Don McNelley, State Real Estate Dept., brought copies of SB 170, SB 251, and Reprinted SB 251 for members of the Committee to examine. He also mentioned several inquiries and complaints which his department had received during the past 24 hours.

Mr. Close said that he would like to see the D.A. given injunctive power in the bill as well as prosecuting power.

Mr. Kean: What would this do if the defendant was innocent?

Mr. Swobe: The other attorney can ask for a Summary Judgement and get a release. This could be done in a matter of a few days. Maybe we could give him temporary injunctive power which lasts 15 days. At the same time, he could set up a hearing for a permanent injunction.

Mr. Close: Mr. McNelley would like to have added to the list of required disclosures in the act the location of the nearest school.

Mrs. Parsons again brought up the matter of certain people feeling that passage of this bill would prevent them from acquiring 100 acres for a townsite at Silver Peak. Conclusion of the Committee was that there was no subdivision and this Act would not affect the Silver Peak townsite deal at all.

Mr. Close said that there is a question in his mind as to whether or not Section 7 will make newspapers, radio stations, etc., subject to penalties for accepting false advertising when perhaps they did not know that it was false.

Mr. Knisley asked the Committee to have Mr. Mann make a study of the penalties in the bill and report.

Mr. Kean moved to delay action on the bill.

Mr. Close said that he would not object to decreasing the number of lots to 4 if something could be done to section 4 so that someone who has land with no water, no roads, no anything, could sell this land if he could find a buyer who was willing to buy it knowing all these conditions.

Mr. Knisley brought out that the definition of subdividing is usually 4 or more within the year.

AB 81 Installment Bill

Mr. Close reminded the Committee that there would be a hearing on this bill on Wed. Feb. 3, at 3:00 P.M. in room 43.

It was reported that Archie Pozzi has asked that the bill be delayed until NADA can meet with the Committee.

Mr. Close said that sections 8 and 21 seem to conflict and that maybe we should delete section 8 and then section 21 would be all right.

Mr. Knisley was reluctant to strike out section 8 until the Committee knows why it was put in. Decided to investigate a little further on this.

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Mr. Kean: Does this act fit in with the Uniform Commercial Code?

Mr. Close said that it does not as it deals with matters other than those in the Code.

Mr. Kean was appointed to speak to Mr. Vargas and Mr. Sanford about possible reasons for the inclusion of section 8 in the bill.

AB 159 Civil Rights Bill. Mr. Close announced that there is going to be a meeting of the Civil Rights people here in Carson City on Sunday and that he has asked them to send in a representative to talk to the Committee about the bill on Monday, Feb. 8.

AB 186 Alleman. Increases penalty from a gross misdemeanor to a felony for sale, destruction, or removal of encumbered property worth more than \$500.

Kean: Shouldn't the wording be changed so that it means the mortgaged interest in the property rather than the entire worth of the property?

Kean moved to amend to accomplish the above.

Jacobsen seconded

Motion passed unanimously

Decided to hold the bill over.

AB 199 Public Defender

It was announced that the counties of Clark and Washoe have endorsed the bill.

Mr. Close said that an argument that has been given against the bill is that "you will get people not competent" to defend. An argument given for the bill is that people who are in the Public Defenders office will become expert in criminal cases.

Mr. Close pointed out that last year Clark County spent \$67,000 in defense of indigent criminals. This year it will be at least \$75,000. It will take about \$100,000 to set up the Public Defender system, but it will be cheaper in the long run.

The Supreme Court has said that you must provide counsel even at the JP level. Nevada says that you don't have to. In time we will have to come to it. In Clark County, under the present system, the cost of appointing counsel has averaged about \$100 per case. In many large cities which have Public Defenders the cost is \$35 to \$40 per case.

Mr. Close: This act is only an enabling act to make it possible for counties who want a Public Defender to be able to have one.

Question: Should the Public Defender be appointed or elected? Clark County recommends appointment.

Swobe suggested checking with D.A.'s and various attorneys to see if they think the position should be elective or appointive.

Mr. Knisley suggested that perhaps men could be chosen and recommended by the State Bar Association and then approved by the commissioners.

It was concluded that if the post were appointive, the salary could be somewhat less than that of the D.A. because there would be no campaign costs. He probably should

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be paid less because he has no responsibility to advise the counties, etc.

Mr. Close said that several people had approached him about coming to talk for the bill but that no one has mentioned coming to talk against the bill.

Two problems: Elective or Appointive, and amount of salary.

Mr. Swobe was appointed to work out something on how the Public Defender could be chosen by the Bar Association.

Mr. Knisley voiced an objection to having the bill financed through adding to the cost of marriage licenses. Said he couldn't see any connection there. Wants to find some other way to finance it. Also said he would like to see the D.A. made truly a District Attorney and be over a number of counties, and be prohibited from private practice. Also would like to see judges rotated.

AB 210 Two kinds of property in a community state. Separate property and community property. This bill would make income earned from separate property belong to the party owning the separate property.

Mr. Kean said that this bill puts strength into the original intent of the bill. Takes away from the judge's prerogative to twist the law.

Mr. Swobe expressed his opinion that the law should remain the way the courts have interpreted it. Swobe and Close both thought the bill would take the guts out of the community property law.

Mr. Knisley: I would like to take a good look at the California law on this.

Mr. Swobe: These cases almost always have to be decided on the merits of each case.

Kean: Section 1 is too vague. It should be spelled out so that everyone would know what conditions he lives under.

Swobe: Would you accept an amendment that if any of the income is due to the spouse's efforts that he is entitled to share in the profits?

Mr. Swobe was appointed to research the case law on this bill.

SB 13 Takes words "willfully and maliciously" out of section 2.

Mr. Kean moved Do Pass

Mr. Delaney was asked to talk to Monroe and see why he wanted these words taken out.

Meeting adjourned at 4:45