

MINUTES OF MEETING - ASSEMBLY COMMITTEE ON JUDICIARY, 54th Session, March 16, 1967

Meeting was called to order at 2:35 P.M.

Present: Wooster, Lowman, Swackhamer, Schouweiler, Kean, Hilbrecht, White, Dungan  
Torvinen

Absent: None

Mr. Wooster announced that there will be a hearing on March 23 at 2:00 P.M. on AB 468 the death penalty bill.

AB 180: Abortion bill.

MR. WOOSTER: I would like to discuss the amendments to this bill which are now printed up, and which are the result of a lot of hard work.

MR. SWACKHAMER: I am the one that brought it in, but I do not think it is much of a bill. I thought it would be a step forward if we even introduced it.

Mr. Swackhamer moved that the committee give no further consideration to AB 180.  
Mr. Lowman seconded

MR. WOOSTER: Are you convinced that this bill cannot go through the legislature at this time?

MR. SWACKHAMER: Absolutely. This is a poor place and a poor time to go any further. We have done some good with it now.

MISS DUNGAN: Even a group of doctors in Las Vegas said they felt that we were premature with this. They agreed there is a need but suggest we do nothing at this time. Bringing it before the public is extremely important. If there is no chance to pass it, we might as well drop it.

MR. WOOSTER: These amendments were the result of a lot of hard work. They provide for a much tighter control on this thing. They definitely are improvements.

MR. HILBRECHT: I feel we have made some strides. Maybe we can do a little better with it at a later date.

MR. SWACKHAMER: I should hope the bill drafter would keep the amendments in his file and maybe someone can use them later.

MR. KEAN: This is better than the present law, but I will go along with Bill's philosophy on this.

The vote on Mr. Swackhamer's motion to indefinitely postpone the bill was unanimously in favor.

MR. KEAN: I move we ask Russ to retain these in good order.

AB 462: Increases amount of required bonds of real estate brokers and salesmen.

March 16, 1967

## Assembly Committee on Judiciary

Ted Matson, Bob Bowers, and Herb Matthews, all real estate men, were present to speak for the bill.

MR. MATSON: The difficulty of getting a bond for \$10,000 is this. It would require \$8,000 to \$10,000 of liquid assets and \$50,000 to \$60,000 in other assets.

This is highly restrictive and would put half the people out of the business. We would agree that the public should have more protection. We have a bill, SB 328, which is about to come out of committee in the Senate, which will protect the public up to \$20,000. The industry is going to get together and make up this fund with what we have been paying for the \$1,000 bond. This should take care of this thing, because our state real estate office can only recall three defalcations in twenty years, and two of them were by the same man.

If you raise the bond to \$10,000, you will have more claims than you do now, with the \$1,000 bond. We feel this \$20,000 recovery act would be more important and helpful to the industry than raising the bond. The fee will be the same as they now pay for the bond.

MISS DUNGAN: How many renewals are there each year?

MR. MATSON: 1,943 now. 1400 are active and the balance are inactive.

MR. SWACKHAMER: With reference to section 5 of AB 462: Suppose a guy got a judgment for \$15,000. Would this bill prevent him from suing you people for the other \$5,000?

MR. MATSON: No. They could sue the individual real estate man for the balance.

MR. HILBRECHT: May I ask the conditions on which this bond can be reached?

MR. MATSON: Misrepresentation or deceit.

MR. HILBRECHT: Is there available to you an Acts of Omission type of insurance?

MR. MATSON: It is almost impossible to get this type for a realtor.

MR. HILBRECHT: The bill you have coming through only protects you for certain things like stealing. What about a mistake in filling in the escrow papers, etc. The broker should bear the burden of these mistakes, not the people.

MR. MATSON: What we are trying to do is two things: upgrade the licensing requirements and further education among established realtors. From the excess of this fund, we will bring the salesmen in and bring them featured speakers and other educational features.

MR. SWACKHAMER: If you can get \$1,000 bond for \$10 why can't you get \$10,000 bond for \$100?

MR. MATSON: It is because of the asset requirements. The \$100 would be no problem.

MR. SWACKHAMER: Suppose you had two cases and exhausted the \$20,000, then another person had a claim, what would happen then?

MR. MATSON: It would go over into the next year and there would be no money for seminars and so forth.

March 16, 1967

Assembly Committee on Judiciary

MISS DUNGAN: Would there be any objection to increasing the \$20,000 to a larger amount? If you can raise that in one year, two years of fees going in to start with could not do much damage.

MR. MATSON: It will take a year from next July before there will be any money for these educational purposes. If we increase it, this will take several years before there will be any money for this purpose. The idea of raising the fees from \$10 has been brought up by our own group, but we hate to do it.

MR. HILBRECHT: I don't know how you are going to spend \$10,000. Maybe it could build up until it becomes a reasonable sum to respond.

MR. MATSON: A young man wanting to go into the business could not qualify for the real estate bond if it were \$10,000.

MR. HILBRECHT: We are concerned with \$20,000 not being enough.

MR. MATSON: According to our history, it will be enough. It is a matter of common law that a person is responsible for his acts and errors.

MR. HILBRECHT: The point is having the money to pay.

BOB BOWERS: Our firm has Errors and Omissions insurance. It is very expensive and hard to get. It has a \$1500 deductible clause.

MR. SWACKHAMER: How much did it cost?

MR. BOWERS: The cost was about \$300 per year for the \$1500 deductible.

MR. SWACKHAMER: What is the coverage?

MR. BOWERS: I believe it is in the neighborhood of \$100,000. Not many of our people can afford it.

MR. MATSON: There probably would be no objection if we were to raise this and provide \$5,000 for educational purposes. California has \$400,000 and all over that goes to education for the realtors.

MR. WHITE: How many of your 1900 realtors belong to your state organization?

MR. MATSON: About 400. We think we have over 50% of those that do the business.

MR. WHITE: Does the Association provide errors and omissions insurance?

MR. MATSON: No. I have a \$50,000 insurance Errors and Omissions on myself but can't get it written on me for the real estate business. The bond is really for fraudulent acts.

SB 111: Proposes additional qualifications for licensing of real estate brokers, salesmen; provides city license reciprocity for brokers, salesmen.

HERB MATTHEWS: President of the Nevada Association of Realtors. I wonder if you have a real understanding of this bill. Some think you have to have a high school education to get into the business, but you don't. It is just a broker that is required to have

Assembly Committee on Judiciary

a high school education, or two years experience working for another broker. We are trying to get someone who has had some experience before he becomes a broker. I don't think this is unreasonable.

MR. WOOSTER: Are you aware of any other business that doesn't require any experience before going into business?

MR. BOWERS: Yes, the insurance business.

MR. MATTHEWS: There is one examination for salesmen and another one for a broker. The last one is a little tougher but you can take it and still work for someone else.

MR. SWACKHAMER: If you are not a high school graduate you have to work for someone else. What if no one else will hire you?

MR. MATTHEWS: Brokers just don't refuse jobs to people with ability to sell real estate. If he can't get a job he should not be in the business.

MR. LOWMAN: Could we change "original" to "initial"?

MR. BOWERS: We are very much concerned about the reciprocal aspect of this bill. It is a burden on us that others don't have. The cities are trying to get these licenses for income, not for controlling the industry.

MR. WOOSTER: Maybe this should be worked out on a local level, rather than having a state law.

MR. KEAN: I have a mechanical business. Every town we go in we have to have a license, even though we are just making a delivery and not in business there.

MR. MATSON: Sparks asked me to send them \$50 for a license because I do sell some property there. Many realtors sell ranches all over the state and they have to be licensed in every county. We think our bill has merit. We have no objection to buying a license in each city where we have an office.

MR. SWACKHAMER: I would like to look into the difficulties of buying this \$10,000 bond.

MR. WOOSTER: We will hold SB 111 until Mr. Swackhamer has done this.

MR. Hilbrecht moved to reconsider SB 111 and amend it

Mr. Swackhamer seconded

The motion was defeated with Torvinen, Schouweiler and Hilbrecht voting Aye, and Swackhamer, Lowman, Kean and White voting No. The bill will not be reconsidered.

MR. TORVINEN: Any man with a broker's license can get a job because they are paid only on commission for what they sell.

MR. SWACKHAMER: I don't want to see them be able to limit their competition.

MR. KEAN: Now you have to go to a university 6 weeks. The commercial real estate school is better and they tried to put them out of business.

MR. TORVINEN: It wasn't the real estate business that did that. It was the University that put pressure on him.

AB 81: New criminal procedure law.

Frank Daykin was present to go over some of the new amendments.

SECTION 107, page 16:

DAYKIN: This is the section relating to the District Attorney who is reluctant to prosecute a case. The lines on page 16 would remain and the matter on page 17 would be stricken and this would be put in its place: "require all available evidence to be delivered to the Attorney General if the District Attorney refuses to prosecute in such cases. If the judge so orders, the District Attorney is entitled to no salary until such time as the case is finished or the Attorney General decides not to prosecute".

MR. LOWMAN: Would you want to do this sort of thing?

MR. WOOSTER: No.

MR. TORVINEN: We are providing for something that has never happened.

MR. DAYKIN: You are assuring that the crime will be prosecuted.

MR. WOOSTER: I can't see taking away his salary. This seems to be assuming that this is the only case that he had.

Mr. Torvinen moved to amend section 107 to read according to the first sentence Mr. Daykin read.

Mr. Swackhamer seconded  
Motion passed unanimously

MR. DAYKIN: 234.5, a new section to the bill, came about because of a bill introduced by Schouweiler. It allows credit for time spent in confinement before trial, unless such confinement is a sentence being served for another crime.

MR. SCHOUWEILER: It allows the judge to use this time against the sentence. It is being done by some judges and not by others.

Mr. Kean moved to adopt this new section  
Mr. Torvinen seconded  
Motion passed unanimously

Mr. Lowman moved Do Pass AB 81 as amended  
Mr. White seconded  
Motion passed unanimously

Mr. Wooster said that on Friday the committee will consider SB 192 and Assembly Bills 422, 432, 433, 434, 435, 436, 438, 439, and 351

MR. WOOSTER: Some of these are bills asked for by the State Bar Association and they have passed the Senate. I have asked Mr. James Guinan to be present to speak on the bill

SB 244: Permits judicial review of mandatory suspension or revocation of driver's license

MR. GUINAN: This will remove what is probably unconstitutional, the mandatory suspension or revocation of driver's licenses.

March 16, 1967

Assembly Committee on Judiciary

There are a number of offenses which carry mandatory revocation or suspension of driver's licenses, such as manslaughter, any felony in which a motor vehicle is used, and so forth. We feel there should be a review on these things.

SB 245: Conforms notice procedure on applications of fiduciaries.

MR. GUINAN: There are two chapters that contain notice provisions. These are conformed to a third by this bill, so that attorneys will know what to do.

SB 246: Conforms notice by publication requirements in action to terminate parental rights, with rules of civil procedure.

MR. GUINAN: This conforms rules of parental rights with rules of civil procedure.

SB 248: Permits less than three directors on initial or reduced board of directors of private corporation.

MR. GUINAN: This is a technical bill to correct something we left out last session. It provides that you do not have to have any more directors than you have stockholders.

MR. SWACKHAMER: I can see the possibility of fraud being augmented by not having at least three in the original corporation. At least there would be two other people that could give testimony of the first day.

MR. GUINAN: The other names used are generally people who don't know what is going on anyway, such as somebody's secretary.

MR. SWACKHAMER: If everybody was honest and decent we would not need the laws anyway. Unless there is a crying need for this, I for one would vote against it.

MR. GUINAN: What kind of situation did you have in mind?

MR. SWACKHAMER: Where a man could acquire something on credit because the seller thinks he is dealing with a corporation.

Suppose I had been honest for ten years, then set up a corporation and took off with the assets. I think it would be harder to proceed against me with no one to talk to.

MR. GUINAN: I don't think having two uninformed people would help the situation. It would be just another step you have to go through.

SB 249: Permits transfer of civil actions to other counties within same judicial district in certain instances.

MR. GUINAN: You have several counties in the first judicial district. There are two judges in the district and they move around some. This would allow transfer of a case to another county where both parties agree to do it, or where the thing isn't going to be contested.

SB 244: Permits judicial review of mandatory suspension or revocation of driver's license

Mr. Torvinen moved Do Pass  
Mr. Hilbrecht seconded  
Motion passed unanimously

March 16, 1967

Assembly Committee on Judiciary

SB 245: Conforms notice procedure on applications of fiduciaries.

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

SB 246: Conforms notice by publication requirements in action to terminate parental rights with rules of civil procedure.

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

SB 248: Permits less than three directors on initial or reduced board of directors of private corporations.

Mr. Torvinen moved Do Pass  
Mr. Hilbrecht seconded  
Motion passed unanimously

MR. LOWMAN: Could you incorporate with just one person under this bill?

MR. WOOSTER: Yes, if there is just one stockholder.

SB 249: Permits transfer of civil actions to other counties within same judicial district in certain instances.

Mr. Torvinen moved Do Pass  
Mr. Lowman seconded

MR. WOOSTER: Maybe on line 6 we should say "if the action is uncontested and proper notice has been given".

MR. HILBRECHT: I would say "all notices have been given". They might think "proper notice" is a new kind of notice.

Mr. Torvinen withdrew his motion.

Mr. Kean moved amend "all required notices" and Do Pass  
Mr. Hilbrecht seconded  
Motion passed unanimously

SB 307: Assures certain protections to officers of State and political subdivisions under statute waiving sovereign immunity.

MR. WOOSTER: We have another bill, AB 359, which is identical to this one.

Miss Dungan moved to postpone indefinitely AB 359  
Mr. Kean seconded  
Motion passed unanimously

MR. KEAN: I am inclined to go along with SB 307 as amended.

March 16, 1967

**Assembly Committee on Judiciary**

Miss Dungan moved Do Pass SB 307 as amended  
Mr. Hilbrecht seconded  
Motion passed unanimously

AB 275: Permits sheriffs to deputize private detectives to serve certain writs.

MR. HILBRECHT: We have prepared two amendments to this bill. On line 3 change "may" to "shall". There is an addition of subsection 3. The sheriff is not required to deputize unless the detective has obtained a bond for \$25,000 and assigned it to the sheriff. We tried to limit it to \$5,000 but that is not possible. This adopts a practice that Ralph Lamb has adopted now, that is to lock the door so the owner of the premises is responsible for all this property which belongs to his tenant which is in his building.

MR. LOWMAN: What was Lamb's objection?

MR. HILBRECHT: That he couldn't supervise all these people. Now, we are requiring him to do it under these two conditions. In Clark County you have to file your sheriff's instructions. The only place the sheriff is exposed is where the person he sends out does something differently than directed by the court.

MR. KEAN: I think the way this bill is worded, the sheriff would have to hunt out all private detectives and deputize them.

MR. HILBRECHT: In Clark Count we are working on a hairline budget. The average size of an attachment is less than \$500. It takes about two days to get the thing served and by the time you get around to it, the bank account is gone.

MR. WOOSTER: We should put sheriff should deputize "upon application".

MR. HILBRECHT: Before the detective comes in to apply to be deputized he has to have the approval of a number of public officers.

Mr. Hilbrecht moved Do Pass with "upon application" to be inserted, together with the two other amendments.

MR. LOWMAN: I certainly think we should talk with a couple of sheriffs. Hilbrecht is trying to solve the problem over the dead body of his own sheriff. Before we pass this, we should have an expression from Ralph Lamb that he accepts it.

MR. WOOSTER: This is strictly a Clark County bill and, so far as I know, doesn't apply to the rest of the state, and we have a letter from the Clark County sheriff saying he doesn't want it.

Miss Dungan seconded Mr. Hilbrecht's motion to amend and Do Pass AB 275  
The vote on the motion was tied, with Dungan, Hilbrecht, and Schouweiler voting Aye and Lowman, Wooster and Kean voting No.

MR. WOOSTER: Why don't we amend this to be applicable to counties over 120,000?

MR. HILBRECHT: I am not against that.

MR. WOOSTER: We are forcing this on the sheriff and he doesn't want it. It doesn't even matter whether he wants the guy or not. You are making it mandatory that the sheriff deputize these people.



AB 424: Reduces required period of separation and adds incompatibility as ground for divorce.

Howard McKissick, whose bill this is, was present to speak for the bill.

MR. MCKISSICK: There has been much discussion about the fact that we go to court and ask the person if he intends to live in Nevada and everyone knows he doesn't but he has to say yes. This is a kind of fraud. It is equally a fraud to put the client on the stand ask about the period of separation. Now this has to be three years if it is used.

If a couple hasn't lived together for a year or cohabited, it is pretty good prima facie evidence that it is a paper marriage only.

In addition to changing the separation period from three years to one year, we would also like to add incompatibility as a reason for divorce. Extreme cruelty is not good for the children to hear about, and so forth.

MR. WOOSTER: You can seal the record.

MR. MCKISSICK: You can seal the testimony but you cannot seal the verdict. Incompatibility gives a better ground for divorce.

MR. WOOSTER: How many states have incompatibility?

MR. MCKISSICK: I don't know but I can look it up. California has it. It will mean less perjury in divorce cases.

MR. KEAN: I am in favor of this change. Cruelty comes into almost all of the cases now.

MR. HILBRECHT: I would like to see "cruelty" stricken and "incompatibility" put in.

MR. WOOSTER: We don't use "habitual drunkenness contracted since marriage" but it is there if you need it.

MR. LOWMAN: Doesn't it make good sense to try to hold the divorce off as long as possible. Here you are making it easier.

MR. HILBRECHT: No, you are not.

MR. WOOSTER: Cruelty is incompatibility coupled with some health problem, like being nervous and upset.

MR. LOWMAN: You mean you are not making it easier to get a divorce in Nevada by making separation one year instead of three and adding incompatibility.

MR. WOOSTER: I have difficulty seeing where incompatibility is much different from Extreme Cruelty as interpreted by our divorce courts.

Mr. Kean moved Do Pass AB 424

Mr. Schouweiler seconded

Motion carried with Kean, Hilbrecht, Schouweiler, and Wooster voting Aye, and

Mr. Lowman voting No

Meeting was adjourned at 4:30 P.M.