

MINUTES OF MEETING - ASSEMBLY COMMITTEE ON JUDICIARY, 54th Session, April 12, 1967

Meeting was called to order by Chairman Wooster at 1:20 P.M.

Present: Wooster, Lowman, Swackhamer, Torvinen, White

Absent: Dungan, Hilbrecht, Schouweiler, Kean

Mr. Frank Daykin was present to explain briefly the Senate proposed amendments to AB 81.

MR. DAYKIN: In summary, the amendments are:

1. Provide for deposition on motion of state, with confrontation by witnesses.
2. Restore advisory verdict in lieu of judgment of acquittal.
3. Remove authority to reduce lawful sentence (on part of District Court).
4. Provide for grant of immunity to state's witness.
5. Delete "items not described in search warrant" as statutory ground for suppression of evidence.
6. Resolve conflicts and correct misprints.

MR. LOWMAN: Are these things the Senate found wrong?

MR. DAYKIN: No, most of these are novel.

MR. TORVINEN: Many are additional suggestions made by the District Attorneys after the bill got into the Senate.

MR. DAYKIN: The second amendment is one which your committee considered and the Senate had felt oppositely to you. They want to delete that written provision and go back to existing law which is that the Judge may advise the jury to convict or acquit but they do not have to follow his advice. The way this is before the amendment the Judge may enter an acquittal if he finds insufficient evidence to convict.

MR. TORVINEN: Last year the Judge advised the jury to find Harry Busscher innocent and they found him guilty and the Supreme Court upheld it.

MR. DAYKIN: Under this bill, there would be no mechanism for the State to appeal.

MR. TORVINEN: Juries do disregard the Judge's statement sometimes.

MR. DAYKIN: Without this amendment there would have been no way to bring this matter before the Appellate Court.

The bill said "and may reduce any time within 60 days after judgment is pronounced." The Senate wanted to strike out the provision for reducing the sentence.

April 12, 1967

The amendment at the bottom of this page of amendments gives the District Attorney the right to grant immunity to a witness who turns state's evidence. This language was taken from the Illinois Criminal Code, with certain modifications by me to suit it to Nevada.

Section 395 is changed to delete the provision that evidence may be suppressed if it was not particularly described in the search warrant. We discussed that in here and felt that case law was tending that way. But the Senate attitude was that case law hasn't got that far yet, so why give it a boost.

MR. WOOSTER: We wanted to do this.

Mr. Lowman moved to concur with the Senate amendments to AB 81
Mr. Swackhamer seconded
Motion passed unanimously

Meeting was adjourned at 1:35 P.M.

Later on in the afternoon, Chairman Wooster polled the entire committee individually with regard to a Do Pass and re-referral of SB 137 to the Assembly Ways and Means Committee. Eight members of the Assembly Judiciary Committee concurred with this suggestion. Mr. White dissented.