

MINUTES OF MEETING - ASSEMBLY COMMITTEE ON JUDICIARY, 54th Session, April 3, 1967

Meeting was called to order by Chairman Wooster at 3:20 P.M.

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

Absent: Swackhamer

SB 444: Provides for graduated system of demerit points for drivers based upon extent to which traffic law is violated.

JUDGE MATTHEWS: Reno.

SB 444 has one characteristic which does not appeal to me in the least. Now a set number of demerits is assigned to each misdemeanor. What you are doing with this bill is set up an executive and then tying him up by telling him how many points for each case. He should have some judgment in the matter.

For instance, if you are going over the speed limit going into Fallon at 4:00 A.M.: Let's assume that you are going 5 miles over the speed limit. At that time and place, this will bring as many demerits as going 5 miles over the speed limit in the school zone on Plumb Lane at 3:30 in the afternoon. Really, there is no comparison, even though you are going 5 miles over the speed limit in each case.

There is no sense having a director unless you give him some discretion. He should have discretion. SB 454 is a better bill.

MR. WOOSTER: That bill has not been referred to our committee.

JUDGE MATTHEWS: Accept my apologies for comparing the two when you have not received 454.

You are trying to set up something for a situation which is already functioning very well. We have nothing but the highest cooperation from the Bureau of Motor Vehicles. In my opinion, they can very safely be trusted with discretion to apply the right number of demerits to each offense.

MR. WOOSTER: As I see it, all this does is amend section 5 of the existing statutes to reduce from two to one from beginning demerit points. How does this change the law?

JUDGE MATTHEWS: I would refer this to Don Brown.

MR. BROWN: I am not representing the Department of Motor Vehicles, but I can speak with some knowledge on this matter.

The Judge referred to a system of grading so many demerits for each offense. This is hard enough to administer as it is. It is my understanding of the intent of this bill, after discussing it with its prime movers, Senators Bunker and Monroe, that it is meant to allow people to commit more violations and accumulate fewer demerit points.

MR. WOOSTER: I don't see this in the bill. How are we weakening control of the dangerous driver in this bill?

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MR. BROWN: I spoke to the two movers of the bill and this is what they told me.

MR. WOOSTER: What we are more concerned about is what is really in the bill. The only amendment is on page two, and I don't see where this changes anything.

BY MALLARD: Department of Motor Safety.

These points are all set up now. What they are asking in this bill is to break down each one of these two, four, or six point offenses. Who is to determine which offense is worse. How much of an offender are we if we go one mile over the speed limit or if we go five miles over.

MR. TORVINEN: You may be just as drunk or driving your car just as fast, but it is worse if it is on a crowded cross walk or a school zone. Under different circumstances, the same actions are more demerits.

MR. MALLARD: We are going to make these things greater or lesser offenses. If you break a law, what difference does it make whether you break it one mile or five? The department would have a heck of a time administering this law.

MR. KEAN: Are you asking us to add an amendment to this?

MR. MALLARD: No. I think the law as it stands is fine.

MISS DUNGAN: Just what do you think the department is being compelled to do if this bill passes?

MR. MALLARD: We will have to break down each two point, four point, six point violation and say you are only to this degree wrong. We will have to break it down to at least one thousand gradations.

MISS DUNGAN: May I suggest you will not have to change anything under this bill if you don't want to?

MR. MALLARD: That is my point. So why the bill? It is immaterial.

MR. HILBRECHT: Maybe there are some things you don't even get points for that you would if these could be broken down and less points given.

MR. BROWN: We can't deal with the letter of the law exclusively. We have to deal with what is the intent in certain cases. I was told by members of the other house that a person can commit more crimes and accumulate less points under this bill. The department will be forced into a very uncomfortable position.

MR. LOWMAN: Is it your position that you would like to kill 444 and pass 454?

MR. BROWN: I am opposed to 444. I have not yet seen 454.

MR. MALLARD: We don't feel 444 is relevant. Right now our traffic deaths are many less and we feel that it is because we have been running people through the traffic school.

MR. HILBRECHT: Do you feel that breaking these demerits down into units of one would result in people getting demerits more slowly? Maybe you could add a tail light for one.

MR. BROWN: Yes. Mechanical violations are separate and distinct from driving violations. This bill would create a tremendous administrative problem. I don't think a court can even pass judgment on these matters. I don't know of any other way this can be worked except the way we have it now. I have just seen 454 and I am in favor of it.

JIM LORIGAN: I would like to agree with the things these men have told you.

MISS DUNGAN: Mr. Brown, which senators did you speak to?

MR. BROWN: Bunker and Monroe.

SB 415: Removes transcribing fees from in lieu salary base of court reporters in criminal matters and increases their fees.

SB 416: Establishes Certified Shorthand Reporters Board and provides for examination and licensing of shorthand reporters.

TOM WILSON: Attorney, appearing on behalf of the Court Reporters.

415 is designed to raise fees for any court reporting. The fees now simply are not competitive. We are way behind California and we can't get their court reporters to help here when we are over-crowded.

The question will be asked: Why can't a reporter simply use his spare time? Why is the time he is not working in court a loss to him? It just isn't a business where he can go and get spare time work. He doesn't have people come through the door to buy things from him. It is a unique kind of situation.

The bill provides that if the reporter uses salary, the per diem does not apply.

SB 416 is the certification bill. It sets out a series of qualifications and a practice of examination to insure a high quality of reporter. There is a great deal riding on the accuracy of a Court Reporter. Your appeal may depend upon it.

RICHARD TUTTLE: Court Reporter from Reno.

In answer to Mr. Torvinen's question about the rationale behind the different folio fees charged to the original purchaser and to other parties: Various orders are made, depending on the use to be made of the transcription. The people involved in the case pay a larger amount for the first copy, so we give them a discount on the additional copies.

MR. TORVINEN: If we go to modern means of copying, is this price necessary?

MR. TUTTLE: We are not pricing these on a cost basis. It is something like a copyright. We are charging for our services.

MR. WOOSTER: Are these fees that you are asking for in the bill identical with the fees in California?

MR. TUTTLE: No they are not. Our per diem is now \$30. There are several different fees

in California, depending on the county or city. The per diem in Sacramento is \$50, in Alameda County it is \$52.50. Some are on salary instead of per diem.

On transcriptions, our present figures are 25¢ per folio and 10 and 10. This compares with California's 35, 10 and 15. This is lower than we ask in our bill, but they have had their rates a long time and have a bill now before their legislature asking for a raise in their fees and rates.

MR. MCKAY: Court Reporter from Reno.

This is a complete revamping of our bill.

MR. WOOSTER: How many Court Reporters are there in the state at present?

MR. MCKAY: There are 23 that would come under this, and we have a 3-man board.

MR. KEAN: What is your present method of determining if a person is a Court Reporter?

MR. MCKAY: If this bill passes, anyone who had been working at it for the past six months would be "grandfathered" in as a Court Reporter. Many people now just advertise themselves as Court Reporters and go to work. The Judge does not know they are incompetent and they are not fore-warned that when they get through there will not be an acceptable record. There are several who do only free-lance, and they never go into court.

MR. SCHOUWEILER: On page 8, line 28, there appears to have been some statutory authority given in the past to appoint your official Court Reporters.

MR. MCKAY: We propose to supercede this existing statute with this new bill. Ten state now have the CSR law and nothing but good has come from it. None have been repealed.

On 415, I would like to point out that the proposed rate in California will be 50-20-15 if their bill passes.

We were here two years ago with about this same bill. It was defeated and it was suggested by the legislators that we wait for two years on this and we have waited. Now we are in dire need of this legislation. We would like to be professional group and not be lumped with the incompetent people.

A judge was asked why he did not get rid of these inept Court Reporters. All he can do now is hold him in contempt. Under this bill, he would be guilty of a misdemeanor. This would discourage the incompetent ones from coming back. We have one who advertises Court Reporting and does it, and this bill would not affect her. However, she is not a shorthand reporter.

MR. HILBRECHT: This would prohibit the use of a Court Reporter who did not use shorthand. Is there a shortage of Court Reporters in Nevada?

MR. MCKAY: Yes. We are trying to get some more in, but the fees are against us, and the good ones all tend to gravitate to the CSR states.

MR. HILBRECHT: You think this bill would increase the number of Court Reporters in the State?

MR. MCKAY: Unquestionably.

SB 438: Provides for written traffic citations.

DON BROWN: Director State Highway Patrol.

This bill is almost verbatim the Uniform Vehicle Code. No peace officer has authority to issue a written summons. In the past, we have been relying on case law. You attorneys realize that case law can be upset anytime. If it should be, we would be in the position of having to lodge people in jail.

We are asking for authority to issue written citations. I would urge speedy passage if possible. If this became known to the general public, we would be placed in a very awkward position.

MR. WOOSTER: Is this a uniform act of any kind?

MR. BROWN: Yes. It is taken from the Uniform Vehicle Act.

MR. WOOSTER: Is it verbatim?

MR. BROWN: No. One part was omitted. The section that fixes a punishment for attempting to fix a citation was omitted. It was a misdemeanor.

MR. KEAN: When you are given a citation, you are generally asked to sign it at the bottom. Is that in here?

MR. BROWN: Yes, it is.

MISS DUNGAN: Line 10, page 3. You sign that you promise to appear.

MR. TORVINEN: Some city charters authorize citations.

MR. BROWN: That is correct.

MR. TORVINEN: I wonder if there would be any conflict here between this and the practice in the cities. We might need to add a section saying if this comes into conflict this supercedes.

MR. BROWN: I think the only conflict might be the provision for auditing.

MR. WOOSTER: We can check with Russ on this.

MISS DUNGAN: I question about where it deals with accidents. If the officer was there, he can personally investigate and see if there was a reason.

MR. HILBRECHT: What happens now is that city arrests are legal but the others are really not legal.

MR. BROWN: A citation has been considered as an arrest. Highway patrolmen could not do this unless the misdemeanor was committed in their presence. We would like to have the citation form of arrest made legal.

MR. HILBRECHT: Would there be perfect integration between these cities and state things if this were enacted?

MR. BROWN: We do not deal with city or county ordinances. We are concerned only with the state laws.

MR. WOOSTER: Cities are going to have to comply with this act.

MR. KEAN: Has Jim Bailey looked at this?

MR. BROWN: Yes he did and the bill passed the Senate.

SB 444: Provides for graduated system of demerit points for drivers based upon extent to which traffic law is violated.

MR. KEAN: This bill provides them with some flexibility.

MR. WOOSTER: This bill "requires" the department to do this. Shouldn't we put in "may" instead of "shall"? Then I would not see any objection. We could make it permissive.

MR. KEAN: My feeling is that it does what they want, even though they think it does not.

MR. LOWMAN: Unless we are trying to cure something, it doesn't seem to me that we should pass legislation which they don't want.

MR. TORVINEN: This is enabling legislation, making it possible for them to vary these demerit points if they want to. They will probably never do it without the bill.

MR. WOOSTER: If we change "shall" on line 8 to "may", then it will be truly enabling. If it is too difficult to administer, they don't have to do it.

MR. HILBRECHT: One more thing ought to be pointed out. The school that they make people attend is very fine. However, I resent them using the fact that the school is very significant as a reason for holding the point system as it is. It may be regrettable. I respectfully submit that the school is not important in this particular case. There should be shading in different circumstances.

MR. WOOSTER: I don't know whether this will be liberalizing or tightening. This will be up to the department.

MR. KEAN: I don't get their arguments at all. I don't think any one of them is valid.

Mr. Kean moved Do Pass with amendment changing "shall" to "may" on line 8
Miss Dungan seconded
Motion passed, with Lowman voting No and Torvinen not voting.

SB 415: Removes transcribing fees from in lieu salary base of court reporters in criminal matters and increases their fees.

MR. HILBRECHT: It is too much money. One of their raises is almost 100%.

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MISS DUNGAN: What do you say to \$40 a day?

MR. HILBRECHT: That is more in line. They probably need a raise, but \$35 or \$40 makes more sense. This folio charge seems to me to be fantastic. 45¢ a folio is pretty steep. That runs about \$1.50 a page. There are a lot of reporters on salary. This bill is only for a few people. A folio is 10 lines.

MR. TORVINEN: I thought it was 100 words.

MISS DUNGAN: Maybe \$40 a day and 40¢ on the folio. That would be an increase.

MR. WOOSTER: What is the 15 and 10?

MISS DUNGAN: They are giving a discount to the original purchaser.

MR. HILBRECHT: Court Reporters in Clark County do very well. He makes darn near as much as the attorney. We might perform a service to the people of Nevada by limiting their raise to \$40 this time and 40¢ on the folio. The jump they want is pretty high.

Miss Dungan moved Do Pass SB 415, with amendments of \$40 per diem and 40¢ per folio
Mr. Hilbrecht seconded
Motion passed unanimously

SB 416: Establishes Certified Shorthand Reporters Board and provides for examination and licensing of shorthand reporters.

MR. HILBRECHT: We are creating another board.

MISS DUNGAN: I am not concerned about the board, but where else could we put registration?

MR. HILBRECHT: We would be only the 11th state in the union to adopt this. There is no assurance to me that they are not making a closed shop out of this, and before we get enough Court Reporters in Nevada.

Mr. Kean moved to postpone indefinitely SB 416
Mr. Lowman seconded
Motion passed unanimously

MR. HILBRECHT: Could I have a night to look over SB 438 carefully? It is a big change and I would like to read it very carefully.

MR. WOOSTER: We will hold it over until tomorrow.

AB 339: Provides that residence of nominator does not affect priority of person nominated to receive letters of administration.

Mr. Wooster reported on the visit he and Mr. Torvinen made to the Governor, to find out his reasons for refusing to sign the bill. They told the Governor that the committee feel it is good legislation as it stands. The Governor felt there was some concern with the ability of the Public Administrator to preserve the assets of the small estates.

They discussed at some length putting some kind of figure into the bill. Mr. Wooster said he is personally not in favor of doing this. He thought, however, that the law might be amended concerning the Public Administrator so that he can petition the court for compensation.

MR. TORVINEN: The Governor thought there was a problem and he did not care what approach was taken to solve it. If we can amend the Public Administrator's section so that he can make application to the court for compensation after he has preserved the assets of the estate, that will be fine.

MR. WOOSTER: NRS 253.050 provides for compensation to Public Administrators. If we could add a section to that making it possible for him to apply to the court for his compensation that should take care of it.

MR. KEAN: Would the out-of-state relative be able to take the estate right back as soon as he arrived?

MR. TORVINEN: Yes.

MR. WOOSTER: The suggestion was made that we give the Public Administrator the right to go in and take over on estates of under \$10,000.

MR. LOWMAN: Can't we leave 339 alone and get another bill?

MR. WOOSTER: We would not get it through. We have a chance to get 339 through. It is on the Chief Clerk's desk right now.

MR. KEAN: How would you determine if it is a \$5,000 estate or a \$10,000 estate?

MR. HILBRECHT: That is very well put. Are you going to allow him to determine how much it is worth? Maybe we should make it \$10,000.

MR. WOOSTER: An aggressive administrator will go into every single place. It is the personal property we are most concerned about.

MR. HILBRECHT: That would be more practical. He could come in and size that up pretty well.

MISS DUNGAN: Why don't we limit it to personal property?

MR. HILBRECHT: Right now he only gets paid if he happens to get named administrator. What we are trying to do here is to see that he gets paid for his services.

MISS DUNGAN: Does he still come in if there is a will?

MR. LOWMAN: Isn't that what we are talking about?

MR. HILBRECHT: In Clark County they always call the Public Administrator. He has been known to get there before the coroner. Maybe the solution would be to say that if an estate has personal property under \$10,000 the administrator gets compensated.

MR. KEAN: I think we want him to preserve the personal property, whatever the amount. What if the big red seal is on and the son shows up. What then?

MR. TORVINEN: Then he goes to the Public Administrator and tells him who he is.

MR. HILBRECHT: I am not so sure he cannot just walk right in. He is an heir.

MR. WOOSTER: Can't we add just a simple amendment: "The Public Administrator may be compensated by the court for services performed in preserving the personal property of an estate prior to appointment of an administrator."

Mr. Lowman moved Do Pass AB 339 with this amendment

Mr. Kear seconded

Motion passed unanimously

MR. WOOSTER: Does anyone object to introducing Mr. Lowman's new bill on the point to bear arms? (Mr. Lowman had just read it to the committee)

There were no objections.

Mr. Lowman moved the committee introduce the bill

Mr. White seconded

Motion passed with Dungan voting No

Meeting was adjourned at 5:10 P.M.