

MINUTES OF MEETING - ASSEMBLY COMMITTEE ON JUDICIARY, 54th Session, April 5, 1967

Meeting was called to order by Chairman Wooster at 2:50 P.M.

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

Absent: Hilbrecht

SB 66: Provides for issuance by county clerks of certificates of permission to perform marriages.

Mr. Wooster explained that, although the bill had been given a Do Pass the day previously, there were some people present who had asked to be heard on one of the amendments.

CHARLES SPRINGER: Attorney, representing Wedding Chapel Association.

I understand the committee has not really received any testimony and we would like to speak. We are concerned with the amendment added by this committee which provides that no minister can perform marriages who owns a share in a wedding chapel.

I am sure you know that the intent of this bill is to overcome the "marrying sam". There really is no such thing. There have only been about three ministers who have ever been attacked and only one brought in and told to show cause. There is no large number of "marrying sams" running around and creating problems for Nevada. If there were, it would be solved by SB 66 without the amendment to which I referred.

The licensing officer must use some discretion. He must find that the congregation which an applicant claims to have is a legitimate one and that the problems of his congregation are the minister's first concern and not the marrying business.

Members of the Wedding Chapel Association are well pleased with this legislation. People who come to Nevada to be married usually ask if there is a bona fide minister there. This amendment says no minister who owns or operates a Wedding Chapel shall be licensed. I don't believe such a man exists but they don't want to ever be put in the position of being singled out. Some might possibly lose hundreds of thousands of dollars in investments. Why should you single them out and put them out of business when you are already preventing the danger with the original SB 66. I respectfully submit that the problem is solved without this amendment.

In California many churches go into the Wedding Chapel business so that the marriages can be done in an attractive way. Since the Senate bill seems to cover all bases, not only is this amendment an unnecessary one, but it is an unwise one and could cause a serious problem to some of the ministers who are engaged in this business.

GEORGE FLINT: Vice President of the Nevada Chapel Association.

Our concern is this: We helped back and sponsor SB 66. We encouraged each of the Senators to vote for it. We can live with it. Our concern with the amendment is that it puts 20 to 25 percent of the chapels out of business. They are not "marrying sams". One has over \$100,000 invested in his chapel. It is my responsibility to watch the legislature in our field. This is a good bill. It will keep out the phonies. We are not here to try to change your minds but to clarify our position and let you know our problems.

MR. SWACKHAMER: Our problem was to determine who was a legitimate minister. There have

been cases where a man could just say he was a minister and have his wife as his congregation and could appear as a minister.

MR. FLINT: It is true that only a few people can get together and form a non-profit organization which can be called a church. I have here a list given me by Secretary of State Koontz which is a list of those ministers up for renewal of their minister's license. Mostly they are from well-known, well established churches.

If we have a bad image here in Nevada, it is mostly due to bad newspaper headlines, such as this one. (He showed newspaper headline about the "marrying sams.") I think this publicity is to blame more than anything else.

If there is such a thing as a phoney "marrying sam" he gets run out mighty quick. I don't know of three men whom you could classify as the ones Mr. Swackhamer spoke of.

MR. SPRINGER: Even if this were the problem, it is solved by the Senate bill as reprinted. This is because there is discretionary power with the county clerks. If anyone tries to circumvent this, his license will be revoked by the county clerk.

This amendment seems primarily directed at the legitimate minister in Nevada.

MR. WHITE: The term "legitimate minister" is one we are having a hard time defining. Mr. Flint, you indicated that you now have a congregation of 60 members and you are in the business of "marrying sams".

MR. FLINT: I went to college twelve years and I was a minister twelve years before I ever heard of a Wedding Chapel.

MR. WHITE: Are you in fact spending more time in marrying people than with your congregation?

MR. FLINT: I spent two hours and twenty minutes last week marrying people. I spend more than that each day with my members. This is why I am not afraid of SB 66. I can prove that marrying people is incidental to my church work. I have \$100,000 invested in a Wedding Chapel. The man you folks from Clark County are concerned with is now free lancing. He has no connection with a Wedding Chapel, and this bill will not affect him in any way whatsoever. He keeps active because he charges less than many others. Rather than working for the State or for Seare or some other company I chose this way to support myself. We want the questionable minister to be controlled.

SB 355: Provides additional regulations for licensees of gaming and gaming establishments and gives gaming control board and gaming commission additional powers.

DON WYNN: Counsel for Gaming control board.

MR. WOOSTER: Would you just go through the whole bill quickly and tell us about the change

MR. WYNN: The first two pages are just for the convenience of the bill drafter's office. There is no change in the wording.

Page 3 at the top is the first real change. The Board ought to have control over its own

people and the Commission should have the control over its people, hence the change. Many of these changes came out of talks I had with Mr. Olsen.

Page 4, section 5: Because we were amending the penalty, we thought we should put all these penalties in the section.

Section 220: We first wanted a certificate of eligibility but it was not feasible. We are amending to conform with good practice.

Page 4, (c), clears up ambiguity. Page 5 at the top refers to certificate of eligibility again. No 4, page 6 is the greatest change. This is the power to levy a fine of up to \$100,000 on an establishment or up to \$50,000 on an individual. The Senate wanted this held to cheating but we have many other violations other than cheating, and many of them have gone by the boards with a slap on the wrist. This \$100,000 is subject to review. Probably in all cases they will appeal.

Page 8, #9, I call the Ruby Kolod amendment. During the long wait for the court trial we had no way to keep him from the premises. That is the purpose of this amendment. It also does one more thing. Now there is no distinction between entity and individual. We want to be able to proceed against any or all without affecting the license.

Page 12, 390, is purely technical because definitions were put somewhere else. Page 14, section 34 through 38: This is a list of powers. This is listed verbatim from the list of the old gaming commission act. For some reason the powers were never transferred to the new bill. We need these.

We have criminal violations sometimes where the District Attorney will not prosecute and we have no power to do anything.

Section 38 is the black book section. This is largely derived from the California Race Track Tout section which has been tested and thoroughly approved. One suit has cost us \$35,000. We need this spelled out.

MR. WOOSTER: Page 6: Is the fine for cheating only?

MR. WYNN: No, it is for much more than cheating. The Senate added that if we find two cheating violations it is automatic revocation. We need fines for non-cheating offense. We have tremendous problems with minors playing the slot machines, failure to report loan on time and so forth. Failure to report loans on time makes it hard to refuse licenses. We can't say we will refund the money because it is already spent. Sometimes they will transfer interest and fail to tell us. We have a lot of relatively minor and some more important offenses that go unpunished because of our lack of power.

MISS DUNGAN: Is there something in here that says you will set up a schedule and will be consistent?

MR. WYNN: No. No two cases are alike.

MISS DUNGAN: Failure to report a loan with two establishments would be the same.

MR. TORVINEN: I agree with Mr. Wynn. Cases would be different. This is the same thing we are giving the judges, discretion. I don't see how you could set up schedules for every case.

MR. SWACKHAMER: Since you are going to differentiate between an individual and an establishment, if you find a violation of cheating, could you revoke the individual's license and leave the establishment's intact? Wouldn't that be weakening your control?

MR. WYNN: Yes, on the surface it looks like a weakening but in reality it is a strengthening.

MR. KEAN: Dealers will cheat on their own, but the owner's responsibility is to watch for it and try to stop it himself.

MR. WYNN: My informants tell me that often the management is involved. This will give me an opportunity to get the dealer to talk. Generally in these cases, nothing has happened and nothing has been done.

MR. TORVINEN: Page 4 at the bottom says something about a quorum.

MR. WOOSTER: You would have to have a quorum.

MR. KEAN: None of your areas involve the Criminal Code?

MR. WYNN: They do not. To answer Miss Dungan's question: If it is possible I will develop some sort of schedule and achieve as much consistency as possible. You will have to trust me on that because if it goes back and forth much more for amendments you will not get it through.

MR. MCKISSICK: When we drafted this originally in '59 we had trouble with eligibility certificates. We had trouble making it work. In '59 we had dealer registration in it. Then we all made a flying trip to Las Vegas and there we were met with a thousand screaming people with objections.

I think that section 43, which came in as an amendment from the Senate is a good thing. If it is a state permit, they will revoke it. If it is a city or county, they will ask them to revoke it.

Mr. White moved Do Pass SB 355

Mr. Torvinen seconded

Motion passed unanimously

SB 66: The Marrying Sam bill.

MR. TORVINEN: This amendment that they are objecting to was asked for and there were no objections, but now there is, so maybe we should do something.

Mr. Kean moved to amend SB 66 by striking the amendment to section 2

Miss Dungan seconded

Motion passed unanimously

SB 222: Provides statutory time when civil actions may be dismissed for want of prosecution.

SENATOR YOUNG: This extends the time prescribed by the rules for involuntary dismissal of an action. You could be up in the Supreme Court appealing a verdict and find that

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your time has run out. Mandamus after five years. Two cases may come out entirely different and yet be the same type of case with both lawyers involved working diligently. One may just take a longer time to get to trial, or may not be able to get a final judgment that holds up.

MR. WOOSTER: It is discretionary after four years and mandatory after five. You would make it discretionary after five and mandatory after seven.

SB 361: Amends form of acknowledgements.

SENATOR YOUNG: This just simplifies the forms. It would make it the same for corporations partnerships, or individuals. It also shortens the forms.

SB 467: Provides for waiver of costs and official fees for indigent litigants in civil actions.

SENATOR YOUNG: This bill establishes that all lawyers are not without hearts. It provides something for the indigents. Mr. Torvinen has done a great job with legal aid in Washoe County. When he went to get money, he was told they would not give him the \$8,000 he asked for but they would give him \$20,000.

This bill is essentially what is being done in Colorado. It doesn't issue in the Millennium as far as reform is concerned but I see nothing wrong with it. It should help people in financial straits.

MR. WOOSTER: Is it more or less identical with the Colorado law?

SENATOR YOUNG: I don't know just how identical it is.

MR. KEAN: Section 2, line 19: You have determined the person is an indigent?

SENATOR YOUNG: If he prevails, then the costs do go to the courts. If he loses--well, you cannot get blood out of a turnip.

SB 222: Provides statutory time when civil actions may be dismissed for want of prosecution

MR. SCHOUWEILER: I think this is just creating more delay. Do you really think it will increase diligence?

MR. LOWMAN: Isn't it a matter of protection rather than of delay?

MISS DUNGAN: Aren't we talking about protecting the one who is using diligence?

MR. WOOSTER: I suppose it is possible to use diligence and still not have got the case tried five years. Maybe the involuntary period might create hardship, but why should the discretionary period be raised from 3 to 4 years?

MR. SCHOUWEILER: To me it appears he brought up no precedents where this has been used. 3 years and 5 years are the Federal rules.

MR. TORVINEN: This can't happen in a jury case. However, I know of one lawyer who has a case scheduled for November of 1968 now. This is 2½ years now.

MR. WOOSTER: You could show the judge you had done everything possible to get the case to trial.

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MR. KEAN: Does it spell out "inability to get to court?"

MR. TORVINEN: I personally think the rule now of five years is too strict. As I remember the rule, the court has no discretion to continue after 5 years. I have a case which the judge won't let me bring to trial because the kid got his front teeth knocked out and the judge says we can't tell now what his injuries really are. Fortunately, the other side agreed to wait five years.

MR. KEAN: Over the years I have been disturbed about the length of time it takes to settle a case.

MR. WOOSTER: How about 7 years and 3? I can't see any particular reason to change the discretionary time.

MR. TORVINEN: If application is made before the five years, I think the judge should have the discretion to continue it, instead of locking him in.

MR. Lowman moved Do Pass with amendment reducing discretionary time from 4 years to 3
Miss Dungan seconded
Motion passed unanimously

SB 361: Amends form of acknowledgements.

Mr. Lowman moved Do Pass
Mr. Schouweiler seconded
Motion passed unanimously

SB 467: Provides for waiver of costs and official fees for indigent litigants in civil actions.

Mr. Lowman moved Do Pass
Mr. Schouweiler seconded
Motion passed unanimously

SB 126: Specifies 5-day notice for sale of repossessed motor vehicle.

MR. TORVINEN: This is infinitely more protection for the buyer than there was before we passed the Uniform Commercial Code. My only question is does this take away any rights that he was given under that code?

MR. KEAN: In the Uniform Commercial Code it uses such words as "good commercial practice", "reasonable time", and so forth. This bill attempts to spell out the conditions.

MR. SCHOUWEILER: The Uniform Commercial Code has been in force for ten years in some states, such as Pennsylvania. They should have some case law.

Mr. Kean moved to reconsider SB 460
Miss Dungan seconded
Motion passed unanimously

SB 460: Prohibits possession and discharge of tracer or incendiary ammunition under certain conditions

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Miss Dungan moved Do Pass SB 460
Mr. Lowman seconded
Motion passed unanimously

MR. KEAN: We sell phosphorous in sealed cans in water. That is how dangerous it is. There is no way to put it out if it is burning. If it just comes into contact with air it bursts into flame.

AB 148: Requires Public Service Commission to issue cease and desist order when a public utility violates or allows violation of wiretapping laws.

MR. WOOSTER: I have a Senate amendment that we might concur with.

The amendment deletes lines 4 and 5 and inserts: "A public utility, subject to provisions of this section, the Attorney General or District Attorney shall transmit a copy of such order to the commission"

Mr. Lowman moved the committee concur
Mr. Torvinen seconded
Motion passed unanimously

SB 458: Repeals law authorizing irrigation districts to deposit money in United States postal savings banks.

SENATOR DODGE: This takes out an obsolete section of the law with irrigation districts. This is one of the things Russ asked me to introduce.

SB 488: Abolishes certain provisions of Uniform Commercial Code relating to security interests in crops.

SENATOR DODGE: This is really just a technical bill. When we had our big hearing on the Uniform Commercial Code this is something that was overlooked. It did not spell out the ability to secure interest in livestock up to 5 years. It is an "after acquired" security. It seemed this ought to be applied to crops also.

The banks sent a letter on this and they were coming unglued because we hadn't included crop loans. If the bank loans \$10,000 and the crop is a loss, they still have security in your crops for the next 5 years, with this bill here. They claim they cannot loan money to farmers without this.

Daykin and Russ claim the way to do this is to take this out of the Uniform Commercial Code because it lists only the things you cannot have an interest in, an "after acquired" interest.

MR. KEAN: Does this take the right of contract away from the bank and the farmer?

SENATOR DODGE: Yes. That section now applies only to consumer goods. We made it not uniform.

SB 473: Conforms fee for filing security agreement covering property of public utilities to Uniform Commercial Code.

SENATOR DODGE: This one was requested by the Secretary of State. This is not an earth-shaking bill. It changes \$1 to \$2 to make the filing fees uniform.

MISS DUNGAN: Why did you amend the bill?

SENATOR DODGE: I don't remember.

MR. WOOSTER: It is a "conflict" amendment.

SB 378: Redefines ownership rights required to vote in irrigation district elections.

SENATOR DODGE: This is a bill of pretty limited application. Nevada has only three water districts, the Truckee Meadows, the Pershing and the Walker. They have had a real loose provision. The first page of this bill is to try to clean up the language and make it a little more complete.

This will give one vote for each acre of irrigation land. The wife can vote if the couple owns ten acres. The next section concerns surface water. This is to be differentiated from the man who develops a well on his property.

Page 3 says you have to have a majority of the votes cast and also a majority of the acreage represented.

The problem that has developed, particularly in the Truckee Irrigation District is that there are more rural dwellers and there is more subdividing of land. If you just count the votes, these people with a very small amount of land could swing a vote on capital repayment. It isn't a weighted vote.

The land owners in my district have a real interest in doing something about this situation.

MR. WOOSTER: Why do you give the wife a vote when there is ten acres?

SENATOR DODGE: In practice, they are allowing this now when there is ten acres. Under community property law each one has an interest but the interest doesn't appear of record. There are spots where we might be giving her a vote which she is not entitled to, but the drafting and administering problems seemed too great to get around this.

In the middle of page 2: The present law says if you don't vote you have to register, but this makes no sense whatever in an irrigation district. Once you register, as long as you remain a land owner, you are qualified to vote.

MR. KEAN: In lots of land that has been subdivided, how do you handle this? The corporate laws of the irrigation ditch apply here and some say certificates of water rights should be divided only in lots of 5 or 10 acres. If my neighbor and I buy 5 acres together, who gets the water rights? Do you see any advantage in forcing them to give fractional water rights?

SENATOR DODGE: The water right is attached to that land and you can't remove this. When you sell land the water right goes with it, even if it is only a half-acre.

I worked hard on this bill because we have had so many requests for it. I have discussed it thoroughly with the other Irrigation District people and we have amended it considerably. As far as I know, the bill is all right and everyone is satisfied.

MR. DAYKIN: I can verify that everyone is in complete harmony on this now.

SB 126: Specifies 5-day notice for sale of repossessed motor vehicle.

MR. WOOSTER: This bill has the longest history of any bill of the session. Can you tell us a little bit about it, Mr. Daykin?

MR. DAYKIN: The purpose of the bill: Under retail installment sales act passed at the last session, there was a question as to whether the 60 day provisions of that act adjoine after a repossession. It was decided that Finance companies would take their chances that they did.

What you have before you now relates only to the Uniform Commercial Code. It says that upon default the secured party may take possession of the collateral, and may dispose of it in any manner he sees fit and necessary. He may give it any preparation he deems necessary to get it ready for re-sale.

MR. WOOSTER: I take it you have to give reasonable notice of the sale?

MR. DAYKIN: This bill, without section 4, was intended to clarify the notice requirement in the case of a motor vehicle. It has been through several changes and it now says ten days within the state and 20 days outside the state.

MR. WOOSTER: Has "reasonable" been interpreted? Is this bill less than reasonable?

MR. DAYKIN: This isn't less than reasonable. I did not find any cases which interpreted "reasonable" as regards a motor vehicle so I can't predict what a court would say. It was 5 and 10. It now says 10 and 20.

MR. TORVINEN: Did the old vehicle act have any provisions for sale?

MR. DAYKIN: No.

MR. WOOSTER: It seems, then, that what we are trying to do is to interpret what "reasonable" time is.

MR. DAYKIN: Yes, and we are doing it outside the Code.

MR. TORVINEN: Does this require public sale after repossession?

MR. DAYKIN: No, unless the debtor has more than 60% interest. If he does, then he may demand a public sale.

MR. DUNGAN: This seems to give much more protection than before.

MR. KEAN: I think the whole problem with this bill was a misinterpretation of what the bill really does. This is much better protection for Mr. Public than we ever had before.

Mr. WOOSTER: The 10-day notice wasn't required at all? Just anything that was commercial reasonable? Under this you have to give the notice.

MR. DAYKIN: This gives the debtor more protection than the Uniform Commercial Code because

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the Code deals with everything and this deals only with vehicles. The bill drafter expected there would be exception to this, hence the language.

SB 458: Repeals law authorizing irrigation districts to deposit money in United States postal savings banks.

Mr. Kean moved Do Pass SB 458
Miss Dungan seconded
Motion passed unanimously

SB 488: Abolishes certain provisions of Uniform Commercial Code relating to security interests in crops.

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

SB 473: Conforms fee for filing security agreement covering property or public utilities to Uniform Commercial Code.

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Motion passed unanimously

SB 126: Specifies 5-day notice for sale of repossessed motor vehicle.

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

Mr. Wooster announced that on Thursday the committee would be considering SB 358, SB 409 and SB 370.

Mr. Lowman gave notice that he is going to fight the marrying sam bill on the floor. He said he doesn't think the state has the right to tell a minister whether or not he can perform marriages.

MISS DUNGAN: How can you define "minister" and "church"?

MR. LOWMAN: Section 1 prevents an out-of-state retired minister from performing marriages in Nevada.

MR. TORVINEN: Can a Nevada minister go to Utah or California and perform a marriage?

MR. LOWMAN: I was married in Colorado by an out-of-state minister.

MR. KEAN: What you object to is "within this state". He could not become a "marrying sam" either.

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MR. LOWMAN: Section 2 calls a minister a "temporary replacement" for 90 days. My minister was a "temporary" for eight months last year. Under this, he could not have performed marriages for eight months.

Section 3 requires oaths of ministers saying that they are ministers of the gospel. If you don't object to a minister having to do this, then I guess it is all right.

Section 1 A gives the minister authority to ordain himself.

MR. TORVINEN: What does the draft board do about things like this? They make a minister take an oath, don't they?

MR. LOWMAN: All this says is date of ordination. It doesn't ask who ordained him or anything.

I don't think the sheriff or district attorney has any business investigating a minister.

Why does the Secretary of State have to certify a minister when the clerk is already doing it?

MR. TORVINEN: We need central information.

MR. LOWMAN: This is a built-in delay of at least 4 days and possibly as much as 12.

Section 4: This says that when a minister severs his connection with his congregation or moves he must give notice that he is doing this. While making the change, the old congregation could not have marriages performed and neither could the new one.

Section 5: The clerk may cancel the certificate for good cause. What does "good cause" mean?

MR. TORVINEN: It would have to be something of a legal nature. The clerk could not act arbitrarily or capriciously.

MR. LOWMAN: State control of the ministry is not a function of the state and it violates the separation of church and state.

MR. TORVINEN: Marriage is a civil affair. We have done away with all common law marriage and all tribal marriages.

Question: Why not have all marriages civil marriages? Because the clerks would want to work from 9 to 5, for one thing and marriage in Nevada is a 24-hour business. No matter how you look at it, marriage is a business in our state.

MR. LOWMAN: How have we got along all this time since the Supreme Court decision?

MR. TORVINEN: The decision did not take away the licenses of the ministers. It just said that the judges were not to license them.

Meeting adjourned at 5:00 P.M.