

MINUTES OF MEETING - ASSEMBLY COMMITTEE ON JUDICIARY, 55th Session
March 19, 1969, Second Meeting

MEETING WAS CALLED TO ORDER BY CHAIRMAN TORVINEN AT 7:30 P.M.

PRESENT: Torvinen, Kean, Reid, Lowman, Prince.

ABSENT: Schouweiler, Fry, Swackhamer, Bryan.

MR. TORVINEN: I have here some long-arm legislation that I thought had been introduced long ago, BDR 2-73.

MR. REID: I move Committee Introduction.

MR. LOWMAN: I second.

MOTION CARRIED UNANIMOUSLY.

AB 544: Creates Department of Parole and Probation. No Cost.

MR. KEAN: Mr. Hannifin said he wanted these guide lines.

MR. TORVINEN: Compared this with the old law.

MR. LOWMAN: I don't like the requirements on page 2, lines 17 or 18.

MR. REID: Your point is well taken. I don't think we need that requirement.

MR. LOWMAN: I would go for the equivalent to a college degree.

MR. PRINCE: Maybe years of experience in the line would be better than the college degree.

MR. REID: I move to delete lines 18 and 19 on page 2 and renumber (c) and Do Pass AB 544.

MR. LOWMAN: I second.

MOTION CARRIED UNANIMOUSLY.

AB 667: Revises provision relating to "good time" credits for prisoners.

MR. TORVINEN: Section 2 is what we have now. The difference is that if you have a four-year sentence the day you sign in you have automatic "good time" credits of one year and three months off. They can take these away from you by an action of the Parole Board.

Let's say the guy is eligible for parole and has three months left. He says he doesn't want parole, he will serve the time. Then when he leaves there is no supervision. This new law gives him credits as he earns them. There is an amendment to this, lines 16, 17, 18, page 1. It is already prepared. It should say "number of years served" instead of "number of years sentenced."

MR. PRINCE: I move Do Pass AB 667 with that amendment.

MR. LOWMAN: I second the motion.

MOTION CARRIED UNANIMOUSLY.

SCR 12: Support your local police week.

MR. REID: I move Do Pass SCR 12.

MR. PRINCE: I second

SB 183: Grants subpoena power and related powers to Advisory Personnel Commission.

2-164

MR. TORVINEN: I was against this bill to begin with, but Pozzi says in order to fire somebody you have to go through too much red tape. For instance, this prisoner that escaped from the State Prison awhile back. Two of the guards that were supposed to be out hunting for him stopped at a bar and had a good many drinks and took out a 6-pak. The two guards were promptly fired, but they wouldn't quit, and demanded a hearing and so on.

MR. LOWMAN: They should be able to fire the guy right now. They could still have an appeal.

MR. TORVINEN: I would be reluctant to tamper with the basic policies and procedures of the State Advisory Personnel Commission.

MR. LOWMAN: I move to Indefinitely Postpone SB 183.

MR. TORVINEN: I suggest we have Mr. Pozzi in and hear from him.

AB 641: Allows State to appeal court orders suppressing evidence in criminal cases.

MR. TORVINEN: This is one the district attorneys want very badly. At the preliminary hearing they produce evidence and the court moves to suppress it because it was taken without a warrant or something. The case is dismissed and they turn the guy loose and that is the end of it. With this, the State can appeal the case. Then they go back and continue the preliminary hearing, etc. Now the district attorney has no remedy.

MR. REID: Another thing: Many of our Justice Courts have people that are not attorneys and they don't really understand the law. Sometimes they make terrible mistakes.

MR. REID: I move Do Pass for AB 641

MR. LOWMAN: I second.

MOTION CARRIED UNANIMOUSLY.

AB 642: Permits extension of speedy trial provision when defendant on bail.

MR. KEAN: I am not sure we need this. If the defendant is out on bail?

MR. TORVINEN: The defendant never makes application, does he? Now the law is 60 days.

MR. PRINCE: Does the fellow ever want to go to jail to clear his name?

MR. REID: Not very often.

MR. TORVINEN: I think there is good reason for section 1. It leaves it open as to what is good cause.

MR. PRINCE: I move we Indefinitely Postpone AB 642.

MR. REID: I second the motion.

MOTION FAILED, WITH MR. TORVINEN VOTING NO.

MR. KEAN: Would you want to amend the bill to take out everything except section 1?

MR. REID: I move Do Pass AB 642 deleting everything except section 1.
MR. KEAN: I second the motion.
MOTION CARRIED UNANIMOUSLY.

AB 643: Provides procedure for ascertaining that agency regulations are adopted properly.

MR. REID: I move Indefinite Postponement of AB 643.
MR. LOWMAN: I second the motion.
MOTION CARRIED UNANIMOUSLY.

AB 429: Permits real estate agents to receive customary commissions for sales of property from decedents' estates.

MR. TORVINEN: When a real estate agent acts for an estate he gets 5%. They would like to take the lid off and be able to get the going rate which is 6% in Reno.

MR. REID: I think this is probably a good bill. In an estate there is a lot more involved.

MR. TORVINEN: It puts it in the discretion of the court. The old law says 5%. The new one says no more than the customary rate.

MR. REID: I move Do Pass AB 429.
MR. PRINCE: I second the motion.
MOTION CARRIED UNANIMOUSLY.

AB 581: Designates trust powers which may be included in will or agreement by reference.

MR. REID: This would allow an attorney to refer to all this boiler plate by reference so he would not have to copy all of it and it would save time for him and money for his client.

I move Do Pass AB 581
MR. KEAN: I second the motion.
MOTION CARRIED UNANIMOUSLY.

SB 290: Requires demand for retraction in certain actions for libel or slander.

AB 556: Requires demand for retraction in certain actions for libel or slander.

MR. REID: Good legislation. It copies the California statute identically. This is a specialized area of the law which has been covered by the general court law and it hasn't worked well usually as exemplified by some of the lawsuits that are resulting and are receiving a lot of publicity, such as the one against the Saturday Evening Post. Anymore there are so few newspapers there must be some standard set so when something is published that causes someone to want to file a lawsuit there will be some grounds for him to do so.

MR. TORVINEN: This would not change the law any with regard to actual malice toward a public figure. You can't say that with impunity because it is provable. 2-166

MR. REID: I move Do Pass SB 290. What is wrong with the bill, Roy?

MR. TORVINEN: I haven't studied it enough and I am probably prejudiced by the Supreme Court on the Walker case. It was due to damn slipshod newspaper reporting and they crucified the guy.

MR. REID: AB 649: How would the false arrest work for city of Las Vegas and Clark County? The Chief of Police and the district attorney are always being sued for something where they can be named as a party. If a police officer does something wrong or beats somebody up they are covered up to a million dollars.

AB 649: Relieves sheriffs and chiefs of police of liability for acts of their deputies or officers.

MR. TORVINEN: You think a deputy sheriff is employed by the county instead of the sheriff?

MR. REID: I know he is. I am sure, but I don't see what difference that would make. This bill has received the blessings of the Nevada Police Officers Association.

MR. TORVINEN: When the county is named as the defendant the county is the defendant. Do you have just the defendant or someone from the county?

MR. REID: Just the defendant. A person could, if it was a big case and they wanted the publicity, come.

MR. TORVINEN: I think I agree with you.

MR. PRINCE: I move Do Pass AB 649.

MR. LOWMAN: I second.

MOTION CARRIED UNANIMOUSLY.

MR. KEAN: This bill was introduced two years ago and was killed, so you had better explain it fully.

MR. REID: If a patrolman runs over somebody in the street, why should you sue the Chief of Police?

SB 394: Provides for the acknowledgement of affidavits used in small claims actions.

MR. REID: I move Do Pass SB 394.

MR. TORVINEN: This is covered by rules of civil procedure.

MR. REID: If you were to file a Justice Peace action the Justice of the Peace or a Notary can sign it and then you take it in and file it. You could file it and leave it with one of the clerks.

MR. TORVINEN: I can't find anything on it in the statute.

MR. REID: I don't think anything is there. I think that is why we²⁻¹⁶⁷ have this bill.

MR. TORVINEN: The clerk can do it if she is a Notary. The only people who can put you under oath are the magistrates and the Notaries.

MR. KEAN: I move Do Pass SB 394.

MR. REID: I second the motion.

MOTION CARRIED UNANIMOUSLY.

AB 487: Raises bond requirement of Notaries public.

MR. REID: I had one case where we defended a bonding company. The Notary had a bond of \$2,000. She had notarized a document worth about \$48,000. In that instance, the party went against the bonding company because the Notary knew at the time that the person who signed was not the real person. The \$2,000 bond meant nothing because the person had lost \$48,000.

\$20,000 is out of line with the rest of the country. Bonds in other states average about \$5,500 to 6,500. Some are as high as \$8,500 and \$10,000. We have got to have something more than \$2,000. If you keep them at \$2,000 you just harpoon the public. It costs me nothing.

MR. KEAN: How many times does this happen?

MR. REID: We have had two cases.

MR. PRINCE: We had one in Ely awhile back. The Notary falsified a statement for an estate that was being probated.

MR. REID: I think we should raise to \$4,000 or \$5,000 at least.

I have pointed out what I think is an evil. If you want to keep it that way, OK.

I move Do Pass AB 487 with an amendment to \$4,000.

MR. KEAN: I second the motion.

MOTION CARRIED UNANIMOUSLY.

AB 613: Abrogates requirement of district judge approval of notary public bonds.

MR. KEAN: How can you issue an invalid bond?

MR. TORVINEN: Issued by a company not licensed to do business in Nevada. Mr. Torvinen then read a letter from H. K. Brown, which is attached to these minutes.

MR. KEAN: I don't understand line 16. How can a notary public possibly know it is an invalid bond before he files it?

MR. TORVINEN: Mr. Close is trying to get away from having to have the judge approve the bond.

MR. KEAN: I move we delete lines 6 and 7.

MR. REID: I second.

MR. KEAN: I also move that in line 9 "district judge" be changed to "county clerk." 2-168

MR. REID: Will line 8 on this be changed automatically to \$4,000?

MR. TORVINEN: Yes, because this is amending the same section. I can't see where this requires going before the Secretary of State.

MR. REID: Why do we need lines 15 through 17?

MR. PRINCE: Why do we need the bill at all?

MR. TORVINEN: We can change to "county clerk" in AB 487.

MR. LOWMAN: I move we Indefinitely Postpone AB 613.

MR. REID: I second the motion.

MOTION CARRIED UNANIMOUSLY.

MR. REID: I move we insert the words "county clerk" instead of "district judge" in AB 487. No, let's make it "county clerk of the county."

MR. KEAN: I second the motion.

MOTION CARRIED UNANIMOUSLY.

AB 651: Amends bail provisions.

MR. REID: There may be a time when you have a long, protracted hearing. The bail may come up and the court may want to lower it. They should be able to do that. This says "if the court determines."

MR. TORVINEN: I can't see this on a surety bond. Those people are licensed and they have deposits up.

MR. REID: I move we KILL AB 651.

MR. KEAN: I second the motion.

MOTION CARRIED UNANIMOUSLY.

AB 315: Provides for removal of juvenile probation officers by probation committee.

MR. REID: This is a good bill. This is now done by the judge and he doesn't want to do it and this takes him out of politics. The point is the probation committee is the one that advises the judge what to do and then he has to do the firing.

MR. LOWMAN: What other duties does the Probation Committee have?

MR. REID: (Read him some of them from the bill.) We have a fine judge working with juveniles three days a week and he doesn't want to do this.

MR. PRINCE: I agree with you. We usually have a pretty good bunch of people on that Probation Committee.

MR. REID: The County Commissioners are in favor of this.

I move Do Pass AB 315 with an amendment deleting words of the last sentence, lines 33 and 34, page 2.

MR. REID: I will see about getting the necessary amendments.

2-169

AB 384: Director of court services.

MR. REID: This is a bill that the judges want bad. It relates only to certain juvenile districts.

The judge would like to be just a judge but he cannot be because he has so many details to see to. This new man will report to the County Commissioners. He will be a department head.

I think we should get Wartman and Carmody up here. I will get them tomorrow.

AB 665: Increases time period prior to bail forfeiture.

MR. TORVINEN: Raggio says 5 days is enough. I don't think so.

MR. REID: I think 30 days is enough.

I move Do Pass AB 665 with amendment changing the time to 30 days.

MR. LOWMAN: I second the motion.
MOTION CARRIED UNANIMOUSLY.

AB 340: Provides for supervision of minors on parole and probation beyond their minority.

MR. REID: I move to KILL AB 340.
MR. PRINCE: I second the motion.
MOTION CARRIED UNANIMOUSLY.

AB 523: Regulates locksmiths and safe mechanics.

MR. REID: The sheriff asked me to introduce this.

MR. TORVINEN: A bad locksmith can really be a problem to a community.

After MUCH DISCUSSION and many motions which were not finished:

MR. REID: I move to amend AB 523 by deleting line 21 from page 1, lines 8, 9, 10 on page 2, sections 9, 10 and 11, page 2 and Do Pass.

MR. LOWMAN: I second the motion.
MOTION CARRIED UNANIMOUSLY.

AB 79: Imposes additional sanctions for violation of certain traffic laws

MR. REID: I move to KILL AB 79.
MR. PRINCE: I second the motion.
MOTION CARRIED UNANIMOUSLY.

AB 602: Authorizes Department of Motor Vehicles to make available contents of accident reports to persons incurring civil liability or having proper legal interest therein.

MR. REID: You get an accident case and you can't see the police report unless you subpoena the custodian of the records.

MR. TORVINEN: In Reno if the citation or indictment is still pending they give you the face of the accident report but not the diagrams or witnesses or report written by the officer. When it is taken care of, they will give you everything. 2-170

This is the work process of the officer. A guy is charged with a misdemeanor. He hires an attorney and says why don't you go down and get the information for me. The work process of an officer in all of our rules is nondiscoverable. You can't discover as in criminal cases. Why should we be able to get the same information through the back door?

MR. REID: I see what you mean.

MR. TORVINEN: We are changing the criminal discovery law. We should not be able to do that here. If there was a pending criminal case, they should not be able to disclose.

MR. REID: That is good. Where could we put that in?

Maybe we should just kill the bill because this isn't good to do to help us with the city at all.

MR. PRINCE: I move to kill AB 602.

MR. LOWMAN: I second.

MOTION CARRIED UNANIMOUSLY.

MR. TORVINEN: There is an area of need but this is not the way to take care of it.

AB 638 was mentioned briefly.

MEETING ADJOURNED AT 10: P.M.

OFFICE OF THE WASHOE COUNTY CLERK

COUNTY COURTHOUSE, VIRGINIA AND COURT STS.

P.O. BOX 2444, RENO, NEVADA 89505

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2171
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March 14, 1969

Mr. Roy Torvinen, Chairman
Judiciary Committee
Capitol Building
Carson City, Nevada

RE: AB 613

Dear Roy:

AB 613 abrogates requirements of district judges' approval of notary bonds is a good bill, however, we believe it could be made much better by a slight amendment.

I have discussed this bill with the Honorable John Koontz, Secretary of State, who concurs in this recommendation.

N.R.S. 240.030 -1- (b) which reads as follows: "take the official oath as prescribed by law, which oath shall be endorsed on his commission" should be deleted from the law for the following reason: Section 2 of this statute requires the bond together with the oath of office to be filed and recorded in the office of the county clerk of the county. Our reason for requesting the deletion is because it is unnecessary to have the notary take the oath of office before the Secretary of State and also before the county clerk for recording. Another reason is because Forms of Commission furnished by the Governor's office has no provisions on the reverse side for endorsement of the oath and it becomes necessary (to comply with this section) for the county clerk to attach another oath thereon.

We also recommended that in Section 1 (c) be changed to require the county clerk to approve the notary's bond. The reason for this recommendation is because county clerks are required to approve other surety bonds required in various actions of the district court and it is necessary for the clerk to maintain a surety file of qualified underwriters for this purpose and it would also eliminate adding the new

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section to Section 2 stating that any surety or agent who issues an invalid bond to a notary public would be guilty of a misdemeanor.

If you have any questions on this matter, please do not hesitate to contact either Mr. Koontz or myself.

Sincerely yours,



H. K. BROWN, County Clerk

HKB:ct