

MINUTES OF MEETING - ASSEMBLY COMMITTEE ON JUDICIARY, 55th Session ²⁻³⁰²
April 14, 1969

Meeting was called to order at 3:55 P.M. by Chairman Torvinen.

PRESENT: Torvinen, Schouweiler, Prince, Kean, Fry, Swackhamer, Bryan, Reid, Lowman.

ABSENT: None.

SB 227: Doubles penalty for using gun or deadly weapon in commission of crimes.

MR. TORVINEN: This is a bill that we killed and Mr. Close is trying to resurrect.

MR. CLOSE: My bill was like this but it was killed in the Senate.

At the present time, if a man commits a burglary, he gets one to ten. If convicted under this bill, he would get two to twenty, if he used a gun. This makes it so he cannot be paroled under two years no matter what. At least, that is the intent of this bill, but it doesn't do it.

If a man is sentenced to four years, he is parolable after one year. With this bill, after you amend it to do what it was meant to do, he could not be paroled under two years.

MR. BRYAN: The law now provides that one-fourth of the time be served before a person is eligible for parole.

MR. CLOSE: That is just what I am saying. This bill will have to be amended to make it do what we want.

MR. BRYAN: With determinate sentences, don't you think a judge will take all factors into consideration? George Franklin came here and told us they do not want this bill.

MR. CLOSE: Regardless of what the judge does, if a man commits a crime and uses a gun while doing it, he still cannot be paroled under two years with this bill.

MR. SWACKHAMER: Mr. Raggio thinks we need another amendment saying if he had a gun in his possession, even if he didn't use it, this should apply.

MR. CLOSE: This may slow down crimes .

MR. SWACKHAMER: This would not prevent the use of knives.

MR. CLOSE: It says "guns or other deadly weapons."

SB 183: Grants subpoena power and related powers to Advisory Personnel Commission. Estimate of cost \$4200.

JIM WITTENBERG: I would like to comment very briefly on our interest in this bill. When a man is dismissed, suspended or demoted there is a review body to which he can appeal. There have been a number of

occasions when this has occurred, and we have had difficulty getting people in as witnesses who had testimony which would apply. We finally did get them to come in but we are thinking about a possible case in the future where we just can't get them in. Such witness in presenting his testimony might cause the Commission to decide differently. It might then be appealed to the court.

It is most important that the board have all the facts before them on which to base their decision.

MR. SWACKHAMER: Do you have many of these?

MR. WITTENBERG: About ten a year.

MR. SWACKHAMER: How many of these are actually dismissed?

MR. WITTENBERG: About 150 come in each year. Around ten are dismissed.

MR. TORVINEN: Who makes the decision as to whether a dismissal was justified?

MR. WITTENBERG: The Advisory Commission acts in all cases except as to dismissal.

MR. BRYAN: This bill seems to give a broader scope of power. (Read from the language of the bill). Just what are the functions of this Advisory Commission?

MR. WITTENBERG: Providing views on personnel generally throughout the department. Promulgating rules and regulations. We recommend the rules to them and they establish them, day to day operation on the merit system. They must approve job classification before it can be established.

MR. BRYAN: Would you subpoena only where there was a case in question?

A man is dismissed. Then he appeals to the Advisory Commission for a hearing, at which time you take testimony? Yes.

MR. TORVINEN: This bill gives the right to either party to subpoena.

MR. WITTENBERG: A few agencies now have the power to subpoena, but most do not.

MR. BRYAN: As far as my view is concerned, I would like to restrict this to just the cases seeking reinstatement. Then I would be willing to reconsider.

MR. SWACKHAMER: Mr. Wittenberg, is that what you really want?

MR. WITTENBERG: Yes. We want it for the three areas of Dismissal, Suspension and Demotion.

MR. BRYAN: After the fact?

MR. WITTENBERG: Yes, after the event has taken place.

MR. TORVINEN: We could delete lines 3 through 11 and add the proper language at subsection 2, line 15.

MR. BRYAN: If this passes this committee and the Assembly, then there would be a conflict with the Senate. Mr. Wittenberg, would you be willing to testify there and speed it along so it would not get jammed up in conference?

MR. WITTENBERG: I surely would.

MR. TORVINEN: This is equally important for the employer and the employee to be able to get someone to come in.

MR. WITTENBERG was excused at this point.

MR. SWACKHAMER: How about that bill that Mr. Close was speaking to us about, the doubling up of the sentences? I think we should give consideration to this bill. Mel is a good stalwart legislator. SB 227.

MR. TORVINEN: Drafting in the changes would be such a project I am not sure we can get it done. In my personal opinion, we should be able to rely on the judges to do a good job.

I had a case that involved a man of lower mentality, never got past the fifth grade and he was volatile. He was working in a service station and got in an argument with his boss about \$50 which he thought he should have got in overtime. He got drunk and went back to the service station with a gun and robbed the man of exactly the \$50 which he felt he had coming.

These things the judge should take into consideration. This crime came about because of a combination of limited intelligence and education.

MR. FRY: The only way would be to put it in two charges and have him plead guilty to one.

MR. TORVINEN: Only the amateurish burglars carry guns. The professional do not carry them.

MR. FRY: This is just like the habitual criminal act, an entirely different crime. You have a district attorney who has a duty to the State. This bill is just to make him do it.

MR. TORVINEN: The System relies on the judge to do his duty. There are cases where a judge should do one thing and other cases where he should do something else.

MR. KEAN: I move the Chairman of the Assembly Judiciary Committee do as he sees fit with this bill, SB 183.

MR. BRYAN: I move we report it out Do Pass with an amendment restricting the use of subpena to those cases involving suspension, dismissal and demotion.

MR. TORVINEN: There are two kinds of subpoenas, persons and documents. Do you want to limit this to persons? Yes.

MR. LOWMAN: Why does he need this power?

MR. TORVINEN: A man may say "if I go and testify against the boss, your

your ex-boss and my "now" boss, I may get fired, too, and he might not go in to give testimony as to the things which he knew.

MR. FRY: If he gets fired, too, then he can use the subpena power, too.

MR. SWACKHAMER: I believe this is pretty essential, really.

MR. SCHOUWEILER: I move to reconsider SB 183.
MOTION CARRIED.

MR. BRYAN: I again move a Do Pass for SB 183, with the amendment restricting its use to only those cases involving dismissal, suspension and demotion.

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: We talked about this once and killed it.

MR. TORVINEN: The reason was there is no problem with the Highway Patrol. They have some reasonable regulations.

MR. CAPURRO: Do you know the trouble?

MR. TORVINEN: It is with the various sheriff's offices around the State isn't it?

MR. CAPURRO: Sometimes an insurance investigator cannot even see the identification of the person involved.

MR. TORVINEN: The skid marks and so on are held until the case is disposed of civilly, then it is available. In my practice this is the way it works.

MR. CAPURRO: The request for this bill came from the Insurance Adjustors of Northern Nevada.

MR. TORVINEN: The amendments are here. I will have them reproduced and give them to you.

MR. PRINCE: I move we adjourn.

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

Meeting was adjourned at 4:25 P.M.