

## ASSEMBLY COMMITTEE ON JUDICIARY, 56th SESSION, 1971

MEETING MARCH 31, 1971

The meeting was called to order at 4:15 p.m. Present: Messrs. Fry, Lowman, Dreyer, May, Olsen, Torvinen, Kean and McKissick. Absent: Miss Foote.

SB 345 - Permits criminal court to take extreme measures regarding disruptive defendants.

SENATOR THOMAS WILSON said the bill is based on procedural safeguards outlined in the United States Supreme Court regarding a defendant who refuses to abide by rules of the court and becomes disruptive. It takes the due process requirements and puts them in the statute.

This would outline to the court what the requirements and remedies are, and would also indicate this to the attorneys and defendants. The Supreme Court has approved the remedies and set forth the procedural requirements of the bill.

MISS SUE TODD, Race Relations Commission and Institute for Study of Non-Violence, objected to the bill because there is no restriction placed on a judge as to definition of disruptive conduct. There is no provision for listening to the defendant or for trying to understand what the defendant's real objections are. The rights of the defendant should be protected to make his feelings known to the court.

FATHER LOUIS VITTALE, Roman Catholic Commission on Social Justice, stated he is concerned about the "polarizing game" and the bill's style is abrupt. There are already existing remedies for a judge to cite for contempt. Binding and gagging are too aggressive and he doesn't approve of that.

SB 116 - Requires father's consent in certain cases for adoption of child born out of wedlock.

SENATOR LEE WALKER stated that two years ago the Legislature passed a bill authorizing the father of an illegitimate child to bring an action to establish paternity and parental rights. That created a problem in the adoption law because regulations required only the consent of the mother of an illegitimate child.

SB 139 - Allows attorneys' fees in eminent domain proceedings.

RICHARD EDWARDS, ESQ., Chief Counsel, Department of Highways, opposed the bill. He stated most condemnation proceedings are settled

now, and if attorneys' fees are provided, landowners will want to go to court. There is something to be said for the condemnee getting just compensation, and he doesn't when he has to pay attorneys' and appraisers' fees. This bill was amended in the Senate as a compromise.

Mr. Edwards urged that the 10% in the bill be raised to 20% which he felt is realistic. He stated that the sweeping language in AB 379 might rule about SB 139 altogether. Mr. Torvinen and Mr. McKissick felt that the chapter being amended in AB 379 did not apply to state condemnation cases.

MR. JOHN BAWDEN, STATE HIGHWAY ENGINEER, agreed with Mr. Edwards. The main concern is the ability to effectively negotiate. They are also concerned about the time element, and the costs. He felt the bill would increase the load on crowded court calendars due to a flood of cases being taken to court instead of settled.

MR. JACK BECKLEY, Street and Highway Commission, Clark County, stated that since 1965 they have acquired approximately 500 parcels. Of this there have been almost 100 condemnations. Fifteen of these were for clearing of title, and some were in estates which had to be cleared by the court. An additional 35 were settled. They are required to have MAI appraisal. It costs about \$1,750 to take a case to trial, so settlement is preferred. The average settlements for cases, both in and out of court, is \$1,500. He also feels the 10% is low and recommends it be raised to 20%, and a minimum amount of settlement should be added.

MR. JAMES HARDING, Chief Right of Way Agent, Washoe County, would like to see the bill defeated. Their right of way budget would not stand the additional expense of the trials brought if the bill is passed.

MR. ROBERT GUINN, Nevada Motor Transport Association, testifying on behalf of the taxpayers, stated the association pays 40% of the taxes that go into the highway fund and is a major contributor to the national highway programs. He is concerned about the cost to the highway departments of preparing these cases for trial. When Oregon adopted a law permitting attorneys' fees, their contested cases increased 80% in the next year. We will have the same type of increase.

MR. VIRGIL ANDERSON, AAA Insurance, agreed with Mr. Guinn's remarks regarding the potential costs to the street and highway program. If the bill passes in its present form it will result in increased taxes for motorists in Nevada.

JAMES GUINAN, ESQ., Board of Governors, State Bar of Nevada, stated the bill is sponsored by the Board of Governors. In a condemnation action a property owner is awarded the value of the property. He must then pay out of that award his attorneys' and appraisers' fees. This does not fairly compensate him for loss of his property.

Mr. Fry asked if the bill would encourage or discourage settlement. Mr. Guinan said in most cases where there is a reasonable offer it would encourage settlement.

SB 236 - Makes injury to highway control-of-access fences a crime.

RICHARD EDWARDS, ESQ. urged passage of the bill. Many times youngsters on motor scooters cut highway fences to allow them to ride in the fields and hills. The highway department has to spend many maintenance hours repairing the fences. Also, when the fences are cut, the stock wanders out onto the highways. This would be a deterrent to cutting fences.

SB 307 - Grants subpoena power to officials of University of Nevada System in faculty hearings.

MR. NEIL HUMPHREY, Chancellor, University of Nevada System, urged passage of the bill. When the University has had disciplinary hearings, for teachers or for students, they have had problems because witnesses would not appear. They need subpoena power and feel it is a reasonable approach. At the present time their hearing procedures are under the Interim Rules for Disciplinary Hearings for the University community adopted by the Board of Regents. He felt the subpoena power would not have to be used often, but it was needed to insure that the hearings provided truth from witnesses.

AB 735 - Revises provisions pertaining to conversion of rented or leased personal property.

MR. DICK LEE, Lee Bros. Leasing, stated this is a house-keeping bill. The district attorneys have refused to prosecute under the present statute because it is too loosely worded and is ineffective. When people have left the state, personal service is difficult, so he feels the wording in this bill will assist in serving people and will aid leasing companies in stopping embezzlements.

Mr. May asked if "oral demand" would include a telephone call. Mr. Lee said it would. He stated that the claimant is under a penalty for false arrest and that is why there is provision for a written notice.

Mr. McKissick said he didn't understand the need for lines 3-12 on page 1. Mr. Lee said they have tried in the bill to give discretion to the district attorneys as to which way to prosecute. There are renters who simply keep a vehicle too long, and others who intend to embezzle, and present false identification when they rent the vehicle.

SB 182 - Grants immunity in licensing and disciplinary proceedings of professions and occupations.

JAMES GUINAN, ESQ. stated the purpose of the bill is encouragement of participation in disciplinary proceedings. Some people are afraid of reprisal. This bill is sponsored by the Board of Governors.

SB 176 - Limits garnishment and execution on earnings.

Mr. Guinan stated the bill is designed to take care of a mistake made last session when the act was adopted. In the amendment to the assembly bill, 176 was incorporated.

SB 480 - Increases maximum value of estates which may be set aside without administration and those eligible for summary administration, and modifies uniform fee schedule for estate administration.

Mr. Guinan stated the bill would speed up estate proceedings by handling more small estates in the shorter process rather than going through the whole procedure we have now for larger estates.

Mr. Dreyer asked why there is a 10% increase in publication. Mr. Guinan said when an amount is changed, filing fees are adjusted, and the publication addition was put in by Senator Monroe.

Mr. Torvinen said the judges often waive publication and asked if the bill would do away with that. Mr. Guinan stated it was not in the original bill request and the State Bar had no position on that.

SB 562 - Requires justices of the peace and police judges to receive instruction.

Mr. Guinan said a similar bill died two years ago because of lack of money. Now the law enforcement assistance in Washington, D.C. has made funds available through our Crime Commission to pay for this training and the College of State Trial Judges has agreed to do the courses. No cost will be involved.

March 31, 1971

## Assembly Committee on Judiciary

AB 457 - Provides for organization of county courts.

MR. WARREN STANLEY, Constable, North Las Vegas Township, opposed the bill, stating the elimination of the Constable's office and transferring the work load to the Sheriff will be a great added expense to the county. At the present time there are seven working deputy constables in the metropolitan area, who work 10-12 hours a day, seven days a week. Half the contacts are made evenings and weekends. The deputies work without salary. Income is derived from fees paid by parties involved. The deputies furnish their own cars and pay for upkeep. To replace these men with sheriff's deputies who work an hour hour shift will necessitate employing 14 men. The sheriff's deputies are paid a salary of \$6,00-\$7,500 per year, plus a car. This will average \$10,000 per man. To cover the same amount of hours and work you would have to double the present force of deputy constables. This would mean 14 deputy sheriffs at a total cost of \$140,000 in these two townships alone.

The present budget for the constable's offices in Clark County is \$30,000 which includes salaries of the 10 elected constables plus salaries of all clerks. The county wouldn't be able to afford the increase in salaries of sheriff's deputies and would be asking the Legislature for financial help.

Mr. McKissick felt the money could be paid by the parties to lawsuits as it is now. Mr. Torvinen asked if there is any reason the county commissioners can't adopt an ordinance authorizing sheriff's offices to maintain deputies on the same basis as the constables now work.

Mr. Stanley said the sheriff's deputies work only eight hours per day. He further stated that constables are not in the county merit system. If the county court system is enacted, the constables could continue to do work for the county courts. He is not personally concerned, since he will soon retire, but is concerned about the additional cost to the county.

There being no further business, the meeting was adjourned at 5:35 p.m.

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ASSEMBLY

AGENDA FOR COMMITTEE ON JUDICIARY

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Date March 31 Time adjournment Room 240

<u>Bills or Resolutions to be considered</u>	<u>Subject</u>	<u>Counsel requested*</u>
SB 7	Prohibits possession or withholding of stolen goods.	
✓ SB 116	Requires father's consent in certain cases for adoption of child born out of wedlock.	
✓ SB 139	Allows attorney's fee in eminent domain proceedings.	
SB 167	Provides civil remedies and criminal penalties for unlawful burning.	
✓ SB 182	Grants immunity in licensing and disciplinary proceedings of professions and occupations.	
SB 184	Enacts felony drunk driving law.	
✓ SB 236	Makes injury to highway control-of-access fence a crime.	
SB 241	Allows estates less than \$3,000 to be distributed without administration to children of deceases who are not minors.	
SB 248	Re-forms definition of excusable homicide.	
✓ SB 307	Grants subpoena power to officials of University of Nevada System in faculty hearings.	
SB 325	Provides additional grounds for writ of habeas corpus.	
✓ SB 345	Permits criminal court to take extreme measures regarding disruptive defendant.	
SB 457	Provides declaratory relief from court orders prohibiting publication, broadcasting of lawfully obtained information concerning trials and other proceedings.	
✓ AB935		

\*Please do not ask for counsel unless necessary.

HEARINGS PENDING

Date \_\_\_\_\_ Time \_\_\_\_\_ Room \_\_\_\_\_  
Subject \_\_\_\_\_

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Subject \_\_\_\_\_