

ASSEMBLY COMMITTEE ON JUDICIARY - 56TH SESSION, 1971

MEETING MARCH 8, 1971

The meeting began at 3:12 p.m. Present: Miss Foote, Messrs. Fry, Torvinen, Olsen, Lowman, May, Kean, Dreyer and McKissick. None absent.

AB 352 - Creates family court in certain counties.

Testifying in favor of the bill was KEITH HAYES, Attorney at Law, Las Vegas, Nevada. Mr. Hayes stated that non-support, adoption, illegitimacy and other cases involving children are calendared with all other cases in district courts and consequently, too little time is spent on these cases. Mr. Hayes is particularly concerned with non-support cases and stated that approximately 3/4 of the welfare load in Clark County is for children with no father in the home. He was of the opinion that errant fathers would be more likely to pay support if they had to appear each time before the same judge. Support orders are too low and they are not enforced.

A family court successful in collecting support from fathers will reduce the amount of money needed for welfare payments for the children.

The jurisdiction of family court judges would be limited to cases involving children only. It could be that of a district court judge who would have jurisdiction in all other matters, but would be especially assigned to family court. He could be available for other service as a district court judge if his services there were required.

Mr. Kean asked how many judges it would take to handle the case load in Clark County. Mr. Olsen said Judge Mendoza believes that two judges should be assigned as family court judges, which is one judge in addition to the juvenile court judge.

Mr. Torvinen asked if the Clark County District Attorney's Office had a staff specializing in non-support cases. Mr. Hayes replied the office did, but the workload there is growing also.

Mr. Lowman asked if anyone is working on the problem of solving the adversary situation in juvenile courts. Mr. Hayes replied the handling of juvenile cases had to be according to court decisions so not too much can be done on a local level except counseling.

Mr. Olsen stated that Justice Zenoff has requested that he be allowed to offer testimony on the bill.

AB 208 - Creates additional crimes involving explosives;
and AB 306 - Regulates importing, manufacture, distribution and
storing of explosives.

MICHAEL FONDI, ESQ., CARSON CITY DISTRICT ATTORNEY, spoke in favor of AB 208 on behalf of the Nevada District Attorneys' Association, saying the association deems it to be a must. Telephoned bomb threats have increased in every city in Nevada, creating a public danger when the fire department is tied up searching for bombs that may or may not be present. In the past, the only method of prosecuting has been with the misdemeanor statute in NRS Chapter 205, the penalty for anonymous or threatening telephone calls. Legislation in this area is inadequate, and stronger legislation is vitally needed.

Section 3 is designed to cope with problems experienced in some areas of the state involving extortion plots where explosives were used.

Mr. Fry asked why Section 5 on page 2 is restrictive to the State of Nevada. Mr. Olsen replied it was not his intent to have the bill read that way. It should be amended to include any publicly owned building.

Mr. Fry asked about privately owned buildings. Mr. Fondi stated there are statutes covering setting of explosives in privately owned buildings.

Mr. Fry stated he thought the present felony murder statute covered the provisions in line 10, Section 5 of the bill.

Mr. Fondi observed that Subsection 3 of the bill is unnecessary because it puts a bottom on the sentence rather than a top.

Mr. Kean felt that all the provisions in AB 208 and AB 306 are covered in a recently enacted Federal law.

Mr. Fondi said he is not familiar with the Federal legislation, but if the United States Attorney had to be relied on to prosecute the bomb threats confronting the district attorneys weekly, they would not be handled as expeditiously.

Mr. Kean suggested the Federal act be reviewed with the two legislative measures pending.

RICHARD BAST, STATE FIRE MARSHAL, said AB 306 is designed after the Federal act, that Oklahoma, California and Oregon have adopted the legislation, and Massachusetts is in the process of adopting it. The Federal government would not be able to easily handle the supervision and enforcement of the act.

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Mr. Fry said it is his experience that the Federal Government is stepping away from handling criminal enforcements and local enforcement would be needed.

THOMAS WHITE, DIRECTOR, DEPARTMENT OF COMMERCE, stated Federal jurisdiction concerns those who are shipping in interstate commerce, and the State still has most of the policing power. Mr. White suggested the following changes in AB 306:

The fee in line 7, page 5, should be changed from \$2 to \$5. The program should be self-sustaining, and he suggests the bill be re-referred to the Ways and Committee.

Line 34, page 10 should read: "...obtain fire marshal permits for blasting from the local forest officer as required by law."

Mr. Bast said the legislation was requested by the National Fire Protection Association. There is mis-use in retail and movement of explosives throughout the country.

KEITH HENRIKSON, NEVADA FIREFIGHTERS ASSOCIATION, NEVADA PEACE OFFICERS ASSOCIATION, stated there should be some provision for the U. S. Naval Ammunition Depot for hauling ammunition in Sec. 3, page 1, AB 208. Mr. Torvinen stated he didn't think the provision would have any effect on the Federal Government.

MR. LES GROTH, CARSON CITY FIRE CHIEF, spoke in favor of AB 208, saying there should be no restrictions as to whether the buildings are private or public.

Mr. Torvinen stated NRS 202.270 and 202.350 cover attempts to use explosives in buildings.

ROBERT GUINN, NEVADA MOTOR TRANSPORT ASSOCIATION, regarding AB 208, stated that Sec. 45 on page 8 does not cover intrastate commerce, and he would ask that the following words be added to the sentence: "...the Public Service Commission of the State of Nevada." The Public Service Commission has jurisdiction over the safety aspects of transportation of explosives. The amendment would take care of transportation for fire.

Mr. Guinn noted that on page 6, line 37, Sec. 38 the language deals with knowledge or intent to kill. The exceptions in Sec. 45 say "except for sections 38-43". He observed that every truckdriver would know the explosives would kill.

Mr. Guinn felt that changes in rules and regulations of truck routes and parking should be in a different bill. He stated

any complaints regarding routes and parking could be handled by his association.

Mr. Groth stated there is a conflict between the following sections:

On page 8, Sec. 45, line 26, it states black powder not to exceed five pounds. On page 9, line 32 it states within a limit of more than 100 pounds. He felt it was not clear if five or 100 pounds could be stored.

AB 218 - Increases penalty for assault and battery upon a peace officer;

AB 293 - Penalizes interference with firemen at all fires and emergencies;

SB 161 - Creates separate crime for assault on a peace officer or fireman.

KEITH HENRIKSON stated that SB 161 is more favorable to his association than AB 218.

Mr. Olsen suggested SB 161 may be modified to cover assault "where an injury results". Mr. Henrikson said he would have no objection to that amendment.

Mr. Fry stated the purpose of SB 161 is to handle a riot situation, and suggested the bill should set this forth. Mr. Henrikson suggested adding language stating "in situations where more than ten people are involved" and "where an injury occurs".

Mr. Torvinen stated the felony provision where no injury occurs seems drastic, and asked if Nevada has any real problems of police officers not being protected.

Mr. Henrikson stated there is no large problem in Nevada now, but his association was concerned about instances where the lack of protection seemed an imminent problem.

Mr. Fry noted that many people are named in the statutes as peace officers who are not actually firemen or policemen. Mr. Dreyer said this seemed logical to include all peace officers, since in times of emergency, many deputies are called to help.

Mr. White stated he favors SB 161.

Regarding AB 293, Mr. Henrikson said his association strongly supports the bill. Mr. Bast outlined the reasons for the bill, giving an example of a bomb scare in a casino when the fire trucks were ordered away by the management, and the example of

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firemen washing down at automobile accident scenes and taking the responsibility of directing traffic. He stated it would be for strictly emergency situations, and the provisions wouldn't be misused.

Mr. White asked the committee, in considering the legislation, to consider the tremendous growth in bomb scares and riots in the country.

SB 309 - Provides for liberal construction of ordinances and building codes to encourage establishment of condominiums.

SENATOR COE SWOBE stated that without the extra wording in the bill, the City of Reno feels that the State has pre-empted the City from passing any specific ordinances or regulations for condominiums.

SB 47 - Provides for early judicial hearings of matters concerning Tahoe Regional Planning Agency.

SENATOR SWOBE stated there are rumors that suit will be brought in Nevada concerning the constitutionality of the Tahoe Agency. He hopes to get an early judicial decision on the constitutionality as soon as possible.

Mr. McKissick moved "Do Pass" SB 309. Seconded by Mr. Dreyer. Carried.

Mr. McKissick moved "Do Pass" SB 47. Seconded by Mr. Dreyer. Carried.

Regarding AB 208 and AB 306, Mr. Kean will study the Federal legislation pertaining to the matters in the bills.

Mr. Dreyer stated that Capt. Wittey of the Clark County Sheriff's Office strongly supports the legislation.

Mr. Olsen suggested Sections 3 and 5 in AB 208 could be deleted, still leaving in the provisions for telephone threats. Mr. Torvinen and Mr. Fry suggested the provisions in Section 3 might be useful, but the language needed clarifying.

Mr. Torvinen presented the amendment to AB 242. The committee discussed the amendment, and took no action at this time.

Mr. McKissick read amendments to AB 373, which met with the committee's approval.

Mr. Lowman presented amendments to AB 165. Mr. Lowman moved "Amend and Do Pass as Amended." Seconded by Mr. Torvinen. Carried, with Mr. May voting "No."

Mr. Lowman moved that AB 293 be indefinitely postponed. Seconded by Mr. Kean. Motion carried on a 5-4 vote, with Messrs. McKissick, Torvinen, Lowman, Kean and Olsen voting "Aye".

Miss Foote moved that AB 359 be indefinitely postponed. Seconded by Mr. Lowman. Carried.

Mr. May moved "Do Pass" AB 38. Seconded by Mr. Dreyer. The motion lost on a 4-5 vote, with Messrs. May, Dreyer, Olsen and Lowman voting "Aye".

Mr. Lowman moved "Do Pass" SB 162. Mr. Dreyer remarked the legislation was needed to insure that the convicted would serve time and not be given a suspended sentence. Mr. May called attention to a misspelling on line 9, "slung". There was no second to Mr. Lowman's motion.

Mr. Dreyer moved "Do Pass" AB 39. Seconded by Mr. Lowman. Carried, with Mr. Fry voting "No." Mr. Fry stated he wishes to file a minority report on the bill.

Mr. Lowman moved that AB 38 be indefinitely postponed. Seconded by Mr. Fry. Carried.

There being no further business, the meeting was adjourned at 5:14 p.m.

sg

