

JUDICIARY COMMITTEE
57th ASSEMBLY SESSION

MINUTES

MARCH 28, 1973

The meeting was called to order by Mr. Keith Hayes, Chairman.

MEMBERS PRESENT: MESSRS: HAYES, BARENGO, GLOVER, TORVINEN, HUFF, FRY
LOWMAN, HICKEY, AND Miss FOOTE.

MEMBERS ABSENT: NONE

GUESTS PRESENT: Col. Lambert from the Nevada Highway Patrol; Mr. Groves from the Attorney General's Office; Bart Jacka representing the Sheriff's Office in Clark County; press.

Mr. Groves from the A.G.'s Ofc. addressed the Committee on A.B. 566. He had been assigned to represent the extradition coordinator for the state of Nevada. The purpose of this bill is to provide a specific expression by the legislature of the rule recognized in case law in other jurisdictions that a fugitive who has been arrested on an executive warrant issued by the governor of this state may not be admitted to bail. The present practice in some of the courts in our state runs the gamut of everything from denial of bail to admitting to bail and even to release on OR. There is no way to guarantee the return of a fugitive unless he is denied bail. The bill drafter deleted the requirement that would apply to a parole violator or escapee sought to be returned to another state. Mr. Barengo said he felt this was unconstitutional and therefore the reason for the deletion. The constitutional right to bail is available only to one accused of crime, not to one convicted of crime stated Mr. Groves. It is perfectly constitutional to deny bail to a parole violator convicted of crime in another state, or to a convicted person who has escaped and is being returned to another state to finish his term for the original offense. Mr. Groves asked the Committee in considering this bill to return it to the original form in amendment stating that after detailed research he had no doubt about the constitutionality. Mr. Groves said that the problem is that some of the judges in this state are releasing these convicts and the only way to stop it is by legislation. Mr. Groves provided a copy of the proposed amendment to the Committee.

Bart Jacka, Chief Deputy Sheriff from Clark County, appeared in opposition to A.B. 621. He told the Committee that this is just another means of placing liability on the policeman in the street, and the entity involved. Mr. Hayes said that as he reads the bill there is no liability placed on the officer, it would be up to the individual political subdivision. Mr. Jacka said that considering that past history shows that in the event of an action being filed everyone is named. This means that the officer would have to hire counsel, possibly lose time off work for litigation etc. He said that he felt there must be other methods to accomplish the intent of this bill.

Mr. Glover mentioned that he had discussed this bill with some insurance people, and their feeling is that if this should pass, cities would have

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difficulties obtaining insurance. Mr. Huff said that he felt the bill would place the blame on the political sub-division. Mr. Jacka firmly maintained that the policeman should be relieved from the responsibility of civil liability in instances which this bill would include.

Miss Foote said that although she is in sympathy with the motives of this bill there are certain things that an individual cannot expect to have taken care of for him. The Cities are limited in funds also.

Col- Lambert appeared in support of A.B. 595 which extends the driving or operation of a vehicle while under the influence of a controlled substance to the implied consent act. Col. Lambert said this is a much stronger bill than the department of motor vehicles has introduced, and he would concur with the intent. A problem in this area is that there is no quantitative standard of these drugs under which you can state "this man is under the influence of a controlled substance. It becomes an individual expert opinion. Mr. Barengo asked if there were problems in getting people to submit to blood alcohol, and Col. Lambert replied that they are not readily willing to do this if there is no indication or odor of alcohol because if they do and the test is positive for a controlled substance it is a felony.

Mr. Fry explained to the Committee that Mr. Torvinen had requested one amendment on Page 2, Line 3, remove the brackets around \$100. This amount conforms to the previous language of the bill. Mr. Hayes asked about including commissions as well as wages.

ACTION:

A.J.R. 19 SUMMARY-Memorializes Congress to amend 1934 Gold Reserve Act.

Mr. Hayes commented that the price of gold on the London market this morning is 89.00.

Mr. Glover moved to recommend DO PASS, Mr. Hickey seconded.
Mr. Torvinen absent for the vote.

MOTION CARRIED UNANIMOUSLY AJR 19 DO PASS

A.B. No. 646 SUMMARY-Makes issuance of bad check of \$50 or more for wages a felony and expands liability therefor.

Mr. Barengo moved to recommend DO PASS with the amendment deleting the brackets around \$100 on Page 2, Line 3, Mr. Huff seconded.

MOTION CARRIED UNANIMOUSLY DO PASS WITH AMENDMENT A.B. 646.

A.B. 621 SUMMARY-Indemnifies persons whose property is injured or stolen in riot.

Miss Foote moved INDEFINITE POSTPONEMENT, Mr. LOWMAN SECONDED.
Mr. TORVINEN ABSENT FOR THE VOTE.
Mr. Huff and Mr. Hayes voted against the motion.

MOTION CARRIED. INDEFINITELY POSTPONE A.B. 621.

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A.B. No. 595 SUMMARY-Brings persons who are under influence of controlled substances within scope of implied consent law.

Mr. Lowman moved to recommend DO PASS, Mr. Glover seconded.
 Mr. Fry voted against this motion.
 Miss Foote and Mr. Barengo not voting.
 Mr. Torvinen absent for the vote.
 Mr. Lowman, Mr. Glover, Mr. Huff, Mr. Hickey, and Mr. Hayes voted for the motion.

MOTION CARRIED DO PASS A.B. 595.

A.B. No. 566 SUMMARY-Changes certain conditions for admitting to bail under Uniform Criminal Extradition Act.

Mr. Barengo moved to recommend DO PASS with amendment returning bill to original request form, Mr. Huff seconded.
 Mr. Torvinen absent for the Vote.

MOTION CARRIED DO PASS A.B. 566 with AMENDMENT

There was limited discussion on A.B. 804, A.B. 777, and A.B. 787 all having to do with controlled substances. Since we have passed out of Committee bills which basically cover this area the Committee elected to have the Chairman hold these bills.

Mr. Barengo announced that he had received an amendment to A.B. 459 changing the population figure in the bill to 90,000 which would then only effect the number of justices of the peace in one area. Mr. Hayes said that it is his feeling that perhaps Las Vegas needs an additional JP, but that the Commissioners from Las Vegas told us that they can handle the situation as it now stands. He said that if any of the Committee members would like to pick up the ball and carry it for Las Vegas he would probably support the move. He said the testimony by Mr. Cochran in favor of adding an additional JP in Las Vegas should hold some non-political reliance. Mr. Hickey felt that the plan offered by the Las Vegas Commissioner should be given two years trial. Mr. Barengo moved DO PASS with the amendment, Mr. Hickey, seconded.

Mr. Barengo said that in view of the testimony he felt Las Vegas was undecided, but that Reno is not. The Reno Co. Commissioness are in favor of adding more justices of the peace. Mr. Huff said that he is in support of the amendment because he questions the cost involved for Las Vegas. Mr. Hickey said that there is no controversy concerning the need in Washoe, but there is for Las Vegas, and it would seem that the function of our Committee is to provide for the Washoe need which is not in question. Mr. Barengo said let's put it on the floor and if the Clark County delegation can get together they can amend it at that time.

VOTE:

Mr. Lowman voted against the motion; Mr. Torvinen absent for the vote
MOTION CARRIED. DO PASS A.B. 459 with AMENDMENT

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Mr. Carl Lovell, North Las Vegas City Attorney, spoke to the Committee about the need for procedural methods in preliminary hearings to establish obscenity in courts. The U.S. Supreme Court has stated that before you can seize any material from adult book stores, etc. a judge has to rule that it is obscene. There are other states which have this type of legislation, and Mr. Hayes agreed that some work is needed in this area.

MEETING ADJOURNED.

ASSEMBLY

AGENDA FOR COMMITTEE ON JUDICIARY

Date MARCH 28, 1973 Time 2:00 pm Room 240

<u>Bills or Resolutions to be considered</u>	<u>Subject</u>	<u>Counsel requested*</u>
A.B. 566	SUMMARY-Changes certain conditions for admitting to bail under Uniform Criminal Extradition Act.	
A.B. 567	SUMMARY-Removes possibility of probation following conviction of certain offenses under Uniform Controlled Substances Act.	
A.B. 595	SUMMARY-Brings persons who are under influence of controlled substances within scope of implied consent law.	
A.B. 621	SUMMARY-Indemnifies persons whose property is injured or stolen in riot.	
A.B. 646	SUMMARY-Makes issuance of bad check of \$50 or more for wages a felony and expands liability therefor.	
AJR 19	SUMMARY-Memorializes Congress to amend 1934 Gold Reserve Act.	

*Please do not ask for counsel unless necessary.