

HOUSE COMMITTEE ON STATE AND FEDERAL AFFAIRS

March 27, 1991 Hearing Room E 8:30 a.m. Tapes 76 - 78
MEMBERS PRESENT: Rep. Bill Markham, Chair Rep. Larry Sowa, Vice-Chair
Rep. Marie Bell Rep. Mary Alice Ford Rep. Tom Novick Rep. Carolyn Oakley
Rep. Lonnie Roberts MEMBER EXCUSED: None VISITING MEMBER: Rep.
Steve Calourie, District 7 Rep. Kelly Clark, District 27 Rep. John
Minnis, District 20 STAFF PRESENT: Randall Jones, Committee
Administrator Carolyn Cobb, Committee Assistant Ted Reitlinger,
Legislative Counsel MEASURES CONSIDERED: HB 2711 - Changes Name of
Board of Police Standards and Training to Board on Public Safety
Standards and Training, PH, WS HB 2803 - Prohibits Major or Minor
Political Party from Allowing Candidate for State Senator, State
Representative or Statewide Office to Use Party's Reduced Mail Rate, PH
HB 3008 - Authorizes Members of Legislative Assembly to Serve as
Delegates to State Central Committee, PH, WS HB 3010 - Specifies That
Signatures of Electors Necessary for Nomination of Candidate Shall Be
Counted Only if Elector Has Not Voted for Any Partisan Office At
Immediately Preceding Primary Election, PH HJM17- Urges Congress to Pass
Legislation Contained in Community Stability Act of 1991, WS

These minutes contain materials which paraphrase and/or summarize
statements made during this session. Only text enclosed in quotation
marks report a speaker's exact words. For complete contents of the
proceedings, please refer to the tapes. . TAPE 76, SIDE A House
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003 CHAIR MARKHAM: Calls meeting to order at 8:38 a.m.

HJM17 - URGES CONGRESS TO PASS LEGISLATION CONTAINED IN COMMUNITY
STABILITY ACT OF 1991 - WORK SESSION

007 CHAIR MARKHAM: Submits dash one LC amendment dated 3/15/91
(EXHIBIT A). 020 MOTION: REP. ROBERTS moved to adopt the dash one LC
amendments dated 3/15/91 to HJM17 (EXHIBIT A). 021 CHAIR MARKHAM:
Hearing no objection, the motion carries and the amendment is adopted.
029 MOTION: REP. ROBERTS moved HJM17 as amended to the floor with a
"do pass" recommendation. 033 VICE CHAIR SOWA: Expresses concern
about the message being sent to Congress to pass a bill as written.
Often bills are completely changed by the time they are adopted by
Congress. The Memorial should not only state we support the concept, but
it should lay down exactly what we do support. 044 REP. NOVICK:
Congressman Smith himself or someone from his office was quoted in the
newspaper as saying he saw little chance of this bill passing, but
thought it might show up in another piece of legislation. So I agree
with Rep. Sowa's point. 049 CHAIR MARKHAM: We are just trying to push
for some protection for our number one industry and our people in all
those small towns. 055 REP. FORD: Wants it part of the record that
when it is engrossed they delete the last sentence of the summary.
066 VICE CHAIR SOWA: I think if this Memorial arrives in the Senate
in its present form, it is dead on arrival. I think if we made this a
very constructive memorial, we might at least get some hearing, possibly
even have a chance to get it through. 068 CHAIR MARKHAM: Asks Rep.
Sowa and Rep. Novick to work on amendments. 073 MOTION: REP. ROBERTS
withdraws his earlier motion.

076 REP. FORD: I am concerned we are sending something to the floor
that has a blank space in it.

HB 2711 - CHANGES NAME OF BOARD ON POLICE STANDARDS AND TRAINING TO BOARD ON PUBLIC SAFETY STANDARDS AND TRAINING - PUBLIC HEARING
Witnesses: Steve Bennett, Board on Police Standards and Training Steve Calourie, State Representative, District 7 John Minnis, State Representative, District 20

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097 RANDALL JONES, COMMITTEE ADMINISTRATOR: Explains purpose of the bill. Submits LC 1206 rough draft dated 10/10/90 (EXHIBIT B) which are amendments that have been requested by the Board on Police Standards and Training to be included in the bill.

126 STEVE BENNETT, EXECUTIVE DIRECTOR, BOARD ON POLICE STANDARDS AND TRAINING: Expresses his support for HB 2711 and the amendments that have been submitted. -Explains during the last six years the Board's mission has evolved to embrace a much wider spectrum of public safety than just police. -The bill bring their name more into line with their current actual activities. Reports the Board has voted in favor of the name change. 153 CHAIR MARKHAM: Is your board appointed by the governor?

155 BENNETT: That is correct, sir. It is designated by law that there be two lay members, the rest are appointed at the discretion of the Governor. -The amendment was originally intended to be a separate piece of legislation, but it was decided to attach it to the bill in order to get this piece of housekeeping taken care of. -Submits and summarizes written testimony (EXHIBIT C) in support of the proposed amendment.

201 REP. BELL: Is the LC draft the whole amendment?

203 JONES: The amendment to the law would be just subsection (h).

210 STEVE CALOURIE, STATE REPRESENTATIVE, DISTRICT 7: We dealt recently with the budget for Board on Police Standards and Training, and spent a lot of time talking about their mission. We were impressed with the fact they are serving all kinds of clients, not just police. It is clear we are calling upon them to do a variety of training. The word police is out of date. Almost every agency call itself a public safety department.

256 REP. ROBERTS: Give me a capsulized description of "multi-discipline".

263 BENNETT: Normally an individual would complete one or the other of the training programs, and receive certification in that one. If the certification was in corrections and the sheriff wanted to then put that individual on the road as a road deputy, he would have to send him back for the police training and certification. Under the present law, within ninety days of being assigned to the road, he would lose the corrections certification that he had earlier received.

283 REP. ROBERTS: This amendment does not mean he could go from being a police office to corrections officer without further training?

289 BENNETT: No, it does not mean that. It allows the sheriff the flexibility of assigning the offcer to either the jail or the road,

depending on the needs of the department. He would not have to be constantly recertifying his people.

293 REP. CALOURIE: I am very supportive of this also. It would help my local sheriff a great deal. It makes a more rounded officer in both places and helps to build careers for officers.

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323 JOHN MINNIS, STATE REPRESENTATIVE, DISTRICT 20: Expresses support for the bill.

328 REP. FORD: Would multi-discipline certification put them in a higher salary scale?

332 BENNETT: This bill has no fiscal impact. In fact there is a savings here, because we do not have to go through the administrative process of recertifying or the retraining effort.

379 CHAIR MARKHAM: If the City of Eugene sends someone for training, do they pay for it?

383 BENNETT: They pay the salaries and we pay for the training.

389 VICE CHAIR SOWA: What is the curriculum for your education system? Do you teach minority relations in your school?

TAPE 77, SIDE A

006 BENNETT: I would be happy to provide you with the curriculum. We do have classes that provide training in cultural differences and those kinds of things. The best way to work at that in my opinion is in the screening process in the recruitment.

HB 2711 - CHANGES NAME OF BOARD ON POLICE STANDARDS AND TRAINING TO BOARD ON PUBLIC SAFETY STANDARDS AND TRAINING - WORK SESSION

018 MOTION: REP. ROBERTS moved to adopt the rough draft LC amendments dated 10/10/90 to HB 2711 (EXHIBIT B).

021 REP. NOVICK: I hope that when these are incorporated into the bill, it will be reflected in the summary. 024 CHAIR MARKHAM: Hearing no objection, the amendments are adopted. 025 MOTION: REP. ROBERTS moved HB 2711 as amended to the floor with a "do pass" recommendation.

036 VICE CHAIR SOWA: I will be voting no on this bill because I think there are some real problems out there and I would like to send them a message it is time for them to catch up with the rest of society.

039 VOTE: In a roll call vote, the motion carried, with Rep. Bell, Rep. Ford, Rep. Novick, Rep. Oakley, Rep. Roberts, and Chair Markham voting AYE. Rep. Sowa voting NAY.

HB 2803 - PROHIBITS MAJOR OR MINOR POLITICAL PARTY FROM ALLOWING CANDIDATE TO USE PARTY'S REDUCED MAIL RATE - PUBLIC HEARING Witnesses: John Minnis, State Representative, District 20

043 JOHN MINNIS, STATE REPRESENTATIVE, DISTRICT 20: Submits written

material

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(EXHIBIT D) which he intends to refer to during his testimony. -The lending of the use of the reduced rate permit, i.e the non-profit organization permit, should not be permitted under Oregon law. Political parties should not have the capability of lending their permit to candidates. -Explains the first page of the submitted material headed Third-Class Mail. -Explains the next part of the material is the preliminary report of a postal investigation of mailing practices of the Democratic Party of Oregon, and refers to page ten, paragraph two under the heading RECOMMENDATION OF FINES AND PENALTIES. -Quotes testimony given on HB 2975 before the State and Federal Affairs Committee at the last legislative session.

100 REP. ROBERTS: I chaired that committee. It seems you are trying to indict the Democratic Party and everybody in it. Do I hear you wrong?

105 REP. MINNIS: I am not trying to indict the Democratic Party of Oregon. What I am trying to do is to establish there is a basis to believe there is a necessity to have a parallel Oregon statute that says this practice is wrong in Oregon. Some of the candidates were involved in this process unknowingly.

120 REP. ROBERTS: It is my understanding that Democratic candidates who questioned it were told that the legal opinion of the state party was that they were not breaking the law.

124 REP. MINNIS: I would refer you back to page 10 of the document where it says the Democratic Party was given notice by the Postal Service that the practice is illegal. -Continues review of the submitted material beginning with Democratic Party of Oregon memo.

211 REP. ROBERTS: Did you offer the opportunity to Democratic house members to become co sponsors of this bill? 220 REP. MINNIS: I have no problem with anyone adding their name to the bill. I do not think it is a partisan issue, it is about people who are out of control. I believe the problem of the use of the permit is a widespread abuse, not only in Oregon, but on a national level. 243 REP. FORD: What is blacked out of the text on pages 11 and 12?

248 REP. MINNIS: I wish I knew. It is information that under the Federal Freedom of Information Act, the people who did the screening blocked out. 253 REP. NOVICK: I want to make sure we are not making it illegal for those legitimate times when the party does send out mailings. Does this affect get out the vote efforts? I do not think it does, but I want to make sure. Is it your interpretation that the party would still be able to pursue those types of activities?

263 REP. MINNIS: I am sure that is correct. On lines 8 and 9 of the bill, it says it would be illegal when it is not authorized to mail at the reduced rate.

269 VICE CHAIR SOWA: Does the language in the bill mean they cannot even use the bulk rate?

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280 REP. MINNIS: No, it does not. The postal permits that are controlled by the political parties are non-profit postal permits, not third-class bulk mail permits.

293 VICE CHAIR SOWA: How do I know a bulk mail piece received from a political party was not mailed under the non-profit permit? 301 REP. MINNIS: On third class bulk mail permit, it says Third Class Bulk Mail. The non-profit permit says Non-Profit. There are times when major political parties can use that permit legally, if everything to do with the piece being mailed is of their own origin. 323 REP. NOVICK: If the Democratic Party sends out a mailing, and they request verification of a description of me that will be included, is that okay? 329 REP. MINNIS: The question is, what was the origin of the description, and is it in support of your candidacy. 361 REP. FORD: Under the language on line 10, if you sent a picture of yourself to the party, you are assisting with the preparation of the mailing and donating something of value. Is that going to cause a problem? 374 REP. MINNIS: If you go back to lines 8 and 9 where it specifically discusses not being authorized under the reduced rate, what is being mirrored in lines 10 through 13 are the general guidelines within those postal regulations. It would depend on whether or not you were sending it as part of a mailing whose origin is from the candidate and not from the party. For the record, to indicate legislative intent, responding to requests from the party for pictures or biographical information should not be construed to be a violation of this statute. My hope is, that should this measure become law, it would not be applied on a superficial basis. You may want to add the word "knowingly" to line 7. TAPE 76, SIDE B 011 REP. BELL: When you put it there, you are referring to the political party "knowingly", if you put it behind "rate" on line 9 you are talking about the candidate "knowingly". 014 REP. MINNIS: I think you could put it in both places because it could very easily be applied to either. 018 REP. FORD: We have had problems in the past of the vagueness of the word "knowingly". 022 REP. MINNIS: There is a very specific meaning in criminal law to the word "knowingly". Discusses the legal aspects of the word. 053 REP. BELL: I think the intent of this bill is aimed at the political parties. This law is not written to make it illegal for political parties to do this. 060 REP. NOVICK: It is going to be an individual that is charged with a crime. 063 VICE CHAIR SOWA: I do not know how to change this bill to make it do what we want it to

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do. Whatever wording we use, this bill will be used as political fodder in every campaign from now on.

074 REP. BELL: I do not think we should put "knowingly" in there. We just want to say they shall not do it. 089 VICE CHAIR SOWA: I am hesitant to amend the bill without having Legislative Counsel here to

answer some specific questions. 124 CHAIR MARKHAM: Recesses the meeting at 9:45 a.m.

-Resumes the meeting at 9:56 a.m. 133 TED REITLINGER, LEGISLATIVE COUNSEL: What I would do is try to draft the bill narrowly, so it only addresses the non-profit mailing rate the political parties use, and specify they cannot use that rate to send out material about candidates when the candidate participates in putting it together.

141 REP. NOVICK: If the party is sending out a mailing and they call up and say do you have a photo we can put in the mailing. If you send that, are you assisting? Where is that line drawn?

154 REITLINGER: It is not terribly clear from the way this is written. In the examples you cited, it would be possible to argue the candidate has assisted in the preparation of the material. If you leave the bill the way it is now, that will be a judgement for the courts since it has a criminal penalty attached.

166 REP. FORD: I gave Ted a copy of the postal regulations to assist him in refining it a little more.

169 REITLINGER: What I would propose to do is to go over the federal regulations and see if they define what assisting is in greater detail.

HB 3010 - SPECIFIES SIGNATURES OF ELECTOR SHALL BE COUNTED ONLY IF ELECTOR HAS NOT VOTED FOR ANY PARTISAN OFFICE AT IMMEDIATELY PRECEDING PRIMARY ELECTION - PUBLIC HEARING Witnesses: Mary Alice Ford, State Representative, District 8 Charles Stern, Yamhill County Clerk

187 MARY ALICE FORD, STATE REPRESENTATIVE, DISTRICT 8: HB 3010 is a companion bill to HB 3009 which is now SB 826. There are two Supreme Court decisions upholding what HB 3010 is trying to do. -Discusses the methods of selecting party candidates. -Individuals have wanted a second chance to get the candidate of their choice on the general election ballot. -The present process is unfair in giving some people two choices. -Describes how the present process could be used by a candidate who lost a party primary election. . . These minutes contain materials which paraphrase and/or summarize statements made durin~ this session Only text enclosed in quotation marks report a speaker's exact words For complete contents of the proceedings, please refer to the tapes House Committee on State and Federal Affain March 27, 1991- Page 8

267 CHAIR MARKHAM: Are you shutting out the independent parties? 268 REP. FORD: Absolutely not. They have the same rights, they just do not get double rights. 271 RER. OAKLEY: Would they have to all be independents who sign on to that? 277 REP. FORD: They would have to be registered as independents or not have voted in a partisan primary. 285 REP. OAKLEY: So when the county clerks are verifying signatures, they would have to check and see if the electors were registered as independents or if they voted in a party primary. 296 REP. FORD: Yes, that is the problem has arisen. The main problem with the bill as written is, if there are a lot of independent candidates running statewide, they are going to have a lot of signatures all over the state to verify. It will be an expense to the counties. 303 REP. BELL: Do you disagree with the answer that they have to be an independent to sign for an independent candidate? 307 CHARLES STERN, YAMHILL COUNTY CLERK: Under the proposed bill you could not have voted for any partisan offtice, it does not deal with how you are registered. 315 REP. BELL: When I got my name on the ballot by petition, I could only use

Republican signatures. 318 STERN: That was in the primary, we are talking about the general election. 326 REP. BELL: What about the fact we now allow independents to vote in the Republican primary? 328 REP. FORD: This bill would invalidate them from participating in another selection process. 332 REP. BELL: How hard is it, when you are verifying signatures, to find out if a person voted in a particular election? 336 STERN: There are many candidates that use this process, the bill could prove to be quite expensive. The problem is that we now have to deal with the whole petition checking system differently. Our electronic system cannot accommodate this bill. We are willing to work to try to achieve the objective, but at this point I do not have a solution to it. If that person had moved since the primary, we would have to find out what precinct he was registered in, and if he was a non-affiliated voter, did he receive a partisan ballot. We do not know if he voted for a partisan office even if he used a partisan ballot. It throws us back into this highly manual method of checking more than one source. 398 REP. FORD: One of the changes I just considered making, is making it so the Secretary of State's office would have uniform petition requirements. They would have electors sign a statement that they have not voted in a partisan election during the year.

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TAPE 77, SIDE B

009 REP. NOVICK: How many times do people use actually use this procedure to get on the ballot?

013 REP. FORD: There is someone somewhere in every general election. It mainly happens in statewide and congressional offices. I do not it is that common in legislative races.

021 STERN: It also happens in county commissioner and other local races.

026 REP. NOVICK: I am concerned we are making tougher for an independent candidate to run.

031 REP. FORD: I share your concern, but I also happen to believe in the two party system. The overriding concern is fairness in the election process.

056 VICE CHAIR SOWA: I can now recruit an independent candidate if I become disenchanted with the person who won my party's nomination in the primary, under this bill I could not.

060 REP. FORD: You could not if you voted in the primary.

HB 3008 - AUTHORIZES MEMBER OF LEGISLATIVE ASSEMBLY TO SERVE AS DELEGATES TO STATE CENTRAL COMMITTEE - PUBLIC HEARING Witnesses: Kelly Clark, State Representative, District 27 Marylin Shannon, Republican National Committeewoman

093 RANDALL JONES, COMMITTEE ADMINISTRATOR: HB 3008 kind of creates a "super delegate" to the state central committee of each party.

101 REP. NOVICK: What does that do to a quorum if you decide not to

attend? 111 REP. ROBERTS: I wonder if we are getting into an area that says state government is going to try to regulate political parties. Is that legally possible? 120 MARYLIN SHANNON, REPUBLICAN NATIONAL COMMITTEEWOMAN: Submits and summarizes written testimony (EXHIBIT E) in opposition to the measure. 174 REP. ROBERTS: I think we would be in court with this bill. 176 SHANNON: Resumes written testimony at last page. 182 REP. FORD: Mr. Deras has won a major case in the Supreme Court on election law. 207 SHANNON: The executive committee of the Oregon Republican Party voted unanimously to oppose this bill. 216 REP. NOVICK: I will check with the Democratic Party to see where they stand on this bill.

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HB 3008 - AUTHORIZES MEMBERS OF LEGISLATIVE ASSEMBLY TO SERVE AS DELEGATES TO STATE CENTRAL COMMITTEE OF MAJOR POLITICAL PARTY - WORK SESSION

222 MOTION: REP. ROBERTS moved to table HB 3008.

228 MOTION: REP. ROBERTS withdraws his earlier motion. . 230 REP. BELL: Do you believe it is unconstitutional for the government to specify one man and one woman from each precinct as committee people?

233 SHANNON: I think it is smart politics, but it is the party's decision.

252 KELLY CLARK, STATE REPRESENTATIVE, DISTRICT 27: Since you have already heard what the bill does, I would be happy to respond to questions.

267 REP. ROBERTS: If we start dictating to the parties that they will accept certain people, we are going to be in court, so I do not think it is worth the effort.

278 REP. CLARK: I am not sure at all that a court would buy the argument that this is regulating political parties within the meaning of the 1986 Supreme Court decision. I think you can make a very strong argument that this bill would strengthen the parties. The makeup of the parties is often at least one step removed from the voter. The idea behind this bill is bring a practical view of the world into the parties.

302 REP. ROBERTS: What we are seeing with the bill is the state is going to dictate to the parties whom they will accept as delegates, and they have no right to choose whether they will have them.

310 REP. NOVICK: I do not share the concern of Rep. Roberts since many of the requirements are already in the statute. There is argument that some people were not happy with what the Democratic State Central Committee did on a particular issue, and if some of the elected officials had been there as delegates, possibly it would not have happened. I do not see this as a onerous infringement on a party's ability to make choices or to have those people who represent the party as elected officials be involved in the policy making.

340 REP. CLARK: This bill is not directed at any one party. This is directed to both parties. From the standpoint of party philosophy, it makes no sense to me that someone who is not a member of the party should be able to choose who belongs to that party.

362 REP. BELL: To become a precinct committeewomen I did not have to do anything but get my name on the ballot. As an elected official I represent the Republicans in my district much more than I did as a precinct committeeperson because they had a working knowledge of whom they were voting for. We have to recognize the fact that there is more to representing the party than just being in the official organization. The people on the street are less and less able to tell what it means to be a Democrat or what it means to be a Republican because the written text of their platforms say one thing, but legislators and congressmen are doing something else.

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403 REP. ROBERTS: What it means to be in either party will never shine through. I have always been a registered Democrat, but that does not mean I am chained to the party. Simply because I have been elected as a legislator does not preclude me from running as a delegate to my party's convention. I do not think the state has the right to tell the party they have to accept me.

437 REP. CLARK: There are those out there who no longer have an idea of the differences in the two parties. I am afraid the party system as we know it is headed for irrelevance.

TAPE 78, SIDE A

040 SHANNON: Every Republican elected official in this state is automatically a delegate to our convention when we build our platform.

051 REP. CLARK: That has not always been so and there is no reason it will continue to be so.

058 REP. ROBERTS: I will not support this.

063 REP. BELL: I still have a question as to the constitutionality of the measure.

066 REP. ROBERTS: I am not a lawyer, but the Supreme Court has said the government cannot direct the parties because the parties are not a part of the government.

Submitted by: Reviewed by: Carolyn Cobb Randall Jones
Assistant Administrator

EXHIBIT LOG:

A - Amendments to HJM17 - Rep. Bill Markham - 1 page B - Testimony on HB 2711 - Randall Jones - 3 pages C - Testimony on HB 2711 - Steve Bennett - 2 pages D - Testimony on HB 2803 - Rep. John Minnis - 19 pages E - Testimony on HB 3008 - Marylin Shannon - 4 pages

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