

SENATE COMMITTEE ON JUDICIARY

TUESDAY, APRIL 6, 1971

8:30 A.M.

PRESENT:                    Senator Monroe, Chairman  
                               Senator Close  
                               Senator Foley  
                               Senator Swobe  
                               Senator Dodge  
                               Senator Wilson  
                               Senator Young

GUESTS:                    Mr. Brent Davis  
                               Deputy Legislative Counsel

Mr. Alex Coon

Mr. Keith Hendricson  
 Firefighters Association

Mr. Dick Bast  
 State Fire Marshal

Honorable Harry Reid  
 Lieutenant Governor

Assemblyman William Swackhammer

Assemblyman Zelvin Lowman

Mr. Joseph Muldoon

The meeting was called to order at 8:30 A.M. by Chairman Monroe.

The first bill considered was A.B. 464, a bill to permit use of case number in matters filed by district court clerks, or to allow the information to be placed on computers. A summary of the bill was provided by Mr. Coon. In reply to Senator Dodge's inquiry it was answered that there would be an open-to-the-public file. The case will be entered as it is filed and then open to the public. There also shall be maintained a cross file for names. Senator

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Foley inquired how the lawyers would know where the file was, and was told that they would be given a number for a particular case when it was assigned. Senator Monroe reaffirmed that this bill was only to authorize computerization. Senator Dodge made a motion that the bill be passed and Senator Young seconded. Motion Carried.

DO PASS.

The next bill for consideration was A.B. 55, a bill to charge all civil jury fees and allowances against parties.

Senator Young noted that a considerable savings had already been made by reducing the number of jurors from 12 to 8.

Mr. Coon stated that Senators Wilson and Foley had questioned whether this bill was necessary. He stated that the reduction of the number of jurors would help, however, the County Commissioners of his county felt that money was going down the drain since the county must bear the cost of paying for every juror who is called. In other words, a juror called must be paid whether or not he is used. In 1969 there were 105 jury cases both civil and criminal. There was approximately a \$525.00 cost outlay for every one. In 1970, there were 77 jury cases, at an average \$650.00 cost.

Senator Wilson questioned whether this was for both trial cases and settlement on the courthouse steps, and how much in two years was attributable to claims settled on the steps. Mr. Coon replied that he had no way of telling, but would guess 50 percent of the top line. Senator Wilson then asked if it was correct that the bill stated that in the case of settlement within 24 hours, you would have to pay the jury cost and received an affirmative reply. It was noted that one purpose of the bill was to try to cut down on the \$650 figure and noted that the county always had to bear the expense of criminal cases.

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Senator Close remarked that this expense was \$4,000 out of Washoe County's budget each year. Senator Dodge inquired as to whether as many jurors would have to be called in view of the 8 jury situation and was answered that in all likelihood, there wouldn't be.

Senator Young stated he would like to find out a little bit more about multiple settings -- weren't they setting two or three every Monday and is it not working? Mr. Coon replied that it definitely was working but that was not the point of the bill. Senator Swobe remarked that it must be working to have reduced trials from 105 to 77. Senator Close asked if two attorneys had cases set at the same time were there two panels called and was answered in the negative. Senator Wilson asked if the Calendar Judge was capable enough and was answered that he was. Senator Monroe asked if there were any further questions. At this time, the Committee decided to hold the bill for further consideration.

HOLD FOR CONSIDERATION

The next bill was A.J.R. 35, a bill to encourage Congress to enact certain franking privileges, in allowing county clerks to mail sample ballots. This bill had come on the recommendation of the National Committee of Clerks and it was noted that there was a similar bill in the U.S. Senate, under the sponsorship of Senator Packwood.

Mr. Coon stated that the States furnish paper and other incidental materials, but the U.S. government never pays a cent for any election cost. There is some sentiment that the federal government would, by allowing free postage, be contributing in some way.

Senator Dodge inquired how much this mailing process cost. Mr. Coon stated that Washoe County had spent \$700.00 to mail out sample ballots and over \$1,000 in mailing absentee ballots.

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Senator Close estimated that if it costs a Nevada county thousands, then it must cost a county of the size of Los Angeles in the millions and questioned how we could ask the Congress to appropriate this large amount of money. Mr. Coon said that now the ballots must be sent by bulk mail and the mailman could almost do with them as he pleased. However, the fact that they carried a frank might mean that they would be treated with a greater respect. In any event, it would be impossible for the counties to spend the 6 cents required to make them first class. Senator Close maintained that on balance, the state of Nevada would do themselves a disservice because of the small amount of benefit to this state.

Senator Swobe made a motion that the bill be passed. The motion carried, Senator Close being the only opposition.

DO PASS.

S.J.R. 25 was then considered. Honorable Harry Reid spoke in behalf of the measure. This bill proposes to amend the Nevada Constitution by allowing legislature to establish intermediate appellate courts and by including judges of such courts within impeachment powers of legislature. Lt. Governor Reid maintained that it was best to approach the problem while it was small. We must look at other states and at the problems they have. The Supreme Court should be the last court of appeal and should not be writing single man opinions, but should be a collective body. We are getting away from what the Supreme Court was supposed to be. There exists presently an automatic appeal. Lt. Governor Reid feels that S.J.R. 23, passed last session, will not handle the situation. It will allow an increase in the number of members of the Supreme Court, but does not solve the problem. He feels there should be

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an intermediate court, maybe one in Las Vegas and one in Reno, and they would handle the cases which simply were not worthy of the time of the Supreme Court. Everyone should be aware of the need for a speedy trial. Another point was the need for lawyers to travel to Carson City constantly. Senator Dodge questioned whether there was not sufficient freedom in S.J.R. 23, and quoted from the bill. The witness said he was aware of the bill, but did not solve the problem. He felt that even rather than to raise the Justice number to nine and say there were special cases which could be heard in Las Vegas, the intermediate court would serve a better purpose. Senator Dodge pointed out that the splitting of various court structures was opposed by the Judicature Society. The witness then stated he felt he had not been clear and that he felt the Supreme Court should be sitting on cases of extraordinary merit and not hearing everything that came along. It takes almost a year now and if an intermediate court were in existence, it would speed things up by months. Senator Foley stated that you could look at Federal Circuit Court of Appeals and note that, for instance in the Sixth, some live in Los Angeles, Some in Seattle and they hear cases in groups of three. If we increase the Supreme Court here, they will all live in Carson City and no one would be in Clark County. Senator Dodge guessed that you would have judges living in Las Vegas if they met for nine months of the year. Lt. Governor Reid stated that, for the purpose of argument, we should have an intermediate court of appeal, maybe not now, but at some point, say five years, in the future, and that we might not be able to return and establish one then. Senator Dodge agreed to this point. Senator Dodge, however, stated that it would be unrealistic to compare 500,000 people to the state of California and that he didn't think the state would have over 1,000,000 in 20 years.

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The witness stated that such an intermediate court was now in effect in approximately 25 states and that they were not the most populous ones.

Senator Young stated that he was concerned over the slowness in criminal appeals and that to allow a case to drag along for a year or more created a disrespect for the judiciary. Senator Dodge remarked that if this was true, the Senate had made a mistake by not incorporating that into S.J.R. 23, and again stated that the Judiciary Society was much opposed to the intermediate court. At this point the witness stated that he himself had never joined this Society and had waited six years before joining the National Bar.

Senator Close questioned how many judges the witness anticipated. He replied just three sitting for Las Vegas for maybe three weeks out of the month and one week in Washoe or a similar situation. Possibly, there could be just Clark County judges there and just Washoe judges here.

The witness stated that he believed within the next two years the Bar Association should be required to present their suggestions on the bill.

Senator Foley moved that the bill be passed, Senator Young Seconded the motion. Carried.

DO PASS

S.B. 622, which penalizes interference with firemen at all fires and emergencies.

Mr. Keith Hendricson and Dick Bast appeared on behalf of the bill. It was noted that the bill came about as a result of fire department employees being ordered off property of a casino at Lake Tahoe

and the realization that they had no authority in the situation. The situation in question had to do with a bomb threat and not a fire as such. Senator Dodge pointed out that, assuming the people were evacuated, if the owner wanted the building to blow up -- why not? However, the witnesses stated that they couldn't evacuate. Senator Wilson stated he did not feel it was the owner's responsibility to decide the fate of patrons.. The witnesses stated that there were also other occasions such as automobile accidents, etc. where a fire department personnel was first on the scene and there should be some authority given to them in the situation. Senator Dodge inquired if a policeman would have the authority and was answered that it was a chain of command and the fire department has no authority, but the law is not clear on who is going to go in and search for bombs. Senator Young seemed to feel there was a problem with the language as it stated "primary responsibility" the primary isn't defined. The witness stated that this was only one solution to the problem and if the Committee had any other suggestions, they would be taken.

Senator Monroe announced that the bill would be amended by striking the word primary on line 10 and in Section 1 on line 3, changing the wording to peace officer and then it was moved that the bill be passed as so amended. Carried.

DO PASS

Next Bill is A.B. 138, which gives public administrators additional duties in certain counties, as regards the administration of an estate. Mr. Joe Muldoon testified in favor of the bill and stated that in some places, this is just a way of making money and all the bill states is that proper notification of death occur. Senator Dodge wondered if such were not the law now to which the

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witness replies it was not. Senator Young moved that the bill be passed and Senator Foley seconded the motion.

DO PASS

Next on the business was A.B. 34, an act relating to elections in Carson City; enlarging the times for opening and closing the polls. No objections were found to the bill and Senator Foley moved that it be passed. Motion carried.

DO PASS

Next was A.B. 173, to authorize commissioner for veterans affairs to retain guardianship of estate of minor child of deceased veteran until such child reaches age of 21 years.

Senator Dodge stated that he was somewhat familiar with this measure and that there is presently authority over male minor children but not unmarried minor females. Senator Wilson stated that the bill would be of benefit to the minor as she would then qualify for benefits until 21 years of age.

Senator Foley moved to pass the measure and Senator Wilson seconded. Motion carried.

DO PASS

The next bill is S.B. 300, which requires arbitration of civil actions in certain motor vehicle accident cases.

Senator Dodge noted that a Department of Transportation study said that the average economic loss in America is between 2,000 and \$2,700, and moved that the Committee amend the bill to read \$3,000 and pass. Young stated that he didn't think it would work, but had no objections, and asked if it was voluntary. Senator Dodge asked



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if three abritrators were required. Senator Wilson mentioned last time the issue was discussed and may have been decided on one instead of three. Senator Dodge asked if one arbitrator could be mutually selected since that is what parties do at the present time with the third man as a swing. Senator Dodge suggested that the bill be amended to read more than \$300. Senator Dodge moved for amendment and passage and Senator Foley seconded. Carried.

AMEND AND DO PASS.

A. B. 511, which clarifies police power of Nevada gaming commission and state gaming control board. The only question which arose on this measure was Chairman Monroe's inquiry as to whether amendment was necessary with regard to retirement. However, it was decided that the persons affected by the bill were already covered. Senator Dodge moved to pass and Senator Young seconded.

DO PASS

A. B. 245, which requires medical insurance policy before action may be brought under guest statutes. It was decided that this bill needed further consideration and would be taken up at an evening session.

A. B. 354, providing for a revised set up on District Courts. It was decided to take up this bill at the meeting scheduled for evening.

S. B. 626. Senator Foley announced that he had introduced this bill on request and that it would give the court power of fining a juvenile up to \$500.00. It was prompted by a bomb scare and the

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considerable costs to departments responding to the call. Senator Dodge noted that if the cost is given to the youth and not always to the parent, it might have a good impact. Senator Foley made a motion that the measure be passed and Senator Wilson seconded. Motion carried.

DO PASS

A. B. 478, Makes a technical amendment to the Uniform Commercial Code. It was decided that this was only a change in wording and Senator Wilson moved it be passed. Senator Swobe seconded.

DO PASS

A. B. 491, provides for expungement of certain criminal records.

Senator Wilson questioned if there had been testimony on the bill and suggested that someone from the Assembly be called to further discuss the bill. Senator Foley noted that the measure would give persons with a record some relief from others in the community looking over the record. It was decided that testimony was needed.

HOLD FOR CONSIDERATION

A. B. 792, which requires the governor to issue election certificates to Legislators. Chairman Monroe stated that he saw no reason for it not to be passed as all it did was to put the responsibility on the Governor. Senator Young moved it be passed and Senator Monroe seconded.

DO PASS

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A. B. 109, permits station house release of certain prisoners and prohibits professional bondsmen from giving bail to certain persons already on bail.

Assemblyman Swackhamer appeared in behalf of the bill and stated that it prevented people on bail to be released again; it was patterned after the method used by the City of Los Angeles. It was noted that the same percentage of people showed up and that it is left up to police officials as to whether to deny release. Senator Close stated that the difference now is that release is by judge and under bill, release is by police department. Witness stated that it would also only be in effect for misdemeanor and for the first offense. Senator Foley moved the bill be passed and Senator Swobe seconded.

DO PAS S

A. B. 381, permits gaming licensees to question and detain suspected cheaters. Assemblyman Swackhamer stated that this bill was based on the shoplifting statute passed a few years ago and gives the same privilege to gaming operators. Senator Swobe moved that the bill be adopted. Senator Foley seconded.

DO PASS

A. B. 422, to rectify abuses on auto storage. Senator Foley asked if there had been testimony on the bill. He stated that he also had some knowledge of situations such as this from a law case and felt that the industry involved should be notified and asked to testify. Senator Monroe noted that the bill provided for obtaining the consent of the owner. The Counsel read that the limit is now 40 days before the car is sold. There must be advertisement for

demand of payment and 10 days later start publication and then the sale is held 15 days after the first publication. The witness stated that some industry people did appear before the Assembly Judiciary Committee and were not entirely enthusiastic about it. Senator Foley restated that he would like to hear more about it. Senator Dodge noted that he believed 90 days would certainly be a sufficient limit. Senator Close checked with the Statutes and quoted that a \$300.00 limit now exists on cars and anything over that gives a second lien. It was agreed that some one familiar with the bill from the Assembly would discuss this further with the Committee.

HELD FOR FURTHER CONSIDERATION

A. B. 652, requires Lander County district attorney to serve as an ex officio public administrator. It was noted that this bill was supported by the attorneys in the area concerned. Senator Young moved that it be passed and Senator Foley seconded.

DO PASS

A. B. 165, increases penalty for interfering with peaceful conduct of activities in public buildings.

~~Assemblyman~~ Zelvin Lowman spoke on behalf of the measure. He stated that since its introduction it had been amended to include college campus areas and the Park Service had asked to be included. It would give peace officers some leverage on situations of violent protest. The bill now covers all public buildings and public grounds Senator Young asked if there were any comparable bills in other areas and Lowman answered that the Mayor of Cleveland asked and received similar legislation. Senator Close brought up a question concerning the 72 hour limit. Senator Young felt there might be some confusion as to reentry and subsequent multiple charges. The witness stated

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that he would have no objection to changing that portion of the bill. Senator Monroe suggested leaving in the bill "if any person fails to leave then his failure is unlawful" and take out any reference to re-entry. Senator Young stated he was concerned about the statement of "felony" as someone could be told by several different officers on the same occasion to leave and thus be guilty of several crimes. The witness said he was aiming at the repeated offender with the bill. A full panel discussion ensued at this point concerning the three time offense. Senator Young then questioned the term "proper official" and the witness answered that it was anyone in charge in a particular area, Counsel noted that in advising the school boards, he had suggested making a note in the minutes of their meeting that any school official would be a "proper official." It was decided to hold this measure for further action.

HOLD

A. B. 217, Provides a bail hearing for offenses committed while on bail. This bill corresponds to S.B. 294, and would require the appearance of a repeated offender the next day and have a hearing on the setting of bail. Senator Foley stated he believed the Senate bill might be better since it required a second judicial date. Assemblyman Lowman stated that that the Assembly bill had been amended in Committee to require the 2nd judicial date. Senator Close suggested that the bill be amended on page 1, line 18, to read "released on bail, on his own recognizance. Senator Close moved that the bill be amended and passed and Senator Foley seconded. Motion carried.

AMEND AND DO PASS

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The next bill considered was A.B. 661, prohibiting election-eering on polling place properties and within 100 feet of polling place boundaries. Senator Monroe stated he did not believe the bill would be impractical as in certain areas voting is conducted in a large field or showground and this would prohibit any signs on the entire property. Senator Young moved that the bill be killed. Senator Foley seconded. Motion carried.

BILL KILLED

The Committee was adjourned by Chairman Monroe at 11:05 A.M.

Minutes taken by Lee Lowrance  
in the absence of Eileen Wynkoop