

JUDICIARY COMMITTEE
57th NEVADA ASSEMBLY SESSION

MINUTES

February 14, 1973

The meeting was called to order by Mr. Keith Hayes, Chairman, at 2:15PM. The Chair declared a quorum present.

MEMBERS PRESENT: MESSRS: HAYES, BARENGO, TORVINEN, FRY, AND LOWMAN.

MEMBERS ABSENT: Mr. Glover, Mr. Hickey, and Ms. Foote. [excused]

Guests Present: Captain Richard J. Bortolin, Nevada National Guard;
Major General Floyd Edsall, Nevada Military Department;

A.B. No. 168 SUMMARY-Grants immunity from suit to certain persons while conducting military courts.

Mr. Bortolin spoke first giving some history of the laws of the militia stating that in recent years there had been several changes which necessitated putting the Nevada Militia Laws in conjunction with the Manual for Courts Martial of 1969. Most of the law changes to be considered today are an attempt to put these laws in conformity with the Uniform Code of Military Justice.

The necessity of AB 168 is to avoid having a member of a military court excused for civil action etc. Mr. Torvinen said that the word "maintained" was troublesome to him since that might be interpreted to mean that any court action would have to be dropped entirely.

Mr. Lowman moved to recommend DO PASS AS AMENDED, Mr. Barengo seconded.
MOTION CARRIED.

A.B. No. 169 SUMMARY-Makes Nevada National Guard members and employees exempt under waiver of sovereign immunity. (BDR 3-92)

Mr. Bortolin explained that prior to 1970 all claims were paid by the Federal Government, since that time they are taking the position that the state must pay the claim because they have waived immunity. However there has been found no statutory authority to support this stand. There are presently four claims before the courts to establish responsibility.

Mr. Torvinen moved to recommend DO PASS, MR. Lowman seconded.
MOTION CARRIED.

A.B. No. 170 SUMMARY-Makes assault on member of Nevada National Guard a felony.

After reading through this bill the concensus of the Committee was that it was similar to AB 34 dealing with peace officers. Mr. Bortolin went

over AB 34 with the Committee and felt that conforming AB 170 would be satisfactory. Mr. Torvinen felt that the National Guard should not be treated differently than policemen.

Mr. Lowman moved to recommend DO PASS as amended to conform to AB 34, Mr. Fry seconded.
MOTION CARRIED.

AB No. 171 SUMMARY-Reorganizes military court system in accordance with the Uniform Code of Military Justice. (BDR 36-90)

Mr. Bortolin explained that this was merely a procedural change for conformity.

Mr. Barengo moved to recommend DO PASS, Mr. Torvinen seconded.
MOTION CARRIED.

A.B. No. 173 SUMMARY-Makes certain changes in the qualifications for counsel at courts-martial under the Nevada Code for Military Justice. (BDR 36-95)

Mr. Bortolin told the Committee that this bill attempted to eliminate any bias against the accused and also making it necessary for Counsel to be licensed to practice law in the State of Nevada.

Mr. Lowman moved to recommend DO PASS, Mr. Barengo seconded.

A.B. No. 174 SUMMARY-Provides the procedure for the arrest and detention of members of the Nevada National Guard. (BDR 36-91)

Mr. Bortolin stated that there have been no problems in this area to the present date, but that preparedness was the concern.

Mr. Lowman inquired regarding the wording "the" commanding officer in Section 1 Line 19. He felt that this might be misinterpreted, and that "the" should be changed to "any". Another portion of the bill subject to deletion should possible be re-worded.

Mr. Hayes asked that Mr. Lowman go with Mr. Bortolin after the Committee meeting to the Legislative Counsel Bureau for possible amendments and re-wording.

A.B. No. 185 SUMMARY-Makes it a misdemeanor to trespass upon a military armory or to interfere with a national guardsman. (BDR 36-88)

Mr. Fry felt that the bill covered too broad an area. Nothing is in the bill stating that notice had to be posted. In referring to the NRS he found that 207.200 NRS covered interference and trespass. NRS 203.119 seemed to be more complete however, but would also effect the same intent. This bill was tabled for further consideration to determine if possible duplicity might exist.

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A.B. No. 215 SUMMARY-Provides accused national guardsman with the right to counsel upon interrogation. (BDR 36-96)

Mr. Bortolin explained that this makes the Miranda rule statutory as spelled out in the Uniform Code of Military Justice.

Mr. Fry moved to recommend DO PASS, Mr. Lowman seconded.
MOTION CARRIED.

There was some general discussion of AB 112 and Mr. Hayes set it for Committee consideration on February 27 at the regular meeting.

Mr. Lowman moved the meeting adjourn. Motion Carried. 3:15 PM.

ASSEMBLY

AGENDA FOR COMMITTEE ON JUDICIARY

Date Feb. 14 '73 Time 2:00 PM Room 240

Bills or Resolutions
to be considered

Subject

Counsel
requested*

THIS AGENDA SUPERSEDES PRIOR AGENDA FOR 2-14-73

AB 168

SUMMARY—Grants immunity from suit to certain persons while conducting military courts. Fiscal Note: No. (BDR 36-94)

AB 169

SUMMARY—Makes Nevada National Guard members and employees exempt under waiver of sovereign immunity. Fiscal Note: No. (BDR 3-92)

AB 170

SUMMARY—Makes assault on member of Nevada National Guard a felony. Fiscal Note: No. (BDR 36-89)

AB 171

SUMMARY—Reorganizes military court system in accordance with the Uniform Code of Military Justice. Fiscal Note: No. (BDR 36-90)

AB 173

SUMMARY—Makes certain changes in the qualifications for counsel at courts-martial under the Nevada Code for Military Justice. Fiscal Note: No. (BDR 36-95)

AB 174

SUMMARY—Provides the procedure for the arrest and detention of members of the Nevada National Guard. Fiscal Note: No. (BDR 36-91)

AB 185

SUMMARY—Makes it a misdemeanor to trespass upon a military armory or to interfere with a national guardsman. Fiscal Note: No. (BDR 36-88)

AB 215

SUMMARY—Provides accused national guardsman with the right to counsel upon interrogation. Fiscal Note: No. (BDR 36-96)

*Please do not ask for counsel unless necessary.

HEARINGS PENDING

Date Feb. 22 '73 Time 8:00 AM Room 234 JOINT HEARING WITH WAYS & MEANS
Subject AB-32 SUMMARY-AUTHORIZES WORK RELEASE PROGRAM FOR STATE PRISONERS

Date _____ Time _____ Room _____
Subject _____