

SENATE JUDICIARY COMMITTEE

MINUTES OF MEETING HELD

12th DAY OF FEBRUARY, 1973

The meeting was called to order at 9:35 a.m. Senator Close in the Chair.

PRESENT: Senator Foley
 Senator Bryan
 Senator Dodge
 Senator Hecht
 Senator Swobe
 Senator Wilson
 Mr. Frank Daykin, Legislative Council Bureau
 Mr. Eric Cronkhite, State Parks Administrator
 Mr. Dave Neasham, Supervisor, State Parks
 Division
 Mr. Gene Coughlin, Nevada State Prison
 Lt. Wiley Peebles, Nevada State Prison
 Mr. A. A. Campos, Parole and Probation Dept.

S.B. 151 - Provides penalty for violation of State Park System regulations.

Chairman Close asked Mr. Daykin the effect of allowing the violation of rules and regulations of an agency to be misdemeanor when the statute might prescribe a higher penalty for the same act. Mr. Daykin replied that making the violation of a regulation a misdemeanor would not effect any other penalty provided by statute, the D. A. could prosecute under other penalty, depending on the gravity of the offense.

Senator Dodge questioned the delegation of authority to create misdemeanors and asked if it would be better to spell out the areas of concern in the statutes. Mr. Daykin replied that the committee should give the administrative officer sufficient guidelines so he is not operating of his own free will, but operating under the standards prescribed by the legislature. There would be no problem if each prohibited act was spelled out in the statutes, but the legislature could not anticipate all of the problems covered by the rules and regulations as they now stand or as they may need to be adopted, amended or rescinded.

Mr. Cronkhite and Mr. Neasham both replied that an offense committed in the park is usually not as serious and should carry a lesser offense than those provided for the same type of offense in NRS. Several members of the committee stated the rules and regulations were too vague and ambiguous. Mr. Neasham stated that

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another bill is being drafted which would incorporate into the statutes many of the rules and regulations now existing. He said that the Department had lost three cases because a penalty for violation of the rules and regulations was not spelled out in the Nevada Revised Statutes.

After reading a copy of the rules and regulations distributed to the committee by Mr. Cronkhite, Senator Wilson suggested that the penalty for violation of the rules and regulations be separated into two categories: the violation of rules such as destruction of property where the offense is evident; and failure or refusal to comply with a request of a park ranger.

The committee will consider this bill further when the other bill previously referred to comes before the committee.

S.J.R. 5 - Proposes constitutional amendment to prohibit release of accused murderer on bail.

Senator Dodge asked Mr. Daykin if there would be any problem in light of the recent Supreme Court decision of precluding all persons charged with murder from bail. Mr. Daykin replied that he didn't feel that banning bail on specified offenses is precluded by the 8th amendment.

Senator Wilson pointed out that this amendment would also deny bail to those persons charged with offenses which carry terms of imprisonment for life. Mr. Daykin replied that this carries forward the existing language of the constitution. The Supreme Court had intimated that capital offenses include not only those offenses punishable by death, but those offenses where mandatory life imprisonment is imposed as an alternative.

Senator Wilson then asked Mr. Daykin his opinion of the constitutionality of a provision for a separate bail hearing where the district attorney would make a factual showing of circumstances proving that bail should be denied because the accused would be apt to commit another crime were he released on bail. Wilson felt that murder is not one of the crimes which are repeated and warrant denial of bail. The repeated crimes are usually drug related and are burglary, robbery, mugging, etc. Mr. Daykin replied that it could be constitutional if it were done by an amendment to the state constitution. The committee then asked Mr. Daykin to draft a bill for the committees consideration.

S.B. 148 - Redefines peace officer power of State
Prison Personnel

Chairman Close asked Mr. Daykin if the proposed amendment to Section 209.133 would include the non-uniformed personnel at the prison in the early retirement system. Mr. Daykin replied that Section 286.060 defines peace officers at the prison for the purpose of the retirement system as "guards" and therefore would preclude non-uniformed personnel from the retirement system by implication.

S.B. 149 - Requires report to be submitted to Warden
of state prison of certain facts concerning
prisoners transferred to State Prison.

Gene Coughlin testified that this bill would require sheriffs to notify the state prison of any factors considered out of the ordinary while a prisoner was in jail. He stated that upon receipt of a new inmate, they have no way of telling if the prisoner is suffering from medical or physical disabilities, or if he has a violence potential. Some jails cooperate in relaying this information, some do not.

Lt. Peebles testified that the state prison has provided forms and distributed them to the jails throughout the state. The only jail in the state which has cooperated is the Clark County jail.

S.B. 150 - Provides flexibility in forfeiture of
good behavior credits of prisoners in
State Prison.

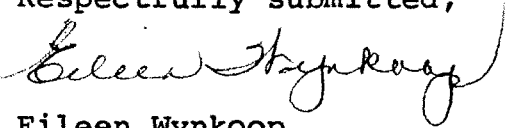
Mr. Coughlin testified that they need to have flexibility in forfeiting good behavior credits of convicts at the Nevada State Prison. There have been cases where two inmates might be involved in the same offense and one inmate might have only six days worth of credit and the other eighteen months, yet both inmates have their credits revoked. At the present time the statute has not been strictly followed. The bill would permit flexibility within the prison system.

Chairman Close and several members of the committee argued that they have that flexibility now, since the present law enables the parole board to restore the credits and allows them to only forfeit

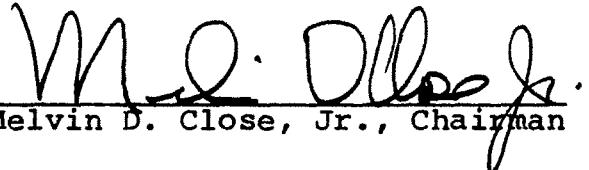
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part of the credits.

The meeting adjourned at 11:00 a.m.

Respectfully submitted,

Eileen Wynkoop
Secretary

APPROVED:


Melvin D. Close, Jr., Chairman