

SENATE JUDICIARY COMMITTEE

MINUTES OF MEETING HELD

14th DAY OF FEBRUARY, 1973

The meeting was called to order at 10:05 a.m. Senator Close in the Chair.

- PRESENT:
- Senator Foley
 - Senator Bryan
 - Senator Dodge
 - Senator Hecht
 - Senator Swobe
 - Senator Wilson
 - Mr. Frank Daykin, Legislative Counsel Bureau
 - Mr. Stan Jones, Nevada State Labor Commissioner
 - Mr. Neil Humphrey, Chancellor, University of Nevada
 - Mr. A. A. Campos, Parole and Probation Dept.
 - Mr. James Gerown, Parole and Probation Dept.

A.B. 14 - Provides procedures for issuance and enforcement of legislative subpoenas.

Chairman Close asked Mr. Daykin how the contempt proceedings are handled on the federal level. Mr. Daykin replied that Congress does not directly punish for contempt, but turns the matter over to a D.A. for prosecution under the criminal statutes. The courts have held that there is no express warrant in the federal constitution for Congress to act on contempt except with regard to its own members. He said there is no great relevance to the state's situation since the state constitution authorizes punishment for non-members and the United States Supreme Court has never held that the state legislatures did not possess the power either inherently or by state constitution.

Upon further questioning, Mr. Daykin stated that the statute could be worded quite specifically to exempt the Governor and his immediate staff, the Lieutenant Governor, and the Supreme Court and District Courts.

Chairman Close asked Mr. Daykin what procedures could be followed for a person who refuses to comply with the subpoena and is taken to court after the legislature adjourns. Mr. Daykin replied that the power to punish for contempt expires at the conclusion of the session. To reach that situation, the legislature would have to make it a public offense to fail to respond to a subpoena.

S.J.R. 1 - Ratifies Proposed constitutional amendment
relative to equal rights for men and women.

Mr. Stan Jones appeared before the committee to enlarge on his testimony of February 6th that without companion legislation, the Equal Rights Amendment would forfeit by default all the protective legislation passed thus far. In particular, the anti-wage discrimination provision of 1969 and the Equal Opportunity Employment Act of 1967. He felt that these laws are sufficient to guarantee equal pay for equal work and equal opportunities without regard to sex, as they are now without passage of S.J.R. 1. The Commission has used the language of those acts to equalize wages paid males and females, and to make entries into occupations where females alleged they were discriminated against. He stated that the primary areas of wage discrimination were found in the service trades (waiters, waitresses, cooks) and office workers.

Mr. Jones testified that the Labor Commission sought an opinion from the Attorney General's office in 1967 as to whether the protective labor laws enacted in 1967 could be applicable to male employees. The Attorney General's opinion stated that the legislature had intended application only to females and males could not avail themselves of that legislation. More recently, the Justice Department requested the State to enter into a consent stipulation that the laws which were exclusively for females (Chapter 609) were discriminatory and as such unenforceable by the Department of Labor. The Department construed that to mean that they delete those laws or make them applicable to both men and women.

Senator Wilson questioned Mr. Jones if, notwithstanding the failure of S.J.R. 1, the legislature would still have the problem of passing remedial legislation to implement protective labor laws for both males and females because the Justice Department held the present laws unenforceable. Mr. Jones replied that S.J.R. 1 would provide ~~the Justice Department~~ with additional impetus. At the present time they are asking for a consent stipulation, but with the passage of S.J.R. 1, they would be telling instead of asking.

Senator Bryan asked Mr. Jones if the Department of Labor is prepared, at this time, to recommend which protective laws for females ~~should~~ be abolished and which should be made applicable to males and females. Mr. Jones replied that a bill has been drafted that would accomplish this.

Chairman Close then asked Mr. Neil Humphrey to testify to the correctness of the testimony of Equal Rights Amendment advocates concerning the discrimination in educational institutions. Mr. Humphrey stated that the Universities' admission requirements were published in a booklet distributed to all legislators and are the same for both men and women. He stated that the University is compiling figures which should determine the ratios of men to women in graduate work and in administrative positions. When asked if he knew of any discrimination taking place at the Universities, he replied that he did not. He did state that in one department where they have major graduate work and cannot accept all applicants, they have to be selective in making determination of which students they will admit. However, there is no sexual discrimination, or any other kind of discrimination, except intellectual discrimination.

Mr. Campos asked to speak on this bill. He stated that in passing this resolution, the legislature could never predict how the courts are going to interpret the amendment five or ten years from now. He felt that they would interpret them literally. He was concerned since he is personally libel for a civil suit even if he is enforcing a state law if the federal law holds it discriminatory.

S.B. 227 - Applies perjury sanctions to parole revocation hearings and provides a penalty.

Mr. Campos testified that the law now provides for such perjury sanctions for anyone who does swear or take an oath at parole hearings. However, the courts differentiate between parole hearings and parole revocation hearings. This bill would make the perjury sanctions applicable to parole revocation hearings.

Senator Dodge moved "DO PASS." Seconded by Senator Bryan. Motion carried.

S. B. 228 - Provides executive secretary to serve jointly state board of pardons commissioners and state board of parole commissioners.

This bill was a result of a Personnel Department study requested by Mr. Campos. The Governor's office and the Budget Department have both approved the new position, and the budget for the Parole and Probation Department does include this new position.

The new position was required since Mr. Campos was spending about 60 percent of his time working as secretary instead of working with prisoners.

Senator Wilson felt that the bill was building in qualifications which were too high for the position and suggested striking lines 23 and 24 which required an applicant to have at least five years experience in Nevada law pertaining to parole and probation.

Senator Bryan moved to amend and "DO PASS" with a recommendation to re-refer to Finance Committee. Motion seconded and carried.

S.B. 229 - Requires scheduling of rehearing if parole is denied.


Mr. Campos testified that several inmates have been challenging the board's authority to set a rehearing date when their parole is denied. They feel that once they reach parole eligibility, they should be able to appear before the board every time they meet, which is every six months. Since the statutes do not give the board the specific authority to set a rehearing date at their discretion, this bill was requested.

Senator Dodge asked Mr. Campos if the provision of five years as the maximum time between hearings wasn't a little long. Mr. Campos said he had requested a three year provision and could not understand why it was changed to five years. He suggested it be amended to three years.

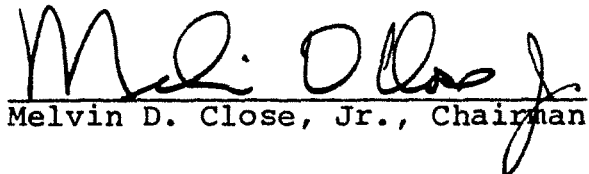
Senator Dodge moved to amend and "DO PASS." Senator Swobe seconded. Motion carried.

The meeting was adjourned at 11:00 a.m.

Respectfully submitted,


Eileen Wynkoop
Secretary

APPROVED:


Melvin D. Close, Jr., Chairman