

SENATE JUDICIARY COMMITTEE

MINUTES OF MEETING HELD

48

9th DAY OF FEBRUARY, 1973

The meeting was called to order at 9:32 a.m. Senator Close in the chair.

PRESENT: Senator Foley
Senator Bryan
Senator Dodge
Senator Hecht
Senator Swobe
Senator Wilson
Mr. Eric Cronkite, State Parks Administrator
Mr. Dave Neasham, Supervisor, State Parks Div.
Senator Helen Herr
Assemblyman Corky Lingenfelter
Mr. A. A. Campos, Parole & Probation Department
Mr. Gene Coughlin, Nevada State Prison
Lt. Wiley Peebles, Nevada State Prison

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

Mr. Cronkite testified that the Parks Department has the authority to make rules and regulations governing State Parks and revise them from time to time. However, there are no penalties set out under these regulations. When on occasion they have tried to prosecute for violation of these rules and regulations, the court has held that since there are no penalties set in the statutes, the case be dismissed. He distributed copies of the rules and regulations to the committee and remarked that these rules and regulations are posted in the parks and available to visitors.

Senator Dodge remarked that it is highly unusual for the legislature to set penalties for violation of rules and regulations. He felt it would be better to incorporate into the state law those rules and regulations covering an offense which is not otherwise covered under the present law, and these should be approved by the State Park Commission. He pointed out that several of the proposed penalties are in conflict with our present penalties under the statutes.

Mr. Cronkite mentioned that another bill is being drafted which would incorporate into the statutes those rules and regulations which are not currently in the law.

S.B. 57 -- Eliminates need for custodian of public records to use presented copies in preparing certifications.

Mr. Corky Lingenfelter testified in behalf of the Land Title Association. They have no objections to this bill.

S.B. 58 - Eliminates requirement for county recorders to index name of trustee in deed of trust or reconveyance.

Mr. Lingenfelter stated that he never knew there was an index for trustees, and in checking it out, found no need for it. Senator Foley asked if there would be any problems arising from the fact that this bill would eliminate the trustee from the chain of title. Mr. Lingenfelter replied that he had discussed this with title insurance companies and they felt there was no problems.

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

Senator Herr testified that she requested this bill and S.B.139 (discussion follows) because she is getting tired of the crime rate going up every day and has adopted an attitude of getting tough on crime. She felt it is wrong for a person who commits murder to get out on bail.

Senator Dodge remarked that there could be a constitutional problem with this bill in light of the 8th Amendment. Senator Wilson asked the committee if they had any appetite for a bill which would allow for an additional trial to determine if the accused were of such character or involved with drugs, that he would be apt to commit another crime were he released on bail. Upon a hearing and presentation of evidence, the court would conclude he be denied bail, not because of the risk that he would not show up for trial, but because he is apt to commit another crime while out on bail. Senator Herr and the other members of the committee were in full agreement.

S.B. 139 - Eliminates possibility of parole for certain sentences of life imprisonment.

Senator Herr testified that she doesn't like the idea of a person convicted of murder who gets life imprisonment, being eligible for parole in 6 or 7 years. She felt that if they are put away for a vicious crime, they should not be given the possibility of parole.

Mr. Campos asked to speak to this bill. He stated that he shares Senator Herr's concern and has submitted legislation which would increase penalties in most of these areas. He was not sure that this bill gets to the real problem that exists. They (Parole and Probation) are not overly concerned about criminals being paroled who were sentenced for murder in the first degree because in the last five years only 2 persons were paroled who were serving time for murder 1st. The parole provision for murder 1st does tend to help balance justice. Juries bring back verdicts and don't always make the most equitable judgments regarding 1st or 2nd degrees, and set the penalties in light of community feelings.

In cases of murder 2nd, kidnapping or rape, the problem is that there is ample sentencing, but the courts do not use the sentences that are available. In 1967, 67% of those sentenced to murder 2nd have expired their sentences before parole eligibility has begun. Of those sentenced for rape, 75% have been released prior to being eligible for parole, even though life sentences are available. Legislation is being considered that would increase the minimum penalty that the court could impose. He was not speaking against the intent of the bill, but suggested it might be better to consider this bill in conjunction with other bills which he requested.

Senator Dodge asked Mr. Campos how he felt the determinate sentencing system was working. Mr. Campos replied that the judges do not like it. He felt that it is not allowing the system to do with these people what needs to be done. Supervision in the community is the key part of rehabilitation and public protection. It is impossible for the court to know at what period the prisoner should be released from prison, yet the burden is placed on the court under determinate sentencing.

Senator Bryan asked Mr. Campos if he prefers indeterminate sentencing in terms of giving him the necessary tools to control parolees. Mr. Campos replied that in that point of view, yes.

Senator Wilson explained that another bill will be introduced that would allow the judge to set the sentence, but would allow parole jurisdiction for the maximum sentence for that crime. It would be limited to the crimes of violence which the committee is concerned with.

S.B. 147 - Enlarges class of persons who may be sentenced to concurrent terms of imprisonment.

The committee reviewed the criteria for the suggested amendments as discussed on February 8th.

The problem of whether to extend this to cover a previous sentence in another state was again brought up. Mr. Campos felt the committee should leave that section the way it is, providing for concurrent sentencing.

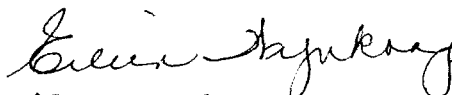
S.B. 148 - Redefines peace officer powers of State
Prison personnel.

Mr. Coughlin testified that this bill was requested to conform 209.133, which refers to the powers of the peace officers in the prison, to 169.125 #15 which defines peace officer in the prison. The problem is that under 209.133 the non-uniformed guards are not spelled out as peace officers. This bill would allow them to act as peace officers when directed by the warden. Senator Close objected that this would allow the warden to appoint them as peace officers for the entire term of employment by virtue of the last line of the bill which states "and the general exercise of control over prisoners within or outside the confines of the state prison." Senator Dodge stated concern over whether this would permit an expansion of the peace officers covered under the early retirement provisions.

Minutes of the February 5th and February 7th and February 8th meetings were approved.

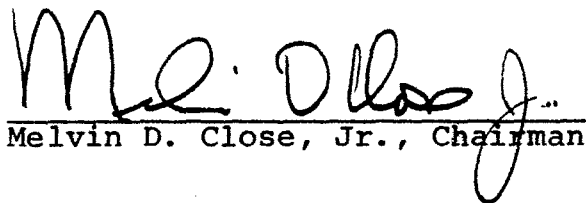
The meeting was adjourned at 11:00 a.m.

Respectfully submitted,



Eileen Wynkoop
Secretary

APPROVED:


Melvin D. Close, Jr., Chairman