

SENATE JUDICIARY COMMITTEE

MINUTES OF MEETING HELD

1st DAY OF MARCH, 1973

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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

S.J.R. 13 - Proposes constitutional amendment to make certain elective offices appointive.

Senator Swobe moved that no action be taken on this resolution. Motion seconded by Senator Hecht. Motion carried.

S.J.R. 14 - Proposes constitutional amendment to allow Legislature to create subdistricts within certain judicial districts for election of individual judges.

Senator Swobed moved that no action be taken on this bill. Motion seconded by Senator Hecht. Motion carried.

S.B. 159 - Creates the crime of careless driving.

On Senator Bryan's motion to take no action on this bill, Senator Dodge remarked that further consideration should be given to the fact that, right or wrong, Reno, Las Vegas, and some of the other larger municipalities already have ordinances for careless driving which are being honored. Without some type of citation to issue short of reckless driving, the patrolman is faced with the determination of whether to cite for reckless driving or nothing. There is a 6 point demerit for careless driving and an 8 point for reckless driving. The Motor Vehicle Department has agreed to lower the demerit for careless driving to 4 points if this bill passes.

Senator Wilson stated that what bothers him about this bill is the fact that outside the city limits, careless driving would be a criminal misdemeanor, while under local ordinances it would just be a traffic violation. It would in effect make negligence a crime. What is really needed is some system of state traffic violations where criminal sanctions need not be imposed in order to have jurisdiction.

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Senator Bryan remarked that he didn't believe every act of negligence ought to involve criminal law. His experience has been that whenever there is an accident somebody has to be cited, and that is not always proper. With this kind of legislation, every time there is a one car accident, the driver would have a careless driving count against him.

The committee agreed to hear further testimony from the Nevada Highway Patrol.

S.B. 168 - Increases terms of justices of peace to 4 years.

Senator Foley remarked that in order to get qualified people, 4 year terms make good sense. It would make the position more attractive in terms of a career.

Senator Bryan remarked that legislation passed last session required the J.P.'s to form a state-wide association and mandated them to attend the University College of Judges. They really have tried to upgrade their office.

Senator Hecht remarked that until there is legislation to reform the whole J.P. court system, he is against changing the 2 year terms.

Senator Swobe moved to "DO PASS." Senator Wilson seconded the motion.

Yeas - 6.

Nays - Hecht. 1.

Motion carried.

S. B. 182 - Increases number of justices of peace in certain townships.

This bill was discussed with S.B. 168 since the committee felt that they could incorporate the 4 year term into this bill for additional judges, and at the suggestion of Senator Bryan, stagger the terms in the counties having multiple judges.

Chairman Close pointed out that before passing on this bill, the county commissioners should have a chance to testify on the financial implications involved. The committee agreed to the need for that testimony and decided to pass S.B. 168 out and stagger the terms for the judges if this bill ultimately passes.

S.B. 178 - Broadens provision for substitution of justices of peace.

The committee agreed that if S.B. 182, providing for additional judges in Washoe and Clark Counties passes, this bill will not be necessary.

Senator Dodge moved that no action be taken on this bill. Motion seconded by Senator Hecht. Motion carried.

S.B. 179 - Increases travel and subsistence allowances for justices of peace.

Senator Dodge pointed out that he did not agree with the argument for passage of S.B. 178 presented by Judge Beemer that a judge from a smaller jurisdiction called in to sit for a judge in a jurisdiction where the responsibilities and caseloads are more difficult should receive the same salary as the judge he is sitting for. He did feel that the judge should be entitled to travel and per diem expenses as this bill allows.

Senator Close suggested amending the bill to conform to the travel and expense allowances for other state employees.

Senator Wilson moved to amend and "DO PASS." Seconded by Senator Bryan. Motion carried.

S.B. 181 - Permits substitute justices of peace to recover expenses.

The committee felt that this bill was not necessary since they passed S.B. 179.

Senator Dodge moved to take no action on this bill. Motion seconded by Senator Hecht. Motion carried.

S.B. 221 - Encourages persons accused of possessing controlled substances to assist in conviction of suppliers.

The committee agreed that this bill is not necessary since it is already a procedure practiced by prosecutors.

Senator Dodge moved that no action be taken on this bill. Seconded by Senator Bryan. Motion carried.

A.B. 29 - Prohibits fraudulently obtaining or procuring controlled substances.

Senator Dodge remarked that "an attempt to acquire or obtain" may have some validity in the law, but it would be a difficult thing to enforce.

Senator Bryan remarked that the general attempt statute, NRS 208.070, would cover any situation contemplated by this bill.

Senator Bryan moved that no action be taken on this bill. Motion seconded by Senator Swobe. Motion carried.

A.B. 49 - Provides for termination of leases jointly executed by certain senior citizens upon death of one of them.

Senator Hecht reminded the committee that testimony previously given indicated that there has never been a problem regarding the situation covered in the bill.

Senator Dodge remarked that action the legislature has previously taken to void obligations of contractual provisions were done on a broad basis of public policy and wondered if this bill would fall in that category.

Senator Hecht moved to indefinitely postpone further action on this bill. Senator Foley seconded. Motion carried.

A.B. 215 - Provides accused National Guardsman with the right to counsel upon interrogation.

This bill was taken from the general file because the wording on line 16, "right to retain a lawyer", was not proper. The committee will amend the bill to read "right to be represented by a lawyer."

A.B. 171 - Reorganizes military court system in accordance with the Uniform Code of Military Justice.

The committee reviewed the testimony received previously and agreed that the bill would improve the present military justice code by conforming various provisions for due process and flexibility in procedures to the Federal code.

Senator Swobe moved "DO PASS." The motion was seconded by Senator Bryan. Motion carried.

S.B. 263 - Prohibits the making or uttering of written instruments for the payment of preexisting obligations under certain circumstances.

The committee reviewed the previous testimony.

Senator Dodge moved that no action be taken on this bill. Motion seconded by Senator Bryan. Motion carried.

S.B. 280 - Repeals provisions for supplemental remedies of exclusion and summary eviction to regain possession of rented premises.

In view of the testimony given by Mr. Rusty Nash of the Legal Aid Society regarding the need for extensive revision of the summary eviction procedure, and the fact that there is a bill being introduced in the Assembly which would establish a model uniform landlord-tenant act, the committee agreed to work with the model act when introduced.

Senator Dodge moved that no action be taken on this bill. Senator Bryan seconded. Motion carried.

S.B. 180 - Provides for summary eviction orders after hearing on affidavits.

This bill also involves summary eviction proceedings and will be resolved through the model uniform landlord tenant act.

Senator Close moved that no action be taken on this bill. The motion was seconded by Senator Swobe. Motion carried.

S.B. 313 - Amends provisions for attachment and garnishment, providing constitutional requirements of notice and hearing and making other substantive and technical changes.

Senator Bryan stated that the supreme court ruled that pre-judgment attachment is void because it violates notice provisions of due process. Prosecutors have tried filing a motion giving notice of attachment, but the statutes don't provide a procedure for this action so they can't get attachment after the notice. The supreme court decision was based on the distinction of attachment of wages and commercial attachment.

Further testimony will be obtained from the requestor.

S.B. 315 - Imposes additional duty upon redemption of
real property.

Senator Swobe testified that presently on an executed piece of property where there is a sale, there is a year's redemption right on the execution. If there is a bank loan against the property, the purchaser pays the monthly installments. Yet if the property is redeemed, the redemptioner does not have to pay the purchaser back for the monthly payments he has made.

This bill would provide that the purchaser be repaid for any payments made during the year's time.

Senator Foley moved "DO PASS." Senator Wilson seconded. The motion carried.

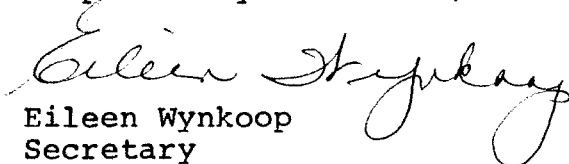
A.B. 68 - Broadens authority of peace officers to
issue misdemeanor citations in lieu of
making arrest.

Senator Dodge objected to a policeman on the beat determining what constitutes a complaint since the citation written in lieu of jail would include information to satisfy the requirements of a complaint. When that complaint is filed, it would be a lawful complaint. Senator Wilson had no objection to the substance required to satisfy the requirements of a complaint, but asked who would file the complaint and who would judge the legal sufficiency of the complaint.

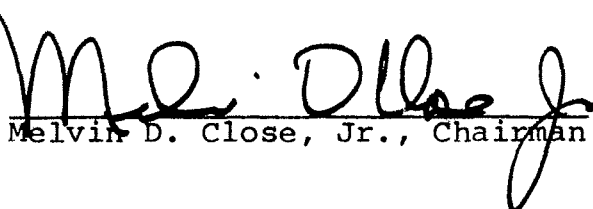
The committee will request further testimony.

Meeting adjourned at 10:55 a.m.

Respectfully submitted,


Eileen Wynkoop
Secretary

APPROVED:


Melvin D. Close, Jr., Chairman