

SENATE JUDICIARY COMMITTEE

MINUTES OF MEETING HELD

316

28th DAY OF MARCH, 1973

The meeting was called to order at 8:50 a.m. Senator Close in the Chair.

PRESENT: Senator Foley  
Senator Bryan  
Senator Dodge  
Senator Hecht  
Senator Wilson

Carroll Nevin, Crime Commission  
James Gerown, Parole and Probation  
Clinton Wooster, Legislative Counsel Bureau  
Frank Daykin, Legislative Counsel Bureau

EXCUSED: Senator Swobe

A.B. 295 - Permits denial of bail to person charged with committing a felony while free on bail.

Senator Dodge asked Mr. Nevin for his comments on the bill. Mr. Nevin stated that there exists a situation in Nevada whereby a professional murderer out on bail can go out and commit another crime and still be released on yet another bail.

Senator Foley inquired as to how many people in Nevada were thought to be presently out on bail and committing felonies. Mr. Nevin replied that there are approximately 30 people who are taking advantage of the situation. Some professional burglars commit another crime to pay back the bondsman for the bail money used for the first crime.

Senator Close asked Mr. Daykin about the constitutionality of the bill. Mr. Daykin was not sure that it was unconstitutional. It does not say that the offense is not bailable, rather that bail shall be revoked under certain circumstances, and he did not think that violated either the State or the federal constitution since the 8th Amendment does not really say that every offense is bailable. Our state constitution, however, does not say that having released a man on bail, you may not revoke it. This bill goes to the revocation of bail for the first offense, and that is the difference between saying you shall not release him on bail for the second offense.

Senator Bryan stated that he would like to spell out some guidelines to indicate a felony has actually been committed and suggested the

language in the constitution, "where proof is evident or presumption great." The committee agreed to this language.

Senator Wilson moved to amend and "DO PASS." Motion seconded by Senator Hecht. Motion carried.

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

James Gerown testified that the Department of Parole and Probation is entirely in agreement with the changes in the penalty for first degree murder. However, in the other areas of rape, kidnapping, and so forth, they feel that if a sentence was given of life imprisonment without possibility of parole, the workload of the Pardons Board would increase dramatically. If a definite minimum sentence of five years is used, as the alternative thereto, the statutory time granted these persons would bring them out of prison with what they refer to as an "at the gate release," thus affording no parole supervision whatsoever. The Department of Parole and Probation would have no authority to place them on parole or give them any supervision or assistance when they were released. He stated that their difficulty at the present time in these cases (murder second, rape, kidnapping) is that the minimum time the courts set for sentencing is too low. 75 per cent of all the rape cases in the Nevada State Prison expired their terms before they became eligible for parole and 67 per cent of the kidnap cases went out without parole supervision.

Mr. Gerown further stated that 99 percent of the life without possibility of parole sentences end up at the Pardons Board, and are reduced to life with possibility of parole, with parole eligibility beginning in five years. Mr. Gerown added that what they were requesting was "life sentence of not less than 20 years" rather than 5 years.

Frank Daykin testified suggesting that the committee amend S.B. 479 by adding a section to provide that where sentence is made to provide for a maximum term, the maximum term should be life. This should be phrased in terms of determinate sentencing. ~~There should~~ be a definite term, not less than five years nor more than life and this would take care of second degree murder cases.

Mr. Daykin added that it would be wise to amend paragraph 3 for consistency's sake to make it the same, "not less than 5 years nor more than life." Mr. Daykin will amend S.B. 479 by incorporating S.B. 139 to create the minimum-maximum of "not less than, not more than" wherever a definite term of imprisonment is permitted in these sections. That will leave forcible rape which results in death

the same penalty as murder-first. This will not raise the minimum sentence on such crimes as rape, kidnapping, murder-second, but will impose a maximum which will give the right of parole supervision.

Senator Bryan moved to indefinitely postpone action on S.B. 139. ~~Sec~~onded by Senator Foley. Motion carried.

S.B. 450 - Permits court to allow jury to separate after it retires to deliberate.

Senator Close informed Mr. Daykin that the committee is considering amending the bill to state that the jury can separate until they commence to deliberate, and at that point, they can no longer separate.

Senator Bryan again expressed his opposition to allowing the jury to separate after deliberations begin, because of the natural curiosity of the jurors to examine certain details of the crime.

~~Amendment~~ suggested would provide that "after the case has been submitted to the jury, but prior to the commencement of deliberation, they may separate,"

Senator Bryan moved to amend and "DO PASS." Motion seconded by Senator Hecht. Motion carried.

SJR 20 - Proposes to amend State Constitution by making chief justice administrative head of court system.

Clinton Wooster testified that the Finance Committee this year is apparently going to strike down the money for the judicial administrator since the Administrator and the Supreme Court have no authority over the District Court Judges. He felt that were this in the law, there would be no trouble in getting the Finance Committee to approve a judicial administrator.

SJR 19 - Proposes to amend State Constitution by permitting appointment of temporary district court judges.

Senator Young stated that there is a shortage of judges and that their calendars are so full that it takes many months to get cases heard. He stated that there are many experienced lawyers that could be appointed by the Governor to those temporary vacancies, and be paid on a per diem basis. He also stated that it would provide training and flexibility for potential judges.

Senator Wilson felt that specific language should be provided that the two positions do not interfere with each other. He felt that there should not be any private practice by a lawyer while he is acting as a temporary court judge - that the duration should be short and that possibly they could be used just to hear special types of cases.

This bill is being held in the committee for further discussion.

S.B. 493 - Prohibits loss of job seniority  
or discharge from employment for  
legislators while serving in the  
Legislature.

Senator Dodge moved to amend the bill by striking the entire "protection for private employment sector" language. This would provide that a legislator must have the concurrence of his employer.

Senator Wilson felt that a legislator whether in private or public employment, should not represent his concern or political subdivision and that political subdivision or concern should not feel that a legislator in their employ would secure a controlled vote. He should represent his home constituency. Senator Wilson suggested the deletion of lines 12-14.

Senator Close recapped the discussion "once consent has been given to run and serve in the Legislature, the employee can not be terminated because of actions taken while serving in the Legislature." This language would provide consistent treatment for both the private and public sector.

Senator Bryan moved to amend and "DO PASS." Motion seconded by Senator Hecht. Motion carried.

SJR 23 - Proposes to amend the Nevada  
Constitution removing disability  
from franchise for certain felons.

Mr. Gerown stated that under honorable discharge, the probationer would automatically receive restoration of his civil rights. General and dishonorable discharge does not make provision for this automatic restoration. If a person received a general discharge from parole, after 5 years he can go back to the Pardons Board and ask for restoration of his civil rights.

The committee agreed that a constitutional amendment would not be necessary. Senator Foley moved to indefinitely postpone action on this bill. Seconded by Senator Dodge. Motion carried.

S.B. 422 - Removes disabilities resulting from  
conviction under certain circumstances.

Department of Parole and Probation would not be adverse to the

provision in relation to a probation release discharge. Mr. Gerown stated that the disabilities resulting from conviction are voting, holding public office, can not enter into contracts without permission of the Department (marriage, home, car), registration in the county of residence as having been convicted of a major crime. All of these privileges are reinstated with an honorable discharge. The right to carry a gun is a federal statute.

Mr. Gerown suggested the language be amended to provide that after 5 years the convicted person has the right to petition the sentencing court to obtain an honorable discharge.

Senator Joe Neal entered the meeting and made brief comments on this bill.

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

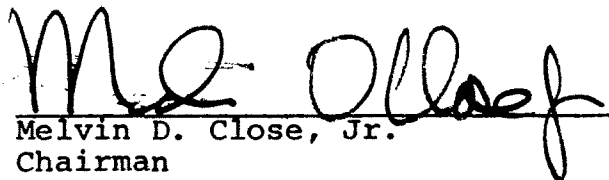
The meeting was adjourned at 11:05 a.m.

Respectfully submitted,



Eileen Wynkoop  
Secretary

APPROVED:



Melvin D. Close, Jr.  
Chairman