

SENATE JUDICIARY COMMITTEE

MINUTES OF MEETING HELD

329

30th DAY OF MARCH, 1973

The meeting was called to order at 8:45 a.m. Senator Close in the Chair.

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

James Gerown, Parole and Probation
Assemblyman Roy Torvinen
Joe Midmore, Nevada State Contractors' Board
Vern Calhoun, Chief, Narcotics Division

S.B. 188 - Clarifies Nevada Industrial
Commission's right of sub-
rogation.

Senator Foley prepared an amendment which would provide that the injured employee, or in case of death, his dependants, may take action to recover damages. The amount he is entitled to, including any future compensation, shall be reduced by the amount of damages recovered. A new section is added which would provide that the court shall receive proof of the amount of all payments made by the commission without revealing that such payments were made by the commission.

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

Yeas - 4
Nays - None
Absent - Hecht, Swobe, Wilson (3)

Motion carried.

S.B. 423 - Removes felony disability under
certain conditions as a ground
for disqualification.

Mr. Gerown testified that he feels the Board of Pardons, Parole Board and sentencing judge presently have this power in NRS 213.155. Senator Dodge reminded Mr. Gerown that when the committee discussed S.B. 422 they allowed a person who was generally discharged to reapply after 5 years for an honorable discharge. Mr. Gerown and the committee agreed that the provision of S.B. 422 as amended

would also incorporate the provisions of this bill.

Senator Dodge moved to indefinitely postpone action on this bill.
Senator Foley seconded the motion.

Yeas - 4
Nays - None
Absent - Hecht, Swobe, Wilson (3)

Motion carried.

S.B. 544 - Provides for equal rights of management and control of community property between husband and wife.

Senator Close read the bill as it was drafted at the request of the committee following the Idaho bill draft obtained by Senator Dodge. Senator Dodge noted that the bill in its final form did not include a provision contained in the Idaho bill. The Idaho bill, besides creating equal management, went further to state that any instrument effecting the title of the community property had to be joined in by both husband and wife.

Senator Bryan suggested since community property is being modified perhaps the provision allowing the earnings of a wife while living separate from the husband to be automatically separate should be modified so that it would apply to both a husband or a wife living separate. Senator Foley objected to that in the case of a husband who deserted his wife. Senator Bryan recalled a California statute which allows separate property for the husband and wife yet does not include desertion. He will research that statute and report back to the committee.

Senator Bryan also pointed out that the term "marital debts" used in the bill should be "community debts" since the former term is not a recognized term in the statutes.

The committee will review this bill again after further amendments are obtained.

S.B. 546 - Repeals provision for requiring married women and children to procure sureties for appearance as material witnesses.

Senator Dodge moved "DO PASS." Motion seconded by Senator Bryan.

Yeas - 4
Nays - None
Absent - Hecht, Swobe, Wilson (3)

Motion carried.

AJR 31 of the 56th Session - Proposes to
amend the Nevada Constitution by
creating a criminal court of
appeals.

Senator Close asked Mr. Torvinen for the status of the bills changing the court system. Mr. Torvinen replied that of the 5 parts broken out of Proposition 4, the Assembly passed 4 out of 5. They are: A resolution which removed limited jurisdiction on justice courts; a resolution which allowed full flexibility for reorganizing or changing jurisdictions; a resolution which provided a merit plan of appointment and judicial selection during the term of office yet leaving the judges in the electorate; and a resolution which provided for a court administrator and allowed him and the chief justice supervisory capacities over the lower courts. The Missouri Plan for the supreme court was defeated in the Assembly Judiciary Committee.

Mr. Torvinen stated that AJR 31 of the 56th Session is the proposal for a criminal court of appeals. The language of that resolution must be transposed into all other amendments affecting court reform measures should it pass.

Further testimony will be given on this resolution.

S.B. 565 - Clarifies right of local government
to license and regulate contractors.

Mr. Joe Midmore testified in favor of this bill stating that it makes sense to allow the local governments to retain the right to insist on building permits and inspections to over-see the contractor and keep him in line with the code and regulations. However, the State should retain jurisdiction as far as the contractor's actual license. The State has a good licensing system, policing powers and a qualified Board. Local governments would still be able to examine contractors who apply for a license but can not insist on different qualifications over and above what the state requires.

Senator Close asked if this would take the local control away. Mr. Midmore replied that the local governments could enforce more stringent code requirements according to geographic and climatic needs; e.g., seismic, snow loads, wind, etc. The State should otherwise have more stringent code requirements so that contractors can work in any area of the state by conforming to the local codes. This is an attempt to move toward a more uniform code.

Senator Dodge moved "DO PASS." Motion seconded by Senator Foley.

Yeas - 6
Nays - None
Absent - Wilson (1)

Motion carried.

Senate Judiciary Committee
Minutes of March 30th Meeting
Page Four

S.B. 545 - Defines offense of capital murder and provides mandatory death penalty therefor.

Mr. Vern Calhoun requested that this bill include in the definition of peace officers the Chief and agents of the State Narcotics Division for the purposes of this act. Senator Bryan asked if the agents actually apprehend criminals and make arrests. Mr. Calhoun replied that agents perform three primary functions; undercover agents, those who serve warrants and arrest, and those sent in to make purchases directly followed by arrest.

The committee reviewed the bill as drafted. Three amendments were recommended: Line 49, Page 2 defines capital murder in one instance as murder committed by a person under sentence of life imprisonment. The committee felt that should be more specifically "life imprisonment without the possibility of parole." That is a situation where there are no other sanctions available but the death penalty. Another instance defined as capital murder is when that murder is "willful and premeditated", but should be more clearly defined as "willful, deliberate and premeditated" as specified in 200.030. Murder executed as a contract defined in the bill was amended to eliminate the reference to an "unlawful" agreement done for "valuable consideration". The definition was changed to read "contract to kill means an agreement to kill with or without consideration."

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

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

The committee acted on A.B. 295 dealing with the subject of bail.

Senator Swobe moved to indefinitely postpone action on this bill. Senator Hecht seconded the motion. Motion carried.

S.B. 151 - Provides penalty for violation of state park system regulations.

The State Parks Department submitted a draft of a new bill which would delineate those areas where violations of regulations would be misdemeanors. Senator Dodge suggested that rather than listing the rules and regulations, some of which sounded rather comical when considered for inclusion in the statutes, the committee amend the statutes in such a way to provide that a person not observing the rules and regulations of the Parks be asked to comply. If he

fails to comply after notice or fails to leave the park when asked,
then he could be cited for a misdemeanor.

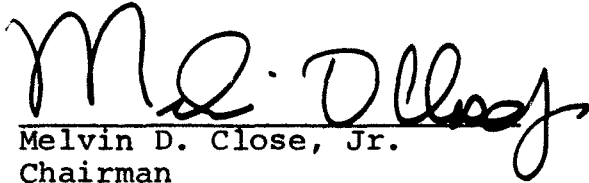
The meeting was adjourned at 10:05 a.m.

Respectfully submitted,



Eileen Wynkoop
Secretary

APPROVED:



Melvin D. Close, Jr.
Chairman