

SENATE JUDICIARY COMMITTEE

MINUTES OF MEETING HELD

14TH DAY OF APRIL, 1973

435

The meeting was called to order at 8:20 a.m. Senator Close in the Chair.

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

Lloyd Whelan, Chief Chemist, Narcotics Division
Robbins Cahill, Nevada Heart Association
Stan Warren, Nevada Bell
John Borda, Nevada Highway Safety Director
Ben Dasher - Universe Life Insurance Company
Don Winne, Insurance Division
Mylo Turzick, American Life Insurance Association
Assemblyman Torvinen

A.B. 595 - Brings persons who are under influence
of controlled substances within scope
of Implied Consent Law.

Mr. Whelan testified that the Narcotics Division has sophisticated enough equipment to detect a "trace" easily enough, but each drug would have to be considered individually in order to get a percentage to determine whether or not a person were under the influence enough to sufficiently damage his driving ability. Senator Dodge asked Mr. Whelan how long residues remain in the blood after taking a particular drug. Mr. Whelan replied that some drugs dissipate rapidly but could be detected in the urine up to 72 hours after taking them, and in other instances there is no more evidence in any part of the body after 8 or 12 hours. Senator Dodge then asked if traces could be detected after the person were no longer under the influence. Mr. Whelan replied that was absolutely true.

The Committee then decided to delete subsection 5 on Page 3, lines 20-25 from the bill and act affirmatively on the remainder of the bill. Colonel Lambert agreed to that action.

Senator Foley moved to amend and "Do Pass." Motion seconded by Senator Dodge. Motion carried.

A.B. 641 - Permits gaming licensees to question and
detain certain suspected public offenders.

Mr. Robbins Cahill testified that this bill would cover security personnel but not employees and agents. There has been a problem of

trying to intercept persons in parking lots and garages and suits have been filed challenging the authority to detain persons outside the establishment. The bill is a desirable bill in that it affords protection of immunity to security personnel in these circumstances.

Senator Swobe moved "Do Pass." Senator Foley seconded the motion.

Yeas - 4

Nays - None

Absent - Bryan, Hecht, Wilson 3

Motion carried.

A.B. 819 - Prescribes certain use of telephone.

Mr. Stan Warren testified that this bill would provide that it is unlawful for a person to fail to relinquish a party line or public telephone when informed of an emergency call. It requires a warning notice be placed in every telephone directory. He stated that the Nevada Bell totally approves of the bill, although they did not request it.

Mr. Warren stated that the bill would coordinate the effective date of the bill with the printing of the new telephone directories.

Senator Bryan moved to "Do Pass." Motion seconded by Senator Dodge.
Motion carried.

A.B. 824 - Establishes a registry in Department of Health, Welfare and Rehabilitation and requires report to department of motor vehicles of persons who are blind, partially blind, or night-blind.

Mr. John Borda testified that this bill is necessary because there are many people driving on the highways and the Department has no way of checking their vision. This is a part of the National Highway Safety Act.

The bill would require that hospitals, medical clinics and agencies which provide tax considerations for blind persons would report to the Department of Motor Vehicles directly instead of going through the Division of the Blind. This way the DMV could reach 300 to 500 persons over a 5 year period and examine their visual impairment in accordance with driving requirements.

Mr. Borda stated that 34 States have a bill similar to this, some of which require doctors and optometrists to report also. The reports received are confidential.

S.B. 539 - Supplements retirement incomes for public employees who retired prior to December 1, 1963.

Mr. Ben Dasher representing Universe Life Insurance Company, a domestic life insurance company, testified that this bill is an NIC bill which was created by the National Association of Insurance Commissioners and has been adopted by 40 other States.

Universe Life is licensed in 14 other States and subject to this bill in those States. The company feels that it should be regulated by its state of domicile rather than the other States. If another life insurance company entered Nevada, and only Nevada, it would have a substantial advantage over Universe because it would not be subject to regulation in the absence of this law.

It would prevent an upstream company from buying off an insurance company, siphoning off the surplus and leaving a shell of a company. The Insurance Commissioner at present is unable to do anything to prevent this from happening.

Mr. Don Winne of the Insurance Division stated that right now they are ~~doing~~ their best to regulate holding companies, but don't have any standards set forth in the statutes, so have no jurisdiction over holding companies. With this bill, any company who submits to registration, submits to their jurisdiction.

Mr. Winne stated that the Federal Trade Commission has interpreted the McCarren Act to say that it only exempts the federal regulation of insurance when the federal government deems the state regulation is adequate. Until Nevada adopts the Uniform Holding Act, it is not deemed to have acceptable state regulation.

There are provisions in the act for extensive filing procedures patterned after the SEC Registration Acts and Sherman Anti-Trust language to determine what is happening throughout the holding companies down to subsidiaries to regulate the stream of money flowing between the two. It is mainly a disclosure bill with a solvency measure to prevent the upstream holding company from siphoning off the surplus.

Senator Hecht asked if Mr. Rottman had approved the bill. Mr. Winne stated that Mr. Rottman is in accord with the bill.

Mr. Mylo ~~Turzick~~ stated that the American Life Insurance Association, a trade association of 350 insurance companies, is in full support of this bill.

Senator Dodge moved to "Do Pass." Motion seconded by Senator Swobe. Motion carried.

Senator Hecht asked the record to show that he was acting favorably on this bill on the advice of the Insurance Commissioner.

A.J.R. 14 - Proposes to amend Nevada Constitution by providing for merit-plan appointments of judicial officers to fill vacancies.

Prior to discussing this bill individually, Mr. Torvinen advised the Committee that A.J.R. 14, A.J.R. 16 and A.J.R. 17 all add new Section 19's, which would be Article 6 of the Constitution. He suggested adding an enabling section to A.J.R. 14 stating that if other sections of Article 6 are approved, the sections numbers be properly conformed.

The only problem the Committee had with this Resolution is that it required that a term of office of a judge appointed by the Commission on judicial selection to fill a vacancy in the Supreme Court, would expire at the end of the full term of the justice of whom he succeeds. Senator Foley asked that the bill be amended to have the justice run at the next general election. The Committee agreed.

Senator Swobe moved to amend and "Do Pass." Motion seconded by Senator Bryan.

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

Motion carried.

A.J.R. 15 - Proposes to amend Nevada Constitution by authorizing Legislature to fix jurisdiction of justices of the peace.

Mr. Torvinen stated that this bill is more comprehensive than the one processed by the Senate (SJR 22). It takes out all the jurisdiction over justice courts originally set with the Supreme Court.

Senator Bryan stated that increasing the jurisdictional amount should not be a controversy, but felt there could be some controversy over fixing the terms of office and qualifications. He emphasized that he was not arguing against the bill, but wondered if the provisions for jurisdictional amount would be hampered if there were a controversy. Senator Dodge remarked that both S.J.R. 22 and A.J.R. 15 could be processed and the one which receives the highest number of votes would prevail.

Senator Bryan moved "Do Pass" with the understanding that S.J.R. 22 be processed also. Senator Foley seconded the motion.
Motion carried.

A.J.R. 16 - Proposes to amend judicial article of Nevada Constitution to provide for discipline of judges.

Senator Bryan moved to amend and "Do Pass" with instructions to the bill drafter to conform Section 19. Senator Wilson seconded the motion. Motion carried.

A.J.R. 17 - Proposes to amend Nevada Constitution by providing merit plan for succession and appointment of Justices of the Supreme Court.

Senator Wilson questioned the wisdom of putting these resolutions on the ballot at the same time since they might be confusing to the voters. Senator Dodge suggested processing all the resolutions in this session and in 1975 deciding whether to proceed with all of them.

Mr. Torvinen requested that the bill drafter also be asked to merge the provisions for the selection of the commission in A.J.R. 14 and A.J.R. 17 if both pass.

Senator Dodge moved to amend and "Do Pass." Motion seconded by Senator Bryan.

Yeas - 5
Nays - Hecht, Swobe (2)

Motion carried.

A.J.R. 18 - Proposes to amend Nevada Constitution by providing for central administration of court system.

Senator Dodge requested that the language contained in A.J.R. 31 of the 56th Session where it mentions Section 2 of Article 6 of the Constitution be amended to allow the judges to sit in panel and in bank should the Supreme Court be expanded to 5 members. Mr. Torvinen asked the Committee to initiate a separate resolution amending that section of the Constitution. The Committee agreed. Senator Wilson remarked that the Legislature should avoid ending up with 2 permanent panels; one in the North and one in the South. He asked that the resolution, when drafted, prevent drifting into permanent divisions of the court because it would be bad for the system and the State. Mr. Torvinen replied that the amendment could be worded to prevent this by stating that a majority of the whole court is necessary to render a decision.

Senator Close was concerned that the provision in S.J.R. 18 for the Supreme Court to assign specialized functions might be construed to mean that the Legislature may not do away with those specialized

functions if they deem it necessary. Mr. Torvinen felt that there would be no abuse nor would it pose any problem. Senator Close agreed to withdraw his objection if the other Committee members had no reservations about abuse.

Senator Close also felt that the provision for calling retired judges back into temporary service might be abused and language should be added to restrict the assignments to the financial capabilities of the county for the support staff or to the State for the judges salary. Mr. Torvinen replied that experience has proven that a judge can not work without a courtroom. However, in Las Vegas for example, there are 10 judges who take one month's vacation each. That means there is a courtroom empty 9 months a year. He did not believe the Supreme Court would ask a temporary judge to handle cases without a court room. As far as the judges' salary, these judges would be getting retirement anyway and the Legislature would still have a Session in 1975 to prepare a contingency fund appropriation for the difference in salary and retirement pay for those judges.

Senator Bryan moved to amend and "Do Pass". Motion seconded by Senator Foley.

Yeas - 6
Nays - Hecht (1)

Motion carried.

Senator Foley asked Mr. Torvinen if Subsection 3 would change the present method of selecting a chief judge. The bill provides that the associate justice who has served the longest would act as chief justice. Mr. Torvinen stated that A.J.R. 17 repeals the provision enacted in 1864 to first determine who would be chief justice in Section 3. It then refers to the senior justice in commission as the chief judge. The words "in commission" means "term of present office".

Senator Close felt that A.J.R. 18 should also be conformed to use the terminology "in commission".

A.B. 671 - Broadens authority to issue misdemeanor citations.

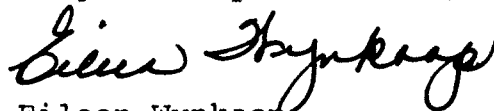
Mr. Torvinen stated that this bill is a companion bill to A.B. 68 allowing police officers to issue citations in lieu of arrests, which passed both houses and has been signed by the Governor.

It expands the citation concept to citizens arrest which is not handled in A.B. 68 because the police officer is only a transporting officer, not an arresting officer.

Senator Close asked Mr. Torvinen to examine both bills for conformity.

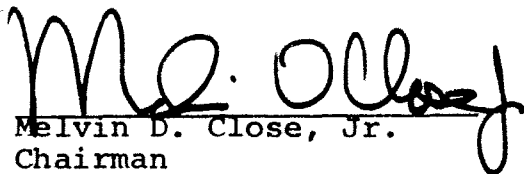
The meeting adjourned at 10:20 a.m.

Respectfully submitted,



Eileen Wynkoop
Secretary

APPROVED:



Melvin D. Close, Jr.
Chairman