

## MINUTES OF MEETING HELD

4th DAY OF APRIL, 1973

The meeting was called to order at 8:00 a.m. Senator Close in the Chair.

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

Assemblywoman Mary Gojack  
Colonel Robert Burns, Nevada National Guard  
Assemblyman Danny Demers  
Frank Johnson, Vice-president, Hilton Hotel Corp.  
Les Kofed, Nevada Gaming Industry  
Phil Hannafin, Chairman, Gaming Control Board  
Robbins Cahill, Nevada Gaming Resort Association  
David Hoy, Nevada State Bankers Association

A.B. 168 - Grants immunity from suit to certain persons while conducting military courts.

Colonel Burns and Mr. Demers testified that this bill was to bring the military procedures in line with the civilian procedures by allowing immunity from civil proceedings while conducting military court for military judges, supporting defense, prosecuting and reviewing attorneys. Senator Dodge stated that the thrust of this bill is not for immunity but for an automatic continuance from civilian prosecution for military court personnel. Senator Close added that the summary is misleading since the bill does not relate to the summary.

Senator Foley remarked that military court officers should not have priority over a civilian case being tried in district court or federal court. Civilian courts do not grant an automatic continuance. These situations are worked out with the judge.

A.B. 169 - Makes Nevada National Guard members and employees exempt under waiver of sovereign immunity.

Mr. Demers testified that the Secretary of the Army has recently declared by regulation that the National Guard no longer has sovereign immunity. Col. Burns added that this bill would resolve the question of who is responsible, the state or federal government, for a guardsman in normal drill status. The guardsman is paid by

the federal government when actually drilling in normal inactive duty training and all the equipment used, food consumed, and clothing worn is paid for by the federal government.

Senator Bryan stated his concern that if the federal government has taken the position that they are not responsible, and the state would pass this legislation claiming no responsibility, then an innocent victim would be without any remedy at all. Senator Bryan suggested that a more appropriate remedy for the National Guard to take is to have the counsel for the Guard, not only in Nevada but all over the country, litigate and get a declaratory decision whether or not the regulation or position of the secretary of the Army is legal.

Senator Dodge added that since these guardsmen are actually federal employees, he didn't believe the state could pass legislation covering them as state employees.

Senator Close suggested passing a resolution memorializing Congress to assume the responsibility for National Guardsmen in normal inactive drill status.

A.B. 174 - Provides the procedure for the  
arrest and detention of members  
of the Nevada National Guard.

Mr. Demers testified that this bill would clarify and bring into line with the new Military Code the right of a National Guard Officer to arrest and detain an individual who refuses to show up for duty drill. Mr. Demers added that prior to the elimination of the draft, these individuals would be inducted into the Army. Now they have no recourse but to deprive the guardsman of his pay and that reduces discipline.

Senator Close suggested changing the wording on Line 18, Page 1 to "commanding officer would transport or cause to be transported" so that he may delegate this responsibility to a junior officer. Senator Close also suggested amending Line 11 Page 2 which provides that the commanding officer is the only person the arrested person could be turned over to. He suggested adding the wording "commanding officer or designated representative."

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

Yeas - 5  
Nays - None  
Absent - Swobe, Wilson (2)

Motion carried.

A.B. 407 - Creates crime of selling  
certain academic writings.

Assemblywoman Mary Gojack testified that ghost writing of term papers is becoming a big business. She presented the committee with a packet of newspaper clipping and advertisements relative to ghost writing. Companies are being formed which advertise the sale of term papers on any subject.

Senator Close suggested amending the bill to apply not only to the seller, but to the user as well. Senator Foley objected that this area should be policed by the university system. Senator Bryan agreed with Senator Foley's objection stating that making this act a misdemeanor would not solve the problem unless the University takes some action to police this area. He felt a more proper remedy would be for the Universities to pass a regulation which would state that any person using a term paper he did not originate would flunk the course.

Senator Foley moved to indefinitely postpone action on this bill. Motion seconded by Senator Bryan.

Yeas - 5  
Nays - None  
Absent - Swobe, Wilson (2)

Motion carried.

S.B. 577 - Removes preference given to males  
in appointing administrators of estates.

This bill arose out of the testimony given during the Equal Rights Amendment hearing which pointed up this area as discriminatory.

Senator Hecht moved to "DO PASS." Motion seconded by Senator Foley.

Yeas - 5  
Nays - None  
Absent - Swobe, Wilson (2)

Motion carried.

S.B. 578 - Repeals provisions permitting  
married women to be sole traders.

This bill also arose out of the testimony on the Equal Rights Amendment.

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

Yeas - 5  
Nays - None  
Absent - Swobe, Wilson (2)

Motion carried.

S.B. 560 - Provides for removal or suspension of members of State Gaming Control Board and revises investigative hearing procedure.

Mr. Frank Johnson testified in favor of this bill. He stated that this bill would add continuity to the credibility of the board members and continue the expertise to some degree by staggering the terms and eliminating the reference to the board serving at the pleasure of the governor, and providing grounds for removal.

Since 1955 the Gaming Board changed with the administration, except in Governor O'Callaghan's administration. From 1955 to 1959 members served definite terms. Terms were eliminated and members served at the pleasure of the governor in 1959 to satisfy one individual situation.

Senators Foley and Wilson objected to the governor having to go to a hearing when he is dissatisfied with the performance of a Board member. Senator Wilson objected not only to the hearing, but to removal with malfeasance, misfeasance or non-feasance as the cause. He felt the governor should be able to relieve short of term, but the governor should make the sole determination of the cause for removal. He stated that in a sensitive industry such as this, the governor would need to act on what he knows, not what he could prove.

Mr. Kofed brought up the point that the language "serving at the pleasure of the governor" has always been loosely interpreted by Board members to mean that when there is a change of administration, they should tender their resignation. With those words deleted, it would solve this problem.

Mr. Hannafin remarked that in most cases if a member were given notice to resign or face exposure in a public hearing before the gaming commission, he would resign if he were guilty of the charges. On the other hand, if the allegations made against him had no basis, he would want that public hearing.

Since Mr. Cahill had formerly served on the Board and is now in the industry, Senator Dodge asked him to comment on the importance of continuity to the industry. Mr. Cahill replied that the assurance of continuity is the most important part of the bill. As far as the political point, all the legislature can do is to make their intent clear by fixing the terms of the members. If the governor wanted someone's resignation, he could get it.

Mr. Johnson commented that as long as "at the pleasure of the governor" is in the law, a new governor would be under unbearable pressure to make appointments of relatives and friends.

The committee discussed the amendment which would clarify the procedure for suspension prior to a hearing for removal. Senators Foley and Wilson felt that the hearing prior to removal should be conducted by the governor, as is done in the Public Service Commission. Senator Close felt that the Gaming Commission should conduct the hearing and recommend back to the governor. The Governor would have the absolute right to remove irrespective of the recommendation of the Commission. This would alleviate the Governor from being the accuser, prosecutor and judge.

The committee agreed to amend the bill to stagger the terms to allow for appointment for 2 members in January of an election year, and 1 member two years following. A vote was taken on the amendment which would remove the members from serving at the pleasure of the governor. Senators Foley and Hecht voted against the amendment. The committee then discussed the cause for removal and agreed to eliminate malfeasance, misfeasance and non-feasance. The language used in the Public Service Commission procedures for cause of removal will be amended into this bill.

The question of whether the Governor or Gaming Commission would preside over the hearing will be resolved at a later meeting.

S.B. 467 - Limits liability of certain lenders  
financing property development.

Mr. David Hoy testified in favor of this bill on behalf of the Nevada Bankers Association. The California Supreme Court recently ruled that a lender is responsible to the borrower and to third parties where certain participations were evident, and they passed a bill similar to this which stated that the lender is not responsible where all he does is make loans.

Senator Wilson stated that in cases where the bank is in control of the builders construction account and they are the only ones who exercise the payments to sub-contractors, etc., they should have the responsibility to the borrower. Mr. Hoy replied that the banks devised this system of construction control to insure to their own satisfaction that the money loaned goes into the building. This device should not make it incumbent on the banks to insure the borrower. Senator Dodge agreed and stated that whatever controls they did establish were to protect their own collateral and investment.

Senators Wilson and Foley felt that in the case of construction control where a fee is charged for this service and the service is a condition of the loan, the bank should have some responsibility to the borrower, especially since the borrower is still responsible to the banks for paying off the loan.

Senator Bryan pointed out that the case mentioned by Mr. Hoy involved one party which had proprietary interest and in that case the banks would have responsibility. He commented that proprietary interest is becoming more prevalent with lending institutions since they are not interested in taking lenders' points, but are trying to get "a piece of the action." Senator Close suggested excluding construction control and directing the bill at proprietary interest. Mr. Hoy was asked if this would be acceptable. He replied that it would not solve their problems, but felt it might be some help.

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

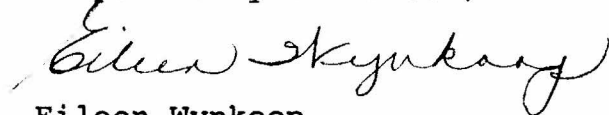
A.B. 407 - Creates crime of selling  
certain academic writings.

Chairman Close asked for a motion to reconsider the previous action on this bill and consider it further in light of the testimony that it is a very serious problem.

Senator Wilson moved to reconsider the previous action taken on this bill. Senator Bryan seconded the motion. Motion carried.

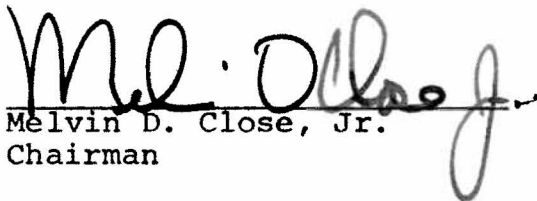
The meeting was adjourned at 10:00 a.m.

Respectfully submitted,



Eileen Wynkoop  
Secretary

APPROVED:



Melvin D. Close, Jr.  
Chairman