

SENATE JUDICIARY COMMITTEE

MINUTES OF MEETING

MARCH 7, 1975

The meeting was called to order at 9:15 a.m., with Senator Close in the Chair.

PRESENT: Senator Close
 Senator Wilson
 Senator Bryan
 Senator Sheerin
 Senator Dodge
 Senator Foote
 Senator Hilbrecht

ABSENT: None

SB 251 Provides allowances in suit for divorce to either party for temporary maintenance of spouse or children or for costs of suit.

In response to a question by Ms. Kate Butler, Senator Close stated that the term "moving party" referred to the party bringing the action. He also suggested amending the bill by deleting the term "moving party" and inserting "other party" so that either spouse may benefit from the action.

Senator Bryan suggested amending it further by giving the court the discretion to award to either party, in order to insure support of the children.

Senator Dodge moved to amend and do pass; seconded by Senator Sheerin and carried unanimously. Senators Wilson and Hilbrecht were absent from the vote.

SB 252 Provides that divorce decree may change name of spouse.

Senator Dodge stated that he did not understand why the bill should be reciprocal. The purpose of the bill was to allow the wife to change her name back to her former legal name and he suggested that it be amended to reflect this.

Senator Dodge moved to "amend and do pass"; seconded by Senator Wilson and carried unanimously.

SB 173 Enacts the Nevada Antitrust Act

Donald Klasic, Attorney General's Office discussed with the Committee the following sections:

Section 4 - Mr. Klasic stated on the question of federal vs state jurisdiction that it makes no difference whether a practice substantially or incidentally affects interstate commerce as long as the state has proper jurisdiction. The actual question that should be considered is whether a state law is 1) in conflict with a federal law and 2) does it infringe upon some exclusive jurisdiction. He therefore recommended that this section remain as is.

Section 7 - In regard to changing from "corporation" to "person", Mr.

Klasic stated the federal law does not define corporation, however, there is a great deal of case law which does define this term and therefore he would recommend retaining the term "corporation".

Section 11 - Senator Close stated that he had a question on the broadness of this section in that it would enable the Attorney General's Office to inspect a business' records without obtaining a subpoena. Mr. Klasic replied that this procedure was more fully covered in Section 13.

Section 12 - Mr. Klasic stated that this is the confidentiality provision which would insure that all information received in accordance with Section 11 would remain confidential prior to the institution of an action.

Section 13 - This is the protective section. It permits the person being investigated to file a motion to quash the action being taken. Senator Close stated that according to this section, failure to provide information to the Attorney General would be grounds for a gross misdemeanor. Mr. Klasic responded that the person being investigated can file a motion or can argue on the point of reasonable cause. Senator Hilbrecht stated that in most cases initiated by the state, the state is presumed to have "reasonable cause" and that this type of status could lead to a fishing expedition for the Attorney General's office. Senator Close requested that Mr. Klasic redraft this section so that the burden of proof would be on the Attorney General's Office.

Section 14 - Mr. Klasic stated that this immunity provision is designed to allow an individual to testify without incriminating himself.

Mr. Klasic stated that this immunity provision is designed to allow the Attorney General to grant immunity in a case where the individual providing testimony may feel he will incriminate himself. This does not preclude the possibility of civil action, however. Additionally, it is intended to prevent an individual from using the Fifth Amendment to block the investigation. Senator Close suggested that the term "or punished" may be construed to mean that the individual may not be liable for a civil action and that this term should be deleted.

Section 15 - This is the contempt procedure which would be used if an individual refused to testify after being granted immunity.

Section 16 - Mr. Klasic stated that this would require public agencies to cooperate with the Attorney General's office in an antitrust investigation.

Senator Sheerin suggested that there should be some prohibiting language in there that would insure the confidentiality of these records.

Section 17 - This would enable the Attorney General's office to handle an antitrust case on behalf of an individual. Under this section, the Attorney General cannot pursue the case for civil penalties, but only for treble damages.

Section 18 - This is the civil penalty provision whereby the Attorney

General can sue for an amount not to exceed 5% of the gross income. He stated that the reason for not going with a flat figure is that they want the flexibility of dealing with both small and large businesses. They do not want to bankrupt a small business with an unreasonable civil penalty.

Section 19 - This would allow the court to remove an individual who knowingly participated in an antitrust action to be removed from service in the organization or corporation. After a brief discussion, it was the decision of the Committee to delete this section.

No action was taken at this time. The bill will be placed on the agenda for Wednesday, March 12, 1975.

There being no further business, the meeting was adjourned.

Respectfully submitted,

Cheri Kinsley

Cheri Kinsley, Secretary

APPROVED:

Melvin D. Close, Jr.

Senator Melvin D. Close, Jr., Chairman