

## MINUTES OF MEETING

May 1, 1975

The meeting was called to order at 8:05 a.m. Senator Close was in the Chair.

Present: Senator Close, Chairman  
 Senator Wilson  
 Senator Bryan  
 Senator Sheerin  
 Senator Dodge  
 Senator Foote

Absent: Senator Hilbrecht, Excused

AJR 16 of the 57th Session Proposes to amend judicial article of Nevada Constitution to provide for discipline of judges.

Judge Roy Torvinan appeared in favor of this resolution. Following a brief discussion, Senator Bryan moved a do pass; seconded by Senator Dodge; motion carried unanimously. Senators Wilson and Hilbrecht were absent from the vote.

AJR 18 of the 57th Session Proposes to amend Nevada Constitution by providing for central administration of court system.

Judge Roy Torvinan and Assemblyman Zel Lowman testified in support of this measure. Following a brief discussion, Senator Dodge moved a do pass; seconded by Senator Foote; motion carried unanimously. Senators Wilson and Hilbrecht were absent from the vote.

AB 381 Extends news media's privilege of nondisclosure to certain documentary materials.

Assemblyman Steve Coulter appeared on behalf of this bill. He informed the Committee that this will extend the newsmen's shield law to former newsmen for stories they were involved in before the law was in effect and it will also cover the newsman's tools, such as notes, tape recordings, photographs, etc.

Mr. Coulter stated that the Assembly had held extensive hearings on this matter and cited for the Committee some of the more important findings.

Senator Sheerin moved a do pass; seconded by Senator Wilson; motion carried unanimously. Senator Hilbrecht was absent from the vote.

AB 481 Prohibits possession, sale, or transfer of any document for purpose of establishing false identity.

Assemblyman Nash Sena presented testimony before the Committee on behalf of this bill. He stated that there is a serious problem in Clark County with false identification, especially with minors who use them for the purpose of obtaining alcohol. Another problem, according to Mr. Sena, is that of illegal aliens using these false identification cards to obtain driver's licenses so that they may eventually establish residency. In response to a question from Senator Dodge, he stated that in Nevada, all one has to do to receive a driver's license is show competency in handling a car.

Danny Ahlstrom, Assistant City Attorney, Las Vegas stated that the bill in its present form does not have a penalty clause. He felt that it would probably be a misdemeanor but that it should specify this. In response to a question regarding proof of intent,

Mr. Ahlstrom stated that the term "for the purpose of" would take care of the knowledge element of this offense. He further stated that the manufacturers of these cards will structure the application form in such a manner as to cover themselves in any and all elements of the ordinance or state statute.

Senator Bryan suggested that they include some statutory prohibition for the manufacture of identification that purports to be an official document. Senator Wilson concurred with this and further suggested that they try to encumber the manufacture of these cards by requiring the person to appear, require notarization of the signature, etc. He also stated, in regard to the penalty attached, that this is essentially a fraudulent business and that he felt it should carry a penalty more severe than just a misdemeanor if they were really serious about getting rid of this. After further discussion, it was the consensus of the Committee to amend the bill by making it a condition of issuance of identification that the person be required to appear; to require proof of identity; place of birth; date of birth and then have these items notarized. The Committee also agreed that the penalties should be increased to a gross misdemeanor.

Senator Foote moved to amend and do pass; seconded by Senator Dodge; motion carried unanimously. Senator Hilbrecht was absent from the vote.

AB 558 Clarifies right of owner of mineral estate to bring action for declaratory judgment against State to remove any cloud on title to mineral rights on lands originally obtained from State.

Mike Marfissi, attorney from Elko, Nevada informed the Committee that he was representing his partner John Miller, who prepared and drafted this bill. He stated that the purpose of the bill was to clarify NRS 321.332 which concerns State land which had been patented after the 1880's under the State selection lists wherein the patentee acquired title to the property. The State of Nevada assumed that the federal government, on the State land selected had also reserved mineral rights to those properties. As years went by, the federal government confirmed the mineral rights to the State of Nevada on these lands and the State in turn, in issuing the patents, presented language with reservation to mineral rights. In 1963, the State, in NRS 321.331 confirmed the mineral rights to the patentee of the land and coupled that with the right of the possessor of the land to file a suit against the State of Nevada so that the courts could then determine what mineral rights, if any, there were that went with the land patent. A question then arose, that when the land owner may have severed his title from the surface to the minerals, did the statutes enacted, thereby give the owner of the minerals, the right to, in turn, bring this action. This amendment simply gets to that minor point, wherein the possessor of the land and anyone who owns minerals can, in fact, bring action to make this determination.

Senator Sheerin pointed out that if you had the land after 1887, what 321.331 says is - maybe our patent back in 1887 didn't give you the minerals but by 321.331, we are hereby giving you the minerals, subject to the State's rights to royalties. What you are trying to do in 321.332 is, you are giving the guy who has subsequently gone on and gotten the mineral rights the right and you are taking it away from the surface holder by striking the language "in possession of" because that is made in reference to the surface holder. You are giving the right to the guy who has the mineral rights to go against the surface holder to establish his mineral rights.

Senator Bryan concurred with this and stated that the language may be too inclusive. He suggested putting in some kind of language in line 5-6 to indicate to the holder of the separate estate that we are talking about, who has acquired such estate from the surface owner.

Senator Wilson suggested predicating the language here upon a separate estate based upon conveyance or reservation of mineral rights and then add a provision to it which provides that if it isn't by that, then it is by mineral claim which is adverse to some other owner of surface estate or successor.

After further discussion, Senator Bryan moved to amend and do pass; seconded by Senator Wilson. Motion carried unanimously. Senators Hilbrecht and Sheerin were absent from the vote.

SB 578 Provides for retrocession of states criminal and civil jurisdiction over Duckwater Indian Reservation.

Mike Dissi, representing Duckwater Shoshone Tribal Council; Boyd Graham, Chairman, Duckwater Shoshone Tribal Council; and Jerry Millett, Vice-Chairman, Duckwater Shoshone Tribal Council appeared before the Committee in support of this measure. Mr. Dissi distributed to the Committee a handout (see attached Exhibit A) which states the position of the people of the Duckwater Tribe.

Following a brief discussion, Senator Foote moved to "do pass", Seconded by Senator Dodge, Motion carried unanimously. Senators Sheerin and Hilbrecht were absent from the vote.

SB 586 Reclassifies and adds specified substances in Uniform Controlled Substances Act.

Robert Groves, Chief Criminal Deputy Attorney General, representing the State Board of Pharmacy stated that the primary thrust of this bill is an effort to add to the Controlled Substances Act, by legislation, those substances which have been previously added by Board administrative action. The Board is mandated to do this by the Controlled Substances Act upon being notified that the federal government has done so. However, there have been a great number of problems with respect to the administrative rescheduling of substances. The primary problems have been in the areas where magistrates have refused to recognize that the authority of the Board to do so is not an unconstitutional delegation of legislative authority.

Mr. Groves distributed for the Committee's review, a portion of the minutes of the Law Enforcement Conference dated December 20, 1974 in which they voted unanimously in favor of supporting this measure. (See attached Exhibit B)

In Section 6, Senator Close suggested, in regard to the revocation of a physician's controlled substances license, that this not be revoked unless coupled with the revocation of the license to practice medicine and not just upon the commission of a felony.

Mr. George Bennett, State Board of Pharmacy informed the Committee that the amendments to Section 7 was suggested by the Division of Narcotics to broaden the penalty provisions to reach the situation where a person uses false pretenses to obtain controlled substances.

Senator Dodge moved to amend and do pass, Seconded by Senator Bryan, Motion carried unanimously. Senators Hilbrecht and Sheerin were absent from the vote.

SB 484 Exempts deputy district attorneys and deputy public defenders from county merit personnel systems.

Senator Bryan moved to indefinitely postpone; seconded by Senator Dodge; motion carried unanimously. Senator Hilbrecht was absent from the vote.

AB 293 Creates tort action for perjury and subornation of perjury which injures a person or his property.

After reviewing the bill in its amended form, Senator Wilson moved to amend and do pass; seconded by Senator Bryan; motion carried unanimously. Senator Hilbrecht was absent from the vote.

AB 150 Expands peace officer powers of field dealer inspectors of vehicle compliance and enforcement section of Registration Division of Department of Motor Vehicles and provides for their early retirement.

Senator Bryan stated that he had spoken with the proponents of the bill and they preferred the bill in its original form except for the early retirement provision.

Senator Bryan moved to amend and do pass; seconded by Senator Wilson; motion carried unanimously. Senator Hilbrecht was absent from the vote.

SB 9 Changes definition of capital murder to include homicide from kidnapping.

Senator Dodge stated that we are still subject to a determination by the Supreme Court of the United States as to how far we can go and how far we can expand it. He felt that until the State receives some guidance from the Supreme Court, that they should refrain from expanding it.

Senator Dodge moved to indefinitely postpone; seconded by Senator Foote; motion carried unanimously. Senators Wilson and Hilbrecht were absent from the vote.

SB 173 Enacts the Nevada Anti-Trust Act.

Donal Klasic, Deputy Attorney General discussed the bill with the Committee. Senator Wilson stated that he would be in favor of the bill with criminal sanctions if the criminal conduct to be prohibited is subject to sanctions specifically defined and not left to contracts and other behavior that may be in restraint of trade or commerce.

Senator Dodge made a motion to have the bill drafted with criminal sanctions; seconded by Senator Foote; motion carried unanimously. Senator Hilbrecht was absent from the vote.

Mr. Klasic read to the Committee the 7 areas that the Sherman Anti-trust Act considers: 1) price fixing - which includes bit-rigging, cutting back production - anything that affects prices; 2) division of markets; 3) allocation of customers; 4) concerted refusal to deal through boycotts, and what-not; 5) tying arrangements where the seller conditions the sale upon the purchase of another product; 6) reciprocal practices whereby sellers trade upon their extensive buying power to obtain purchase commitments from some of their buyers; and 7) mergers or joint ventures which actually restrain trade or commerce by eliminating competition.

In discussion by the Committee, it was their decision to go with those items with which they are immediately concerned, which are: price fixing; division of markets; allocation of customers; and tying arrangements.

Following Senator Close's pitch for the Uniform Model Act, Mr. Klasic stated that the

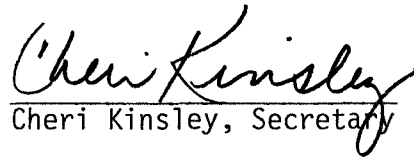
basic differences between the Uniform Act and SB 173 were:

- 1) a language problem on what constitutes a "relevant market";
- 2) UA does not contain treble damages for the State but only for the individual;
- 3) UA does not include the 10% recovery for funding to the attorney general's office; and
- 4) UA does not include "parens patriae."

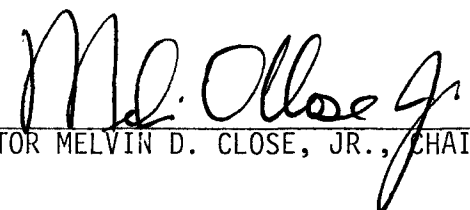
Following further discussion, it was the decision of the Committee to amend and rerefer. The motion carried unanimously. Senator Hilbrecht was absent from the vote.

There being no further business, the meeting was adjourned.

Respectfully submitted,

  
Cheri Kinsley, Secretary

APPROVED:

  
SENATOR MELVIN D. CLOSE, JR., CHAIRMAN

The Duckwater Shoshone Tribe is organized under the 1934 Indian Reorganization Act. This Act provides for the adoption of a constitution to govern the affairs of the Tribe. The Duckwater Constitution provides the results of a referendum election are binding on the Tribal Council. A referendum election was held on the Duckwater Reservation on June 6, 1974. The results of this election were 41 voters participated; 34 voted in favor of federal jurisdiction and 7 voted in favor of State jurisdiction. As a result of this referendum election the Duckwater Tribal Council adopted resolution 74-D-25 requesting the State of Nevada to offer jurisdiction to the federal government. (a copy of resolution 74-D-25 is attached). Subsequent to the adoption of this resolution, the Duckwater Tribal Council adopted resolution 75-D-2 requestion legislation be enacted whereby the Duckwater Reservation could retrocede. (a copy of 75-D-2 is attached). We are also attaching a copy of a letter dated June 20, 1974. This letter bears the signitures of 30 of the voters of the Duckwater Reservation. The eligible voting population of the reservation is approximately 50. So, as you can see better than 60% of the eligible voters of the reservation are desireous of the enactment of this legislation.

June 20, 1974

General Delivery  
Duckwater, Nevada  
89314

Mr. Harold Wyatt, Director  
Inter-tribal Council of Nevada  
98 Colony Rd.  
Reno, Nevada

Dear Mr. Wyatt,

Many people of the Duckwater Reservation, Nevada were confused about the results of the statewide Retrocession Election held on May 7, 1974. The Tribal Council, in attempts to clear up the confusion, found that an overwhelming majority of the community were either confused about what Retrocession exactly meant, or did not understand the wording of the Retrocession 'question' as it appeared on the ballot.

As we point out in the accompanying Tribal Resolution, the Duckwater Tribal Council exercised its rightful responsibilities to the people of the Duckwater Reservation by holding special meetings and conducting a special election on the Retrocession question, both at the request of the tribal community. The result of the June 6, 1974 special election is that the overwhelming desire of the people of the Duckwater Reservation is to retrocede from state jurisdiction.

In view of this fact, Mr. Wyatt, the Duckwater Shoshone Tribal Council, on behalf and at the request of the Indian people of the Duckwater Shoshone Reservation, Nevada request and petition your active support of our self-determined desire to retrocede from the jurisdiction of the State of Nevada, and go under the jurisdiction of the Federal Government of the United States.

Very truly yours,

Paul Walker, Chairman  
Duckwater Shoshone  
Tribal Council

*Mrs. Helen Marie Walker*  
*Jerry Mallett*  
*Wesley I. Mallett*  
*Barbara Thompson*  
*Wendy Thompson*  
*Alvin K. Lambek*  
*James M. Lambek*  
*Cheryl Mallett*  
*William Blackeye*

*Charles Lee*  
*Walter M. Graham*  
*Raymond Graham*  
*Pauline E. Blackeye*  
*James M. Lambek*  
*John Mike*  
*Wanda Clayton*  
*Sharon - Lambek*  
*William Blackeye*

*Wesley Mallett*  
*Donald Lambek*  
*Charles Mallett*  
*Stewart Lambek*  
*Wendy Mallett*  
*John Mallett*  
*William Blackeye*

## Resolution # 75-D-2

WHEREAS: The Duckwater Shoshone Tribe is organized under the provisions of the 1934 Indian Reorganization Act; and,

WHEREAS: The Constitution and Bylaws of the Duckwater Shoshone Tribe provide the procedure for referendum elections to be held under the auspices of the Duckwater Shoshone Tribe (see Article IX of attached); and,

WHEREAS: The Duckwater Tribal Council caused a referendum election to be held in June, 1974 in accordance with the attached Constitution and Bylaws; and,

WHEREAS: The results of said election are stated in Resolution No. 74-D-25 attached hereto and incorporated herein.

NOW, THEREFORE, BE IT RESOLVED THAT: The land area known as the Duckwater Reservation, Nevada be retroceded from the jurisdiction of the State of Nevada; and,

BE IT FURTHER RESOLVED THAT: Legislation be enacted by the 1975 session of the Nevada Legislature which will permit the retrocession of that area of Indian country known as the Duckwater Reservation, Nevada; and,

BE IT FURTHER RESOLVED THAT: The Nevada Indian Commission use all efforts and resources in ensuring the enactment of retrocession legislation for the Duckwater Reservation, Nevada during the 1975 session of the Nevada Legislature.

C E R T I F I C A T I O N

The foregoing resolution was adopted at a duly called <sup>SPECIAL</sup> meeting of the Duckwater Tribal Council held on JANUARY 14, 1974 at DUCKWATER RESERVATION by an affirmative vote of 3 for and 0 against and 0 abstaining. A quorum of 3 was present.

Dannie Miller

SECRETARY, DUCKWATER TRIBAL COUNCIL



Resolution of the  
Duckwater Shoshone Tribal Council

- WHEREAS, the Tribal Council of the Duckwater Shoshone Tribe of the Duckwater Reservation Nevada has determined there was serious misunderstanding of the issues and the ballot by the members of the Duckwater Tribe concerning the May 7, 1974 Retrocession Election, and
- WHEREAS, the Tribal Council has caused several tribal meetings to be held for the purpose of discussing the federal-state jurisdiction question, and
- WHEREAS, the Tribal Council has caused a tribal election to be held whereby the members of the Duckwater Tribe voted on whether the Duckwater Reservation should be under federal or state jurisdiction, and
- WHEREAS, the results of the tribal election are as follows: 41 voters, 34 in favor of federal jurisdiction and 7 in favor of state jurisdiction, and
- WHEREAS, the assumption of jurisdiction by the United States of America can take place only after the State of Nevada offers jurisdiction to the United States of America, and
- WHEREAS, the results of the tribal election indicate to the Tribal Council that it is the desire of the Duckwater Shoshone Tribe to be under federal tribal jurisdiction.
- BE IT THEREFORE RESOLVED that the desire of the Duckwater Shoshone Tribe is to be under federal jurisdiction.
- BE IT FURTHER RESOLVED that the State of Nevada offer jurisdiction over the Duckwater Reservation to the United States of America upon receipt of this resolution.
- BE IT FURTHER RESOLVED that the Secretary of Interior, United States of America accept jurisdiction over the Duckwater Reservation, Nevada.
- BE IT FURTHER RESOLVED that the State of Nevada, its departments, agencies, commissions and political subdivisions, in particular the Nevada Indian Commission; the United States of America, its departments, agencies and political subdivisions, particularly the Bureau of Indian Affairs; and the Inter-Tribal Council of Nevada assist the Duckwater Shoshone Tribe of the Duckwater Reservation Nevada its efforts to retrocede from state jurisdiction to federal jurisdiction as speedily as possible.

CERTIFICATION

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The foregoing resolution was adopted at a duly called meeting of the Duck-water Tribal Council held on JUNE 7, 1974 at 7:00 P.M. by an affirmative vote 5 for, 0 against, and 0 abstentions.

Paul Walker  
Paul Walker, Chairman  
Tribal Council

Lillian M. Willett  
Secretary, Tribal Council

MINUTES OF LAW ENFORCEMENT CONFERENCE

December 20, 1974

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A conference of members of the Attorney General's Office and Nevada law enforcement and criminal justice officials was held on December 20, 1974, in the Highway Department Auditorium, Room 314, Carson City, Nevada, for the purpose of considering proposed criminal legislation for enactment by the 1975 Nevada Legislature.

Those attending were as follows:

ROBERT LIST	Attorney General
JAMES H. THOMPSON	Chief Deputy Attorney General
ROBERT A. GROVES	Chief Criminal Deputy Attorney General
PATRICK B. WALSH	Deputy Attorney General, Criminal Division
BRUCE GREENHALGH	Chief Investigator
HOWARD McKIBBEN	District Attorney, Douglas County
ROBERT MANLEY	District Attorney, Elko County
LARRY BETTIS	District Attorney Elect, Mineral County
ROBERT DEL CARLO	Sheriff, Storey County
GEORGE W. ALLEN	Sheriff, Lyon County
GEORGE E. SCHWIN	Sheriff, Lander County
BERNARD W. CURTIS	Douglas County Sheriff's Office
JERRY MAPLE	Douglas County Sheriff's Office
NORMAN SAFERITE	Douglas County Sheriff's Office
JAY HUGHES	Chief Deputy, Washoe County Sheriff's Office
RUSS SCHOOLEY	Chief Deputy, Washoe County Sheriff's Office
GEORGE RINGENER	Captain, Washoe County Sheriff's Office
WILLIAM WITTE	Deputy Chief, Las Vegas Metro
S. BARTON JACKA	Assistant Sheriff, Las Vegas Metro
FRANK BETTER	Captain, Reno Police Department
KEN PULVER	Captain, Reno Police Department
NORRIS R. HINTON	Yerington Police Department
JAMES L. LAMBERT	Chief, Nevada Highway Patrol
BERNARD DEHL	Nevada Highway Patrol

TOM DAVIS  
DAN C. MURPHY  
ED POGUE  
WILLIAM G. PARSONS  
CARROL L. NEVIN  
TOM CARRIGAN  
RALPH QUINTEL  
VERN CALHOUN  
JIM GEROW  
CHARLES CRUMP  
  
NANCY LEE ROGERS

Justice of the Peace, Carson City  
Special Master, Carson City  
Warden, Nevada State Prison  
Fish and Game Department  
Crime Commission  
Chief Investigator, Gaming Control  
Chief Investigator, Gaming Control  
Narcotics  
Parole and Probation  
President, Nevada Peace Officers  
Association  
Secretary-Treasurer, Nevada Peace  
Officers Association

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The meeting commenced at 9:20 a.m. General List addressed the group and explained how this group had accomplished their goals in the last couple of Sessions of the Legislature. The objectives would be to attempt to agree on priority pieces of legislation and if some legislation was controversial, it would be left up to the individual department or association to push for it.

The next proposal was the Controlled Substances Act which contains a provision authorizing the State Board of Pharmacy to add substances to schedules after the federal government has done so and notifies the board of such. As done now, the Board does this by administrative action and has the force and effect of law. The problem occurs that a lot of judges do not believe it and many cases have been thrown out by judges who do not believe the Board has that authority. The suggestion is to have the Legislature amend the substance schedule to make the changes by legislation that the Board has made administratively so that it will be included in the statute. Bob Groves stated that the Pharmacy Board is going to sponsor this legislation and would like the support of this coalition. All voted in favor of this request.