

SENATE JUDICIARY COMMITTEE

MINUTES OF MEETING

JANUARY 24, 1977

The meeting was called to order at 9:00 a.m. Senator Close was in the Chair.

PRESENT: Senator Close
Senator Bryan
Senator Dodge
Senator Foote
Senator Sheerin
Senator Gojack
Senator Ashworth

ABSENT:

SJR 23 of the Proposes to amend Nevada Constitution by pro-
58th Session viding for chief judge in certain judicial district

Chief Justice Cameron M. Batjer appeared before the Committee on this matter. He stated that SJR 23, as written, is in conflict with Question 6 (AJR 18 of the 57th Session) passed by the voters and now part of the Constitution. He felt that, in particular, the last sentence in SJR 23 diminishes and detracts from this constitutional amendment.

Senator Close pointed out that SJR 23 deletes Section 5 and he suggested that it be amended so that it can be modified by statute rather than by changing the constitution.

Senator Dodge suggested that in light of the above comments that perhaps it would be best to kill SJR 23 and have Frank Daykin, Legislative Council Bureau, redraft a new bill encompassing these items.

Senator Bryan so moved. The motion was seconded and carried unanimously.

SB 22 Prohibits representation by attorney in small claims court.

Jon Wellingshoff, Washoe Deputy District Attorney testified before the Committee on this matter. He stated that he supported the philosophy of SB 22 which was to return the small claims courts back to the people.

SB 22

He informed the Committee of a study done in Washoe County on Reno small claims courts by Dennis O. Flynn of the Bureau of Business and Economic Research in 1972. In that study, Mr. Flynn determined that 53% of the cases in small claim courts in 1972 were brought by collection agencies and 94% of the cases were brought by businesses. He felt that in order to return the small claims courts to the people, it was necessary to have a comprehensive act which provides for full reforms rather than try to deal with it on an item-by-item basis as does SB 22. He distributed for the Committee's review, a copy of the Model Consumer Act which is a proposed model small claims court act for state legislatures. He further stated that the Washoe County District Attorneys office supports this act and is presently trying to have it drafted in bill form.

In response to a question by Senator Close, Mr. Wellinghoff stated that at times it was necessary to have legal representation in small claims court because of the expertise of collection agencies and other businesses.

Senator Sheerin cited an example of an individual who went into small claims court and the attorney on the other side got several continuances and really gave him the run-around.

Robert M. Murphy, Jr., attorney with Washoe Legal Services appeared on behalf of this measure. He informed the Committee that Washoe Legal Services primarily represents indigent clients and on occasion must go to small claims court. He stated that he agreed with the philosophy of Senator Sheerin that small claims court should be a court of the people. However, he also felt that if an individual desired an attorney, he should have that right.

Senator Dodge stated that he felt the legislature was in the process of expanding the jurisdictional areas of the justice courts and that because of this they should preserve the right to representation by counsel.

Senator Ashworth moved to indefinitely postpone.
Seconded by Senator Dodge.
Motion did not carry. The vote was as follows:

VOTING AYE:	Senator Close	VOTING NAY:	Senator Bryan
	Senator Dodge		Senator Sheerin
	Senator Ashworth		Senator Gojack

ABSTAINING FROM THE VOTE: Senator Foote

SB 23 Extends testamentary capacity to certain minors.

Steve Lane, attorney from Reno, testified in favor of this bill. He suggested that the following amendments be made: the will of a minor should be approved by a guardianship court; children under the age of 14 should be allowed, with the guidance of the guardian and guardianship courts, to execute a valid last will and testament; amend NRS 159.113 to grant this type of power to the guardian and guardianship courts

In response to a question by Senator Ashworth as to why the age of 14 years was chosen, Mr. Lane stated that it was probably picked because it represented the age where capacity could be argued.

Senator Sheerin further commented that in a guardianship situation, at the age of 14 and over, the minor has the right to nominate the guardian. However he agreed that if the guardianship court was involved that there would be no need to retain the 14 year old stipulation.

After further discussion, Senator Close requested that Senator Sheerin research this area further and look into what other states have done.

No action was taken at this time.

SB 44 Classifies crime of robbery by degrees.

A. A. Campos, Chief Parole and Probation Officer appeared before the Committee on this matter.

He stated that although he had no strong feelings one way or the other on the bill, he did have some facts and figures that he felt might be useful to the Committee. He saw no problems with increasing the minimum to 5 years and that in fact, the average sentence of those sent to state prison for robbery is approximately 7.5 years. Prior to 1967, when robbery was a non-probatable crime, there were very few persons in the Nevada state prison for robbery. Rather, it was common practice to reduce it from robbery to larceny, which was probatable.

He further stated that in 1976 only 7% of all robberies reported ended up in convictions and of that 7%, roughly 25% received probation.

Senator Close stated that the purpose of the 1-15 year sentence structure was to give the judge discretion in sentencing and that if the crime were committed with the use of a gun, then the higher spectrum of the sentencing would be available to him.

The Committee expressed great concern over the use of plea-

SB 44 bargaining. They felt that if a crime was committed with a gun the individual should not be allowed to plead to a lesser, probatable count.

It was the decision of the Committee to give this bill further consideration and to have the Clark County District Attorneys office testify.

No action was taken at this time.

SJR 14 of the 58th Session Proposes constitutional amendment to eliminate certain restrictions on the right to seek elective office.

Senator Bryan moved a do pass.
Seconded by Senator Gojack.
Motion carried unanimously.

SJR 16 of the 58th Session Proposes to amend Nevada Constitution to more clearly delineate property rights of married persons and to delete requirement that laws be adopted providing for registration of wife's separate property.

Senator Dodge moved a do pass.
Seconded by Senator Bryan.
Motion carried unanimously.

SB 20 Permits members of corporate boards to participate in meetings through use of conference telephones or similar devices.

Senator Ashworth moved a do pass.
Seconded by Senator Gojack.
Motion carried unanimously.

BDR 14-252 Provides for period of parole to be shortened by amount of good behavior credits and other credits earned in prison.

A. A. Campos, Chief Parole and Probation Officer informed the Committee that as the law presently stands, it discriminates against prisoners who accept parole.

Senator Dodge moved for Committee introduction.
The motion was seconded and carried unanimously.

BDR 7-681 Allows religious congregation or denomination to incorporate as nonprofit corporation.

Senator Ashworth moved for Committee introduction.
Seconded by Senator Bryan.
Motion carried unanimously.

BDR 3-653 Abolishes punitive damages in civil actions.

Senator Sheerin moved for Committee introduction.
Seconded by Senator Gojack.
Motion carried unanimously.

BDR 43-206 Expands police powers of field agents and inspectors in Motor Carrier Division of Department of Motor Vehicles.

Senator Bryan moved for Committee introduction.
Seconded by Senator Dodge.
Motion carried unanimously.

BDR 14-128 Prescribes treatment program for persons found not guilty by reason of insanity.

Approved for committee introduction.

The Committee discussed the adoption of Committee rules of procedure.

Senator Gojack stated that she was opposed to Rule 6 in that she felt that Committee introduction of a bill was basically an agreement that the Committee was willing to bring back the subject area for full discussion and that it should be treated in the same manner as a bill being brought back for reconsideration of previous action taken.

She therefore moved that Rule 6 be amended to require 5 Committee members be present for Committee introduction.

Seconded by Senator Foote.

Motion did not carry. The vote was as follows:

VOTING AYE: Senator Gojack
Senator Foote

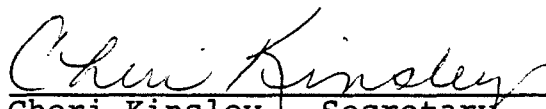
VOTING NAY: Senator Close
Senator Bryan
Senator Dodge
Senator Sheerin
Senator Ashworth

Minutes of Meeting
January 24, 1977
Page Six

After further discussion, Senator Ashworth moved for adoption of Committee Rules.
Seconded by Senator Dodge.
Motion carried unanimously.

There being no further business, the meeting was adjourned.

Respectfully submitted,


Cheri Kinsley, Secretary

APPROVED:

SENATOR MELVIN D. CLOSE, JR., CHAIRMAN

COMMITTEE RULES - 59th SESSION

JUDICIARY COMMITTEE

1. Four members constitute a quorum of the committee.
2. Motions will be moved, seconded, and passed by a simple majority of those present, except that definite action (Do Pass or Hold) on a bill will require a majority of the entire committee.
3. In order to reconsider previous actions taken, an affirmative vote of 5 members of the committee will be required. However, a majority may allow the hearing of new evidence or information which would be pertinent to the determination of whether or not a matter or an action should be reconsidered.
4. Mason's Manual will be followed as to parliamentary procedure.
5. Any member of the committee may request an item on the agenda by contacting the committee chairman a day ahead of the committee meeting.
6. Committee bill introduction will be only by unanimous approval of the committee members present. Committee introduction does not imply in any way a commitment on the part of any committee member to support the bill introduced.
7. Secretary shall record the action of the Committee by roll call vote.
8. Minority report can be filed with Secretary of the Senate at the same time the Committee action is reported. It must be signed by all members disagreeing who are present when the vote is taken. The members who desire to submit a minority report must so indicate in advance to the entire Committee.
9. Committee recesses. Recesses shall be at the call of the Chair.
10. The Judiciary Committee has an assigned meeting time and, unless prior arrangement is agreed upon by the committee, will meet at that time each day. Members are urged to plan their work so that they can be present each day and so that they will be on hand at the appointed hour.