

SENATE JUDICIARY COMMITTEE

MINUTES OF MEETING

February 7, 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 5        Ratifies proposed constitutional amendment relative to equal rights for men and women.

Senator Close informed the Committee that SJR 5 was before them today for action only.

He explained to the Committee that they had the options of voting the bill out of committee with the recommendations of do pass; do not pass; do pass without recommendation; or holding the bill in Committee.

Senator Ashworth informed the Committee that he was against the ERA and that he would vote against it on the Senate floor but that he felt it should be put out on the floor.

Senator Bryan stated that inasmuch as the resolution was introduced by an individual who has expressed opposition to it, that it would appear that the only way this matter would reach the floor would be by the proponents of the bill taking an unusual position and voting the bill out of Committee with a "do not pass" recommendation.

Senator Dodge agreed with Senator Ashworth that the bill held too much public interest and should rightfully meet its destiny on the Senate floor. He also agreed with Senator Bryan that it should go out with a "do not pass" recommendation.

Senator Sheerin moved to pass the bill out of Committee without recommendation.

Seconded by Senator Bryan.

Motion did not carry. The vote was as follows:

|             |                 |             |                  |
|-------------|-----------------|-------------|------------------|
| VOTING AYE: | Senator Sheerin | VOTING NAY: | Senator Dodge    |
|             | Senator Gojack  |             | Senator Close    |
|             | Senator Bryan   |             | Senator Foote    |
|             |                 |             | Senator Ashworth |

SJR 5 Senator Dodge moved to put the bill out with a majority "do not pass" recommendation.  
Seconded by Senator Ashworth.  
Motion carried. The vote was as follows:

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

Senators Sheerin and Bryan wished to go on record as supporting the motion only to get the bill passed out of Committee and onto the Senate floor.

VOTING NAY: Senator Foote  
Senator Gojack

Senator Gojack informed the Committee that she would file a formal minority report.

It was the consensus of the Committee that procedurally, this was the only way to get this measure out on the floor for a Senate vote.

SB 150 Abolishes punitive damages in civil actions.

For further discussion see minutes of meeting of February 1, 1977.

Senator Bryan stated that if they were to abolish punitive damages without correlatively examining the criminal laws and expanding them, there would be conduct which is presently actionable for punitive damages under civil law but for which there would be no corresponding remedy in the criminal justice system.

He further stated that if the Committee were to accept that approach, he felt they would be placing an enormous burden on the criminal courts which are already sorely burdened at the present time.

Senator Dodge stated that punitive damages is a common law concept that has grown up in the law of torts and is therefore an integral part of the law and should not be taken out.

Senator Ashworth moved to indefinitely postpone.  
Seconded by Senator Bryan.  
Motion carried unanimously.

SB 23 Extends testamentary capacity to certain minors.

In response to the Committee's inquiry as to what other states do in this area, Senator Sheerin stated there are only a few states that do anything below the age of 18. He further stated that he felt there was a need for testamentary capacity and that the only decisions that should be made were in regard to the guardianship courts and the minimum age. He suggested 14 as the appropriate age.

Senator Dodge agreed but felt that the bill should more clearly indicate that this pertains to persons between the ages of 14 and 18. He felt that as written, it may infer the legality of a will by persons less than 14 years of age.

Regarding the involvement of the guardianship courts, Senator Bryan felt they should perform some sort of monitoring function. In view of the way families are today or in the event of internal domestic problems, he felt that the courts should be allowed a period review, annually, in order to maintain the validity of the will.


After further discussion, it was the decision of the Committee to have an estate tax planner testify on the matter before taking final action.

There being no further business, the meeting was adjourned.

Respectfully submitted,

  
Cheri Kinsley, Secretary

APPROVED:

  
SENATOR MELVIN D. CLOSE, JR., CHAIRMAN