

The meeting was called to order at 9:05 a.m. Senator Close was in the Chair.

PRESENT: Senator Close  
Senator Hernstadt  
Senator Don Ashworth  
Senator Dodge  
Senator Ford  
Senator Raggio  
Senator Sloan

ABSENT: None

SB 203 Prohibits use of list of registered voters for selection of jurors.

Senator Kosinski stated that this bill is designed to prohibit the county clerks and registrar's of voters from using the voter registration lists in making up the list of prospective jurors. He found during each of his campaigns, in conducting extensive voter registration drives, that approximately 50% of the people who refused to register to vote, indicated that they were afraid of being picked for jury duty. Most of these people stated they could not afford to lose a days work. NRS 6.150 provides that jurors get \$9 a day for attendance if they are not sworn, and \$15 a day if they are. They also receive 15¢ a mile for travel. Most of these people indicated to him that they felt it was a public duty to vote, and would register if they were assured of not being called for jury duty. He stated that in Washoe County they do use lists of licensed drivers, tax assessors roles as well as the telephone directory.

Senator Raggio stated that the law states that the selected jurors must be qualified electorates and he feels this must not be changed. In Washoe, even if many different lists are used, he feels it would be unrealistic to try to do away with the voters list. He stated that most of his work is in trial work, and doing away with this would erase one of the more valid sources of finding qualified electorates.

Senator Kosinski stated he felt this was a question of public policy and it would encourage more registrations.

Senator Dodge stated he could not support the bill this way. He would feel more comfortable if the language stated that this list was not to be used exclusively.

Stan Colton, State Treasurer and former Registrar of Voters in Clark County stated that in 1973, United States Senator Kennedy had a survey run. He found that nationally, because of being subjected to call for federal jury duty, 8% to 10% were not registered. He stated that in Clark

County there are four lists used, however, except for the voter registration list, these are very limited in use.

Senator Hernstadt asked what lists he would recommend for use.

Mr. Colton stated that the vehicle registration and driver's license lists were the best. These are all available and are now computerized.

Senator Dodge asked if Mr. Colton knew if the judge would take into consideration the fact that a fellow couldn't simply lose a day or two of pay.

Mr. Colton stated he did not know. However, if the person had to go down and argue his case in front of the judge, he would still be losing at least one day's pay.

Senator Dodge stated he felt this 25% figure was rather high. He also felt there were other problems, such as complacency or a transient population.

Mr. Colton agreed that probably complacency had a lot to do with it.

Dave Howard, Secretary of State's Office and former Registrar of Voters for Washoe County stated he is in support of this bill. He also brought out the fact that he had complaints in Washoe County because people were called that were not registered, and were unaware that names were taken from other lists.

Senator Raggio made the motion to "indefinitely postpone" SB 203

Seconded by Senator Sloan. Motion carried as follows:

AYES:

Senator Close  
Senator Hernstadt  
Senator Don Ashworth  
Senator Dodge  
Senator Raggio  
Senator Sloan

NAY:

Senator Ford

SB 192 Prohibits plea bargains or probation where deadly weapon is used.

Sherman Simmons of the Governor's Office stated that this bill is quite clear. "If you use a gun you go to prison". The Governor pointed out in his State of the State address that stiffer penalties are needed for the use of a weapon in the commission of a crime. His office has talked with judges and attorneys around the state, and they all agree with the principle of the bill. One inconsistency that

arose when the bill was drafted is in Sections 3 and 4. Therefore, in Section 4 the last phrase needs to be deleted. The phrase is "whether or not the use of the deadly weapon is an element of the crime." This bill was drafted to be an enhancement provision for more serious crimes, not a substantive provision in the law itself. California has already passed a bill dealing with this exact same issue. In the past few years, California has had indeterminate sentencing. A person was not sent to prison for say 5 years, but merely to prison. The time was determined by the parole board after that person was in prison. That did not prove very successful, so now they have gone to the mandatory prison sentence when a deadly weapon is used. Also, the intent of this bill is to have more uniformity in the sentencing of a person who uses a gun. He stated he would also like to quote some statistics from the LEAA, which was written in December of 1978. Nearly 1/3 of the adults convicted of felony offenses, committed in 1974 in Washington D.C., in which a weapon was displayed or used, were given probation or a suspended sentence. The data in supported studies said probation, fines, or a suspended sentence were given to 10% of the armed rapists; 12 1/2% of those who committed forcible rape; 58.3% of those who assaulted police; and 51.8% of those who used dangerous weapons in assault. The study was designed to assess factors associated with sentencing variations and ways in which they could be reduced. The study found a high degree of sentencing uniformity only in the case of felony, homicide or first degree murder. Under this bill, if you commit a crime with a weapon, probation will not be available to you. He felt there were some problems with this bill. If a person robs 4 or 5 customers in a bar, he would then be charged with, and go through 4 or 5 different trials. That is not the intent of this bill and there should be a provision to provide for that kind of a case. Also there is a problem if the defendant is incorrectly charged; there was in fact no weapon, or a witness changes his mind. An exception provision could be added providing that, "if there was insufficient evidence of the existence of a weapon, and the state so expressed on the court record, the court under those circumstances could accept a guilty plea or allow the information to be amended so that the use of a deadly weapon provision could be deleted." This would prevent an abuse of the negotiation.

Senator Dodge asked if there shouldn't be a fiscal note on this.

Mr. Simmons stated that when this was enacted in Florida, the crime rate dropped by a considerable figure. That is the intent of this, as something must be done to cut down the crime rate.

Senator Raggio stated he was very much in favor of the thrust of the bill. However, he felt that this could lock in the prosecutor, who must determine the original charge and bring the charge. The D.A. filing the original information would leave this out because he wouldn't want to be locked in and couldn't go in afterwards and plea. He saw some real problems with it.

Mr. Simmons stated that if the first section were left out and put into the second section, where the defendant must go to prison if he is convicted with the use of a weapon, then he thought it would increase the number of pleas in robbery with use of a weapon.

Senator Raggio stated he believes strongly in plea bargaining. He agreed that the punishment should be increased for those people with firearms, but he does not want to preclude a charging body from exercising the kind of discretion which is traditional.

Senator Close stated he had a real concern over the prison population situation. If these people were compelled to go to jail he felt it would increase the population in an already overcrowded situation.

Mr. Simmons stated he had no statistics on that, but perhaps the Committee should check with the warden, Mr. Wolff.

Senator Close stated he felt there would be a great fiscal impact. He felt it was unrealistic for anyone to come in with a bill like this and say there is no fiscal impact. He stated there was no point in putting people in jail when you are going to have to let someone out, because there is no place to put them. This happened in Nevada before and why go back to that unless we know what we are doing at the outset.

Michael De La Torre, Director of the Department of Law Enforcement Assistance stated that rather than building more facilities, he felt an affirmative education awareness program would be effective. He stated that in 1975, Florida passed just such a law. It had no affect whatsoever until they got into an education awareness program. They did a P.R. program on crime prevention and found the next year that there had been a 35% drop in robberies, where the use of a weapon was involved. In 1976, when California put together their statute, they started an awareness program and found it to be very effective. They did this by posters, advertisements and public service announcements.

Senator Hernstadt asked if it was just that the same amount of robberies took place but without a gun, or if the over-all crime rate went down?

Mr. De La Torre stated that after the publicity program, in Florida, the armed robberies were slashed by nearly 30% for the first 6 months of 1976. He stated as to the over-all robberies he did not know, but could check with the Florida officials if the Committee wished.

Mr. Simmons stated that when the "double the time" law went into effect in 1976, 76% went to prison. In the first 6 months of 1977, 83% went to prison.

Senator Dodge stated that was a pretty good track record and perhaps there should be an education program on what we are doing now.

Kent Robison with the Trial Lawyers Association stated that the Association is not opposed to the philosophy or concept of this bill. He sits as a Master in Washoe County and has some concern with this. This bill purports to make all juvenile offenses, which are committed with a deadly weapon, subject to the District Court proceedings. Many of the juveniles, 14 years and up, who had a deadly weapon in their possession during the commission of an offense, would be automatically incarcerated in the Nevada State Prison. He feels that if this bill were passed, it would be an unprobable offense, and in some cases probation should be considered. He had another problem in the case of an indigent. These people do not receive their court-appointed council until the charge is formally filed. He felt there could be the possibility for a charge of discriminatory law enforcement down the line. He also stated he felt there would be a fiscal impact on the courts. He stated if one of these clients was his, he would tell them to go ahead with the jury trial because at this point you are going to go to prison.

Cal Dunlap, Washoe County District Attorney stated he is in support of the concept of the ideas expressed in the bill. However, he opposes the language found in Section 1, Sub-section 3, which limits the discretion inherent in the prosecutorial function. He does not believe there is any evidence that has been submitted to this Committee which shows that there has been an abuse by prosecutors, of their discretion in handling these kinds of cases. He does not want the prosecutor to have to go for all or nothing, which he feels this bill might do. He also expressed concern over the juvenile that would be treated in the adult courts. In the case of murder or attempted murder, they are automatically treated as adults. There could be cases where you would want to certify a juvenile in a serious armed robbery case, but not necessarily want him to go to jail. Under this bill you could not later

amend it so that the juvenile would be eligible for probation if he were convicted as an adult. He felt that the Committee should consider a list of the more serious offenses and have them spelled out.

Senator Dodge asked if he could suggest some language that would be more palatable to him.

Mr. Dunlap stated he could accept this bill if they just eliminated Subsection 3, A & B. Then there would be no effect on the prosecutor.

No action was taken on SB 192 at this time.

SB 124 Limits incorporators to natural persons, precludes renewal of periods for reservation of corporate names, increases certain fees and removes requirement for certain publications and certificates.

Senator Close stated that in reading over the amendments, he found one change that was not made. On Page 2, lines 11-14 "another person" should be "any person", as that is the way he thought the Committee wanted to amend it.

The Committee agreed that this was what was intended and concurred that this should be changed.

SB 156 Makes defacement or destruction of political signs a crime.

Senator Joe Neal stated that he felt this bill was self-explanatory. It merely increases the fine for destruction or defacing of political signs. At the last election, particularly in Clark County, there was a lot of this going on. He felt something must be done to stop this.

Senator Dodge stated he felt this would fall under the malicious mischief statute and the fine right now on that is up to \$500.

Senator Close stated that right now it is not a specific crime. Destruction of property might include this, but it is not defined separately.

Senator Dodge stated he had a real problem with this. You have a sign in a yard and hundreds of people go by. Someone is just going to have an impulse to tear it down or knock it down. They don't care who the person is, it could be one fellow's sign in one yard and another one's in the next.

As the Committee had to go into general session, no action was taken on this bill at this time.

The Meeting was adjourned at 11:00 a.m.

Respectfully submitted,

Virginia C. Letts, Secretary

APPROVED

Senator Melvin D. Close, Jr., Chairman

SENATE BILL NO. 203—SENATORS KOSINSKI AND FORD

FEBRUARY 9, 1979

Referred to Committee on Judiciary

SUMMARY—Prohibits use of list of registered voters for selection of jurors. (BDR 1-942)

FISCAL NOTE: Effect on Local Government: No. Effect on the State or on Industrial Insurance: No.

EXPLANATION—Matter in *italics* is new; matter in brackets [ ] is material to be omitted.

AN ACT relating to jurors; prohibiting the use of the list of registered voters in selecting jurors; and providing other matters properly relating thereto.

*The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:*

1 SECTION 1. NRS 6.045 is hereby amended to read as follows:  
2 6.045 1. The district court in and for any county with a population  
3 of 100,000 or more, as determined by the last preceding national census  
4 of the Bureau of the Census of the United States Department of Com-  
5 merce, may by rule of court designate the clerk of the court or one of  
6 his deputies as jury commissioner, and may assign to the jury commis-  
7 sioner such administrative duties in connection with trial juries and  
8 jurors as the court finds desirable for efficient administration.  
9 2. If a jury commissioner is so selected, he shall from time to time  
10 estimate the number of trial jurors which will be required for attendance  
11 on the district court and shall select such number from the qualified  
12 electors of the county not exempt by law from jury duty, [whether  
13 registered as voters or not.] *but he shall not use the list of registered*  
14 *voters to make these selections.* He shall keep a record of the name,  
15 occupation and address of each person so selected.  
16 SEC. 2. NRS 6.050 is hereby amended to read as follows:  
17 6.050 1. In counties where there is no jury commissioner, the board  
18 of county commissioners in each county shall at its first regular meeting  
19 in each year, by an order duly made and entered on its minutes, estimate  
20 as nearly as possible the number of trial jurors that will be required for  
21 attendance on the district court of the county until the next annual selec-  
22 tion of trial jurors. The board shall thereupon select from the qualified  
23 electors of the county, [whether registered or unregistered,] not exempt  
24 by law from jury duty, such number of qualified electors as it has been

Original bill is 2 pages long.  
Contact the Research Library for  
a copy of the complete bill.