

Senate

JUDICIARY COMMITTEEMINUTES OF MEETING HELDMARCH 19, 1967

A meeting of the Judiciary Committee was held at 9:00 A.M., Friday, March 19, 1967, in Committee Room 56, State Capitol, Chairman Monroe presiding.

Members Present:

Warren L. Monroe, Chairman
 V. L. Bunker
 M. J. Christensen
 Carl F. Dodge
 Procter R. Hug
 Coe Swobe
 C. Clifton Young

Also Present:

Senator Fisher
 Al Hedlund, Glenbrook-Lake Tahoe
 Mel Preston, Lovelock
 James Guinan, Board of Governors, St. Bar Ass

S.B. 295 "Prohibits discrimination in employment on basis of age."

Senator Dodge stated that the Eagles had been trying to get this Bill enacted for quite some time, and that he had objected to the language in Section 4. He said that he did not like the criminal connotation so they had asked him to revise that Section. He advised that he had deleted the word "unlawful" and that there were no criminal penalties for violation. He also mentioned that it was interesting to him that the President, in his State of the Union message, had mentioned the same area and that he intended to ask for Federal Legislation.

Senator Hug asked how this Bill would affect school districts that do have an age limit on hiring and a mandatory retirement age. Mr. Preston replied: "According to the Bill, if the law says they have to retire at a certain time they have to retire." Senator Monroe commented that the last time this Bill came up it had received strong opposition from employers. Senator Dodge assured the Committee that he had discussed the legislation with Howard Gray and he no longer had any objection to it.

Disposition: ON MOTION of Senator Dodge, seconded by Senator Bunker, it was unanimously agreed to "Do Pass S.B. 295."

Chairman Monroe asked the members what they wanted to do about the Resolution the fellow from Washington, D.C. requested that they introduce. He said that the group the fellow represented were attempting to force Congress to do something about the Electoral College through the threat of calling for a Constitutional Convention. Twelve of the required thirty-two States have already adopted the Resolution. Senator Dodge commented that the unhappiest day Nevada would ever see is the day we had a Constitutional Convention. Senator Hug asked, if the Convention were called they could take up any thing. Senator Dodge commented that he didn't think Nevada wanted to go on record about it, and the other members appeared to concur.

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S.J.R. 21 "Proposes to amend the Nevada Constitution by establishing procedure to select Supreme Court Justices."

Mr. Guinan made a rather general statement before speaking specifically on S.J.R. 21. He said in effect, that there were three measures that would improve the judicial system immediately, they were: 1. To get the best qualified people on the bench by appointment and adequate salary. 2. Set up a procedure to get them off the bench if necessary. There is a Bill in the Assembly which follows the California procedure which has been very successful -- they have removed 34 justices without having to actually resort to its use. 3. Provision for a Judicial Administrator. This Bill would create a position where they would be able to control calendars, determine where judges are required most and they would have to sit there. The Administrator would not have any power himself but work through the Chief Justice of the Supreme Court. He also said that the Bar Association would be happy to have any part of the program passed.

Mr. Guinan returned to the subject of S.J.R. 21 and stated that, if we expect the Supreme Court to discipline judges we have to give them a little tenure, we cannot ask a justice without tenure to undertake the supervision of the district courts. Senator Monroe asked if this legislation wasn't similar to the Missouri Plan, to which Mr. Guinan replied yes, it does follow it. Mr. Guinan explained that the Governor would appoint the Commission who, in turn, would recommend qualified persons from which the Governor could select the Justice. The Justices would run on their record in the future, their names would be on the ballot unopposed with the provision that the voters can vote, yes or no. Senator Christensen stated, then you would never elect another Supreme Court Justice. Mr. Guinan said, that was right but you could get rid of them when they don't perform. Senator Christensen commented that the reason many attorneys won't run for judgeships is because they are afraid their practise may be jepordized if defeated. The possibility of "patronage" becoming involved was discussed.

Disposition: Held over.

S.B. 192 "Provides procedure for hearing in contested case under Nevada Administrative Procedure Act."

Mr. Guinan stated that this Bill is about half of the administrative procedures act. It is based on the recommended "model" act. The parts relative to setting up hearings and applying the rules of procedure relating to the right to practise before agencies were taken out. This Bill is a minimum standard for hearings. Senator Dodge asked if it spelled out the rules for a hearing. Mr. Guinan replied that the Nevada Tax Commission, in spite of the Act, requires that they follow the rules of procedure. He reiterated that this would require a minimum amount of information on how to conduct the hearing after it has been granted. Senator Dodge asked how this would affect the agencies that have rules of procedure. Mr. Guinan stated that it would not affect

them if they already had rules of procedure, but some of the agencies such as the Tax Commission have never adopted any regulations. Senator Dodge asked what the effect would be on agencies such as the Public Service Commission if their rules of procedure did not conform, does the Bill make provision for this. Mr. Buinan stated that if the rules were different they would have to change them. Senator Dodge requested Mr. Guinan to consult with Bill Mooney to ascertain if they have any objection to this legislation. Mr. Guinan replied that they do object to the cost. It is more difficult to conduct a hearing with rules of evidence comparable to those in District Court, but he agreed to consult with him.

Disposition: Held Over. Mr. Guinan to report conclusions reached in discussion with the Public Service Commission.

S.B. 243 "Permits employees to sue employer for injuries resulting from wanton negligence of employer."

One purpose of the N.I.C. was to eliminate suits for negligence by employees, instead they are entitled to benefits under the Act. However, if the employer is wantonly or willfully negligent the employee can still sue. This legislation would not allow employees to sue for ordinary negligence. Senator Christensen asked to have "wanton" defined. Mr. Guinan replied -- more than ordinary -- more than careless.

Disposition: Held over.

S.B. 244 "Permits judicial review of mandatory suspension or revocation of driver's license."

Mr. Guinan stated that they thought the constitutional due cause clause required this legislation. The statute says you can have a judicial review. This review would not allow the Court to go back and look at the convictions again; it would not reopen the question as to whether they were guilty or not. Senator Monroe asked if there were any other reasons, other than drunk driving, for mandatory suspension. Mr. Guinan replied, yes, and he read them to the Committee. Briefly, they were as follows: 1. Manslaughter. 2. Second conviction of drunk driving. 3. Committing a felony in which an automobile was used. 4. Failure to stop and render aid in a motor vehicle accident. 5. Committing perjury or giving false evidence. 6. Conviction or forfeiture of bail. 7. Three violation convictions. The inequities of the point system now being used was discussed, it appeared to be the consensus that three minor violations such as running an amber light, not coming to a full stop at an intersection, etc. should not be categorized with the more serious violations. Senator Monroe asked if there was any harm in a review by the Court. Mr. Guinan replied, no. Senator Young asked if the Bill would have any effect on licenses suspended in another State, could something be included in this Bill to cover that type of situation. Mr.

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Guinan replied that it would take another Bill. Senator Young asked why it would take another Bill. Mr. Guinan replied that there was another Section of the Statute and he would have to look it up.

S.B. 245 "Conforms notice procedure on applications of fiduciaries."

Mr. Guinan stated that there were three chapters in the statutes dealing with trustees. All three chapters have set forth what kind of notice a trustee must give and what the Bar wants to do is make them all the same. One of them is a uniform act and they do not want to amend it, instead they would like to amend the other in order to make them conform with the uniform act.

S.B. 247 "Extends jurisdiction of court over property in divorce cases."

Mr. Guinan stated that S.B. 401 was a companion bill. He said that occasionally a problem after divorce with joint tenancy property which was not distributed before or during the divorce proceedings. This would give the Court jurisdiction over that type of property. It would give them the authority to declare property held in joint tenancy to be property in common. Senator Dodge asked if this did not violate the individual property rights of the two parties. Mr. Guinan replied that it didn't have any effect on that at all, that they were trying to arrange it so they can take care of all property through the divorce. Senator Young objected with the statement that this would make a "monumental" change in the law and that it would permit the judge to give any such property all to the wife, or all to the husband. This legislation was discussed at length and Senator Young stated that he wished to give this Bill considerably more study.

The meeting adjourned at 10:00 A.M.