

SENATE JUDICIARY COMMITTEE

MINUTES

Meeting called to order at 9:00 a. m. on April 14, 1969 by Chairman Monroe.

COMMITTEE MEMBERS PRESENT: Senator Monroe, Chairman
 Senator Swobe
 Senator Young
 Senator Christensen
 Senator Bunker
 Senator Hug
 Senator Dodge

GUESTS: Jim Havel, Deputy Research Division, Legislative Counsel Bureau

Ed Bowers, Executive Secretary, Gaming Commission
 Frank Johnson, Chairman, Gaming Control Board,

Howard McKissick, Assemblyman
 George Vargas, representing American Insurance Association
 Oliver Bolton, Executive Secretary, Northern Nevada Insurance Agents Association
 James Lorigan, representing Farmers Insurance Group
 Virgil Anderson, representing AAA Insurance

Sidney Robinson, Attorney for Eagle Thrifty Market
 Richard Allen, Director, Washoe County Planning Commission
 Don Whitmore, Member, Washoe County Planning Commission.

Senator Bunker stated he had received several objections to the amount of the fees collected by the commissioner. Most felt that the \$15.00 on weekdays and \$20.00 for weekends and after business hours was too high.

Senator Monroe felt the main objection was taking the justice of the peace out of the marrying business on weekends where he made extra money.

There was general discussion as to the responsibility of the justice of the peace and it was the unanimous opinion that the justice of the peace should be out of the marrying business entirely and into the court business only.

Senator Dodge suggested to amend this to state "not more than \$15.00 and not more than \$20.00. This was agreeable.

Senator Hug pointed out that the set fees would include the fees for the witnesses and previously the witness fees would be in addition to the fee not charged.

Mr. Bowers and Mr. Johnson were present at the request of Chairman Monroe to discuss AB 772 (Provides for confidentiality of gaming informants and requires waiting period for certain transfers of gaming property.)

Mr. Bowers stated this was introduced at the request of Frank Johnson. Section 3 was to correct a situation that now existed. A person would apply for a gaming license and would want it to be issued within a very limited time which did not give the Board the necessary amount of time for proper investigation. This would put the applicant on notice that their contract to obtain the property or interest in property that required the approval or licensing by the commission, there should be no limit of time stated in the transaction earlier than 90 days after the submission of the applicant for the approval or license. This would give the commission enough time for their investigation.

Mr. Johnson stated there were many informants as to the illegal proceedings in gaming and this was to protect the informant from the accused to find out who he was. This was for protection as it could place the informant in great danger. After receiving information from an informant the commission had their salaried investigators check into the findings by the informant. No case was based upon the information given by the informant but on the findings of the commission investigators.

Senator Dodge felt justified in allowing this confidentiality. It is in the best interest of the State.

Senator Dodge moved "Do Pass".
Senator Swobe seconded.

Senator Young had questions to ask Mr. Johnson. Senator Young asked if the person accused could find out who was the informant. He felt a person should be entitled to know who informed on him.

Mr. Johnson said there was no way for the accused to find out who the informant was. His testimony was never entered as a matter of the hearing. This was the same way the informants for the IRS worked.

Senator Young asked what method of proceedings was used for the accused. Mr. Johnson said after the investigators had the necessary information the accused would appear before the commission for a hearing. This could be for either a civil or criminal hearing.

Chairman Monroe asked for a vote on the motion.

Motion carried unanimous.

Mr. Bowers and Mr. Johnson left the meeting.

Chairman Monroe read amendments proposed by the Assembly Judiciary Committee for SJR 14, SB 180, SB 431, SB 442 and SB 207. Amendments concurred in.

AB 99 - Limits application of automobile and aircraft "guest statutes".

Howard McKissick stated legislation to repeal the "guest statute" had been introduced by him during the last session but there was opposition to it, the main argument being it would lead to collusive action between members of the family. Rather than change the guest statute they have introduced AB 99 which would change the old law of being able to sue for ordinary negligence and have second degree of consanguinity limitations which would include parents, grandparents, grandchildren.

There were three main arguments used by the opposition for the defeat of this. 1. It would cause congestion of the courts. 2. It would increase insurance rates for liability coverage. 3. It would encourage friends to sue friends.

Mr. McKissick felt none of these arguments were substantial. It would not put additional work load on the courts as most suits would be handled by insurance adjusters and settled out of court. As to the raise of insurance premiums, statistics show that some states where the guest law was repealed had lower premium rates for liability coverage than other states with the guest law. Friends could not sue unless they perjured testimony and under the perjury law they could be convicted.

Mr. Peter Laxalt told the Assembly it was the only bill he was really interested in. He feels strongly about the present guest statutes and feels there is a great deal of room for improvement of this "bad law". He is principally a defense attorney. Peter Echeverria, Gene Wait, who is an insurance defense attorney, also Richard Wait, all are in favor of this modification.

Mr. George Vargas, representing the American Insurance Association stated it was the third session this type of legislation had been introduced. He considered it a part of the Lawyer's Personal Injury Program. It has been introduced by attorney's for several years, however this year the strategy was different. We feel if there is a problem with the guest statute, then the entire guest statute should be repealed. The attorney's can see a gold mine in personal injury suits. The California guest law is much more stringent than ours. There is nothing in this bill except the second degree of consanguinity. It is up to the legislature to decide if they want the guest law.

Senator Dodge asked if the insurance companies had evidence of coloration of testimony or collusion in law suits.

Mr. Vargas replied on a nationwide scale there was some evidence.

Senator Dodge asked Mr. McKissick if he agreed there was a degree of coloration of testimony present?

Mr. McKissick stated there had never been a perjury suit.

Mr. Vargas stated it was only human to want to try to collect for a possible injury and a person would be more apt to lie more to make the difference of a misdemeanor or a gross misdemeanor.

Senator Dodge then questioned the insurance representatives present as to their opinion of the possibility of the increase of liability insurance premiums.

Mr. Virgil Anderson, staff attorney for AAA Insurance Company stated they had no reason but to believe that with passage of this bill they would have more claims filed which would naturally raise the premium. They could not tell how much it would raise the premium but it would be based on actuaries.

Senator Young asked how many new suits or new claims would be filed within the next few years if this was passed.

Jim Lorigan stated there would be a lot of new claims filed and if they had to pay more claims they would have to increase the rates. In could possibly be a substantial increase. In California, which is considered a very generous state with regard to insurance payments to clients has "hung tough" on the gross negligence charges. The difference between negligence and gross negligence is so close it is hard to determine.

Senator Hug pointed out that medical payment insurance would pay for medical bills for the owner of a car and also the passenger.

Senator Monroe stated it would pay for the medical bills only but not for damages, wages, etc.

Chairman Monroe thanked the gentlemen for testifying.

SB 519 - Provides for limitation of applications for rezoning.

Senator Swobe introduced Richard Allen and Don Whitmore. They were asked by Senator Swobe to be present to testify on SB 519.

Mr. Richard Allen had two basic comments to make. He felt there was a problem with the harassment, however they had taken steps to correct this and they hoped the steps taken would be adequate. He felt the problem should not be handled at the legislative level but at the local level, where the problems were. The local government agencies were are aware of the problems and could handle them best.

Senator Dodge asked what they had considered as a possibility to rectify the problem of the Hunter Lake people.

Mr. Allen felt the six month limit would help. They had originally considered placing a year limitation, however most thought that would be too long as it would impair the growth of the community. The county did not have restrictions nor did the city of Sparks.

Senator Swobe advised he had prepared a resolution requesting the six months be changed to a year. He asked the committee if they thought that would take care of the entire problem.

Mr. Allen stated the Commissioners might approve but he could not say he felt the city government would accept it.

Mr. Sidney Robinson stated he felt Eagle Thrifty would accept the year rather than six months.

Senator Dodge asked Mr. Allen if they felt this constituted a harassment why there wasn't something done to stop it. He indicated the corrections should be made at the local level and yet nothing had been done to take care of the problem at that level. If something was not done the legislature would have to intervene as they represent the people in the state and should take measures to protect them.

Mr. Allen stated they had made several recommendations but they had not always been followed.

Senator Young felt it would help to extend the time to one year but it would not solve the problem. If they can get in each year and make application for a change the problem would not be solved. He felt there should be a limit on the number of applications made.

Senator Dodge and Senator Monroe were opposed to bringing the courts in. They both felt the applicant should prove there had been a change of circumstances before a rezoning request would be considered.

Senator Monroe asked Mr. Allen how they determined if there had been a change of circumstances. Mr. Allen said this was left up to the decision of 12 men. The Burden of proof was left up to the applicant.

Senator Monroe suggested going to the City Council with the evidence of a change of circumstances for a hearing and then to the planning commission. The Burden of proof could be used as testimony for both places.

Mr. Robinson felt the change of circumstances rule as one of the rubs for getting a change of zoning. A number of cases for zoning have gone as high as the Supreme Court. In some cases the decision was over ruled and in other cases it was upheld.

His main objective to this bill was making it retroactive. He felt this was personally aimed at the Eagle Thrifty. If there was a change

Senate

Judiciary Committee Minutes
April 14, 1969

-6-

in conditions the burden of proof should be upon the applicant and the planning commission would have to make a finding as to say the conditions had been changed.

Senator Hug asked Mr. Robinson what he considered the change of circumstances were on the Hunter Lake problem.

Mr. Robinson stated that Mayberry Drive had been widened, a service station had been built on the corner, there were plans for Hunter Lake Drive to be extended into Idlewild Drive and the population had quadrupled and the entire area was now served by only one shopping area.

He felt the "three time only" provision should not be considered.

Senator Swobe felt there would be problems if this was made retroactive as there were not sufficient records kept to check back on.

Mr. Robinson suggested the committee consider the recommendation of Mr. Knisley that all the rezoning actions become a part of the record so they could be available to a new property owner as to what had previously happened to his property.

Chairman Monroe thanked all for coming, however time was up and the committee had to go into session.