

SENATE JUDICIARY COMMITTEE

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MINUTES

Meeting called to order at 9:15 a. m. on April 8, 1969 by Chairman Monroe.

Committee members present: Chairman Monroe
Senator Dodge
Senator Hug
Senator Swobe
Senator Bunker
Senator Christensen
Senator Young

Guests: Mr. George Vargas, Attorney, Reno, Nevada
Mr. Webb Brown, Civil Engineer, Reno, Nevada
Mr. Roland Oakes,
Mr. John A. Porter, Attorney for Department of Commerce
Mr. Hugo M. Quilici, Director, Department of Commerce
Mrs. Gloria Long, 3375 Barbara Circle, Reno, Nevada
Mr. E. B. Scott, Sparks, Nevada
Mr. L. J. McGee, Trust Department, First National Bank.
Mr. Edward C. Reed, Jr., Attorney, Reno, Nevada

SB 514 - Extends immunity from suit by persons receiving industrial insurance.

Mr. George Vargas stated this came out of a litigation in Reno involving a suit against the Red Carpet and the Sierra Pacific Power Company filed by an injured worker. An addition to the Red Carpet was being done by a general contractor, Mr. Erickson. A cement finisher working for a sub-contractor came in contact with a power line of high voltage and was injured. The Contractor had industrial insurance on his employees and was not involved in the suit but the owner of the Red Carpet and the Sierra Pacific Power Company were named in a suit. Actually the cost of the industrial insurance was added to the price of the contract to be paid by the Red Carpet so he was actually paying the premium for the industrial insurance. The Court ruled that the owner was responsible. This would relieve any owner of responsibility when the injured person receives payment under the Nevada Industrial Insurance or workmans compensation.

Senator Young felt the owner and the Power Company should be held responsible as they were aware that the high voltage line was there. He would like to hear testimony from the Industrial Commission and see how they felt about it. As long as a person was covered by industrial insurance they could not sue but if the owner did not participate in direct payment of any premium, they were not relieved of the responsibility.

Mr. Webb Brown stated he would like to give a layman's point of view on this. Industrial Insurance covered a workman whether he was found to be negligent or not. Both sides had to give up something when covered by industrial insurance, the contractor gave up his right to protect his employees under his own liability insurance and the employee gave up the right to be covered by other insurance rather than by workman's compensation. The owner actually contributes to the premium paid to the NIC when the contract is signed so they should be able to have immunity from suit just as the contractor has. This should also apply to the engineers and architects employed to work on a job as they actually have no control over the work done by the contractor or his employees. The owner certainly cannot inspect the work each person is doing and be sure he is not subject to injury. It costs a great deal to defend yourself when brought into a suit and most of the time the owner is exonerated, however it is still very expensive.

Senator Dodge would like to hear from the Nevada Industrial Commission or from their attorney, William Crowell and would also like to know how other states handled this situation.

Mr. Roland Oakes stated he had contacted labor, the Industrial Commission and also Howard Gray on the mining contracts and found they were all in favor of this. He will check and see how other states cover this and will report back to the committee.

Mr. Vargas, Mr. Brown and Mr. Oakes left the meeting.

AB 232 - Provides additional requirements and regulatory measures for collection agencies.

Mr. Hugo Quilici, Director of the Department of Commerce introduced Mr. John A. Porter, Attorney with the Attorney General's office assigned to the Department of Commerce.

Mr. Porter stated this was introduced to cover several loop holes in the present law regarding collection agencies. There was no control over the amount of interest they could charge, mis-management, and no way to enforce shortage of money in the trust accounts. The original bill had been amended several times in the Assembly and the amount of fees to be charged for examinations of report was left out. He presented a copy of a proposed amendment which would allow collection of fee from the licensee of \$7.50 for each man hour expended in conduction the examination, but not to exceed a total of \$300.00. This limit was placed in order to protect the smaller collection agencies as sometimes an investigation could be quite lengthy and costly.

He also suggested on page 4, line 12 granting should be changed to "grant,".

The law now states there should be an examination of each agency at least once every three years, however this is not mandatory. In the

past there was usually only an investigation when a complaint was made

Mr. Quilici remarked he had, within the past year or year and one half, investigated every credit collection agency and found several needs for control of this business. Some did not have a bookkeeping system where their collections and payments could be checked. In the future regular checks will be made however they needed legislation to enforce penalties and set standards to be followed.

Senator Dodge questioned the standards set for a manager. If the manager was not handling the business correctly and furnished the required bond he felt they should not have any interest in the manager and only an interest in the handling of money.

Mr. Porter stated a manager could make things pretty rough if not the properly qualified person.

There was a general discussion about the charge for examination in comparison to the amount charged banks and savings and loan companies.

Senator Dodge asked what control there now was over the collection agencies.

Mr. Quilici stated there were none. They have no authority to do anything if it was found the business and funds were being mishandled. The law now does say the superintendent can examine for general terms but the industry as well as the department of commerce recognize the need for standards and controls.

Senator Dodge remarked he felt they were going at the manager too far. If there were other regulations, filings, etc., for the business they would have the authority they need over the manager. If they controlled the business they could control the manager.

Mr. E. B. Scott asked what was being done to protect the public in general. A person could have repairs made and there could be faulty workmanship and he would refuse to pay for the repairs. If this was turned over to a collection agency there should be some way for the person to be able to explain why he would not pay and there should be some protection for him being required to pay for faulty repairs.

Senator Dodge advised Mr. Scott this could not be legislated, however the person could always go to court and have a judgment. It was more expensive but that was about the only way this could be handled.

Mrs. Gloria Long stated there must be something wrong with the law when it gave the right for a collection agency to destroy an individual. She stated she had received a collection letter from a collection agency for a small balance and they had added a big interest and collection fee. They had served it on her husband at his place of business and had

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jeopardized his job.

Mr. Porter agreed there had been cases of harassment and threats to make someone pay to a collection agency, however there were provisions in this to control that also.

Chairman Monroe stated he had a letter from Allied Credit Bureau with recommendations for an amendment. He asked Mr. Porter to study the recommendation and to please report back to the committee tomorrow.

AB 493 - Limits amount of recovery under and provides standards for the rendition of deficiency judgments.

Mr. Edward Reed remarked he was actually not present to represent anyone particularly however he and Senator Hug had discussed this at length. SB 35 introduced by Senator Hug if amended as proposed, would be practically the same bill. When the Supreme Court made it clear deficiency judgments would be allowed it was noticed there were no limitations or controls set. Emerson Wilson of the Nevada Title Company and Mr. McGee, Trust Department of the First National Bank approved this legislation. This will protect the lender as well as the seller. The deficiency judgment can not exceed the difference between the amount of the sale and the amount owed on the property. Mr. Reed felt the waiver in Section 4 was good and also the appointment of appraisers was good as it would give a fair value if there was some discrepancy in the fair market value.

Mr. McGee, Trust Department of the First National Bank stated he felt AB 493 was good legislation. There had been cases of injustice and there should be some way to control.

There was discussion about appraisers and who would pay them.

It was not mandatory to have appraisers and they would be paid out of the judgment.

Senator Dodge moved "do pass".
Senator Swobe seconded the motion.
Motion carried.

Mr. McGee and Mr. Reed left the meeting.

AB 746 - Provides for licensing and inspection of equipment and materials used in gambling.

Chairman Monroe read the amendments prepared by Mr. Daykin, however they did not have all the changes requested. Senator Monroe will discuss this again with Mr. Daykin.

Chairman Monroe read an amendment to SB 172 (Eliminates provisions for waiver of public employees' retirement allowance).

Line 13 add "by power of attorney or otherwise".

The committee concurred with the amendment as they could not see that it changed the meaning.

SJR 23 - Proposes to amend judicial article of Nevada constitution.

Chairman Monroe advised the Assembly amended this. They struck out the age limit of 70 years.

Senator Dodge stated he was aware of this change and felt it was satisfactory. Under the judicial system they could ask a judge to retire if he was not physically able to continue.

Members of the committee concurred.

AB 53 - Bases allowance fo attorney's fees to plaintiff in civil action upon amount recovered.

Chairman Monroe stated the Assembly did not concur with the amendment made by the Senate Judiciary committee.

Chairman Monroe will ask for a conference with the Assembly.

Senator Dodge felt AB 495 (Declares that checks given or accepted in licensed gaming are enforceable) could be settled by amending to have it enforceable in Nevada and if a judgment could be made in Nevada other states would do the same. He then suggested AB 495 not be processed and a simple bill be prepared as Senator Young suggested.

There being no further time the meeting adjourned at 11:00 a. m.

Respectfully submitted,

Jeanne M. Smith, Secretary.

APPROVED: _____