

SENATE JUDICIARY COMMITTEE

MINUTES OF MEETING

April 1, 1975

The meeting was called to order at 8:40 a.m. Senator Close was in the Chair. All members were present.

SB 173 Enacts the Nevada Anti-Trust Act.

Robert List, Attorney General addressed himself to the need in Nevada for an anti-trust bill. He cited examples of anti-trust activity that is taking place in Nevada at the present time and that they have no authority to control. In these instances, he has had to refer the complainant to the federal anti-trust division. In most cases, these complaints were not prosecuted because the federal government does not have the manpower needed to undertake the type of cases found in smaller states. In each of those instance, we have an honest, legitimate businessman who is simply seeking an opportunity to compete for a share of the market, is cut off by an act which is already illegal under the federal law but for which nothing is being done. Secondly, you have the situation where the consumer ultimately picks up the tab. He stated that he had spoken to Tony Desmond, Chief of the Anti-trust Division in San Francisco who expressed his support for a State anti-trust act in Nevada. (see minutes of February 25, 1975 for Mr. Desmond's remarks)

Senator Dodge asked whether there was any protection for the defendant that there would not be a double prosecution from the State and federal government. Mr. List replied that they would get together and decide who would prosecute the case.

Senator Hilbrecht stated that he felt they should perhaps move to a civil remedy or a very limited criminal approach rather than going into a full scale combination of the Sherman-Clayton Anti-trust act. In most of the cases Mr. List cited, if we create a tort cause of action and perhaps adjusted the equities legally in a statutory remedy to give the benefit of the doubt to the complainant that we might restrict these activities.

Mr. List responded that he felt that the existence of the statute itself would serve as a deterrent. He, further, commented on Senator Hilbrecht's concern over the cost of an anti-trust act by stating that if Nevada had had such an act over the last three years, they would have over \$10,000 in their fund now.

Senator Close expressed concern over Section 6. He felt that this would give the attorney general's office the authority to look at every sale, contract or lease in the State of Nevada to determine if there was a monopoly being created.

Mr. List explained that this was a bill drafting error. Line 29, beginning with "on the condition" that clause should modify all the previous subsections as well. He further recommended adding a fourth subsection to Section 8 which would give to the tenant the exclusive right to deal in a given commodity within a given shopping center.

The Committee requested that they come back with the appropriate amendments. Senator Wilson suggested that if they are concerned about preserving language that they feel is essential to being able to apply definitions in existing case law body to either criminal prosecutions or civil remedy for price fixing, bid fixing or the commercial bribe, that they outline what language they feel is essential to retain the applicability of that body of case law.

The Committee members made the following observations:

Senator Hilbrecht requested that they draw up some civil remedies; Senator Sheerin

and Senator Dodge agreed on following a course of criminal penalties; and Senator Wilson expressed concern over a question of due process.

No action was taken at this time.

SB 47 Clarifies and expands provisions of the Nevada Gaming Control Act.

Peter Escheverria, Gaming Control Board; Bud Hicks, Deputy Attorney General; and Jack Stratton, Gaming Control Board reviewed the bill with the committee.

Senator Close stated that there were two problem areas: 1) Page 21, line 15 delete "and a new corporation". The bill should read, "a corporate gaming license is dissolved or merged with another corporation, at least 80% of which is owned by or shared with a former licensee"; line 20, delete "new" and insert "such other corporations".

2) Pages 4 and 5, lines 43 through 49 and 1 through 11, respectively. Senator Wilson pointed out that this would give the gaming authority the power to require that all employees of a leasee be licensed. He suggested going to a selective finding of suitability. Mr. Escheverria agreed however he felt there would be a problem of bringing an order to show cause or complaint against a leasee and recommended going against the licensee.

Senator Hilbrecht expressed concern that, assuming the activity is a bookstore, that the activity of selling books would be covered by first amendment considerations. Senator Wilson pointed out that the finding of suitability does not go to the activity of selling books but rather to the suitability of occupying the same premises as the licensee.

Senator Dodge further stated that they are concerned with regulating an unsuitable person in a suitable activity.

Senator Dodge asked if there would be a problem if it became standard procedure to write provisions into a lease that, for whatever defensible reason that the gaming control board has, to ask that owner to cancel a lease, the lease should be cancelled; make it a condition of the lease.

Mr. Escheverria agreed with Senator Dodge that it should be included in the lease. The committee concurred with this recommendation and decided to amend the bill in accordance with that.

Senator Close further commented that it was the Committee's intent that this was to be prospective in operation; that they were not going to go in and rewrite all existing leases.

No action was taken at this time.

BDR 11-1074 Revises community property laws.

Jim Kosinski, Bill Drafter reviewed the draft with the committee:

There was tentative agreement among the committee on Sections 1 through 5.

Section 6 - Senator Wilson asked why it was being made mandatory. It suggests an exclusive remedy. He recommended changing it to "may". Senator Hilbrecht suggested putting in a subsection consistent with the repealer saying that this is not an exclusive remedy by which a spouse may designate separate property.

Senator Close felt that there was nothing wrong with Senator Hilbrecht's suggestion but pointed out that it was important to look at Section 8 because that is the effect of the recording of inventory.

Section 8 - Senator Sheerin stated that they are doing away with the need for Section 8 by requiring both spouses to sign any conveyance for real estate. Senator Dodge pointed out that they only have to sign in an executed proposition; that there are many instances where they may want to establish separate and community property where they never got to the execution of a deed. Senator Hilbrecht further commented that it was necessary to preserve the language of Section 8 as a transitional statute in view of the fact that all of the work on community property laws is prospective. Senator Dodge wondered if, where there are incompatible sections as far as prior law and prospective law, there should include an explanation that the difference is on a transitional basis.

Section 9 - No change.

Section 10 - Senator Close stated he had a problem with the phrase "at common law"; how do you determine what abandonment at common law is? Senator Wilson felt that it should not be limited to common law and suggested deleting that term. Senator Sheerin felt that there was a policy question to be dealt with as far as abandonment. If the earnings of a spouse are separate property, it should not go to whether or not there is abandonment, as long as it doesn't affect creditors. Senator Wilson suggested using the same rule that was applied with respect to creditors; that the earnings are community property unless there is a decree. The Committee could not agree on an approach to this question and decided to hold it over for further discussion.

No action was taken at this time.

Senator Sheerin informed the Committee that he had 3 bills from the District Attorneys Association that they would like to have introduced:

BDR 16-1347 Increase penalties in the area of solicitation;
BDR 16-1315 Modifies child abuse laws;
BDR 16-1552 Increases penalty for aggravated robbery.

Senator Close also presented a bill for introduction:
BDR 54-1438 Strengthens provisions for discipline of physicians.

The Committee unanimously approved introduction of the above bills.

There being no further business, the meeting was adjourned.

Respectfully submitted,

Cheri Kinsley
Cheri Kinsley, Secretary

APPROVED:

Mel. D. Close Jr.
SENATOR MELVIN D. CLOSE, JR., CHAIRMAN