

Liberty

MEMBERS PRESENT: Chairman Stewart
Vice Chairman Sader
Mr. Thompson
Miss Foley
Mr. Beyer
Mr. Price
Mr. Chaney
Mr. Malone
Mrs. Cafferata
Mrs. Ham
Mr. Banner

MEMBERS ABSENT: None

GUESTS PRESENT: Frank Daykin, Legislative Counsel
Lynn C. Jasmine, Solicitation Review Board,
City of Reno
John R. Petty, Asst. City Attorney, Reno
Janice G. Pine, City of Reno
Shannon Foley
William Swackhamer, Secretary of State
Esther Nicholson

Chairman Stewart called the meeting to order at 8:05 a.m. and asked first for testimony on SB 150.

SB 150: Replaces "and/or" with an appropriate term in Nevada Revised Statutes.

Frank Daykin, Legislative Counsel, stated that this is a bill which arose by virtue of Chapter 220 of NRS. He continued by saying that the Supreme Court of Nevada has described the term "and/or" as inherently ambiguous, although despite its use in a particular statute, the statute was nevertheless comprehensible. Through running a print-out from the computer data base, it appears there are about 5 places in NRS in which this term occurs, two of which are in inter-state compacts adopted verbatim by the Legislature and which cannot be changed. The other three instances appear in SB 150. Mr. Daykin indicated the problem when "and/or" occurs is does it mean "and"; does it mean "or"; does it mean, as in "(a) and/or (b)", (a) or (b) or both? Each form was reviewed and the term was changed to reflect what the intent of the language was. Mr. Daykin briefly outlined those as they appear in the bill.

Mrs. Ham pointed out that at page 2, line 45, a bracket was left out. Mr. Daykin noted that and indicated he would have that taken care of.

Chairman Stewart then asked if at page 1, line 19, the words "or both" were actually necessary. Mr. Daykin stated he had inserted those words as excess of caution since it appeared it might become necessary to cover both documents mentioned in the event arguments of interpretation might occur.

Chairman Stewart then asked why at page 2 the word "such" had been taken out in a number of places and replaced with "this" or "the". Mr. Daykin stated that "such" properly means "of this kind" and the terms "such" and "said" are often used in statutes and quoted Thomas Jefferson as saying in reference to the endless "saids, aforesaid" in British statutes, ". . . only succeed in rendering more obscure what they seek to clarify."

Since there was not further testimony on SB 150, Chairman Stewart proceeded to testimony on AB 232.

AB 232: Clarifies age of and eliminates citizenship requirement for directors of corporation.

Assemblyman Bob Sader, District 32, stated he sponsored this bill at the request of two law firms in the Reno area, both of which do a lot of corporate work. He summarized the intent of the bill by saying that AB 232 will (1) lower the age of a person who could be a director in a corporation and (2) remove the requirement that one of the directors of a corporation must be a resident of the State of Nevada or citizen of the United States.

Mr. Sader indicated that the first alteration merely updates the statute to conform with the new age of majority. The existing language says "of full age", which presumably means the age of majority. Mr. Sader pointed out that the age of majority for drinking is 21 and the age of majority for signing contracts is 18. Therefore, the age 18 was inserted instead of the existing language.

The second alteration was made due to the fact that in the case of Canadian corporations or people from other states wanting to incorporate in Nevada. Mr. Sader commented that the existing requirement makes it necessary for these people to have a resident of the State of Nevada on their corporate board -- someone unknown to them and with no relation to their business. He pointed out the wide use of dummy incorporators, where a legal secretary or some other person is listed on the books as an incorporator in order to meet the requirement of three individuals.

Mr. Sader felt that an individual listed as an incorporator or director and having no relationship to the business who is simply there to satisfy statutory formality is unwise, exposing that person to some limited liability. This amendment would satisfy that problem.

On a question from Mr. Beyer, Mr. Sader stated that in the case of a Canadian corporation wanting to be incorporated in the State of Nevada, in order to satisfy the corporate requirement all that is necessary is to find a secretary in a law firm or someone else with no relationship to the business to be listed on the books. He commented that this dummy director could end up being sued and would have further liability through not taking part in the corporate affairs.

Bill Swackhamer, Secretary of State, testified in favor of this bill and commented that several Canadian corporations had come to Nevada and upon finding that under Nevada law they were required to have a United States citizen in their corporation, they simply went to another state where that was not required. He indicated that there was not any particularly good reason for requiring a citizen to be on the board of a Canadian corporation. He also noted the advantage of conforming the language of the full age to the current age of majority.

Mrs. Cafferata asked if there were a lot of foreign corporations in Nevada. Mr. Price and Mr. Swackhamer both commented that there is quite a bit of Canadian interest and a number of Canadian corporations. Mr. Swackhamer pointed out that any other nation could take advantage of this.

Since there was no further testimony on this bill, the Chairman called for testimony on AJR 24.

AJR 24: Proposes to amend Nevada Constitution to allow raffles for charity.

Chairman Stewart stated that this bill was introduced at the request of Assemblyman Mello, who indicated the problem had been mentioned by several charitable and service organizations that have raffles. Mr. Stewart pointed out that across the State of Nevada on almost any day, there are raffles being held. This bill would amend the Constitutional provision prohibiting those raffles and allow them to be held by charitable organizations. He noted that Mr. Mello had not been notified of this hearing and had several people who wished to testify. Therefore, a second hearing would be scheduled on AJR 24.

Lynn Jasmine of the Solicitation Review Board for the City of Reno stated she was an active volunteer in a number of charitable organizations. She felt a need for this amendment for a number of reasons. First, the charitable organizations, mainly volunteer, provide a number of very much needed services and should the city, county or state governments be required to purchase these services, it would be a tremendous cost and burden. She stated these organizations are currently engaged in raffle and drawing type activities. Some know this is prohibited and some do not. She stated this is a very viable method of raising funds needed for their activities, such as in youth programs.

Second, there is a problem in terms of enforcement. Ms. Jasmine noted that many of the pillars of the community have been involved in these activities, creating an enforcement problem.

Finally, changing this law would benefit the State in general. Ms. Jasmine felt there wouldn't be any groups or organizations harmed by changing this.

Mrs. Cafferata asked if the words "entire proceeds" meant that costs could not be allowed from the proceeds. Chairman Stewart suggested that be looked into.

Mr. Stewart asked what the Solicitation Review Board does. Ms. Jasmine stated the Board questions applicants on whether the raffle is being held as a part of the fund raising efforts. If it is, then the applicant is advised on the statutes and are denied the application for the raffle. She indicated the majority of applicants say no and the Board is not an enforcement board, but a review board.

On a question by Mr. Beyer about raffling table decorations, Ms. Jasmine suggested the committee might want to address itself to the interpretation of a charitable organization and the wording used. She noted there are organizations that would be questionable in terms of charitable, such as the PTA when raffling handmade items to provide funds to buy playground equipment. She added that the term "non-profit" might create problems in that there may be non-profit corporations not for charitable purposes.

Miss Foley suggested the use of IRS tax classifications.

Mr. Price expressed interest in the reason lotteries were opposed to begin with. Mrs. Cafferata felt the gaming people were opposed to this. Mr. Price felt it was bingo they were opposed to and commented on a senior citizen game being busted by the Gaming Control Board. Mr. Price suggested it be researched and indicated he would have that done.

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John Petty, Assistant Reno City Attorney, stated he gives legal advice to the Solicitation Review Board. He concurred in Ms. Jasmine's comments. He stated a problem arises when applicants appear before the Board and are denied permits on the basis that they are going to hold a raffle or lottery. He pointed out that these people are upset when they can see every day raffles being held in the business sector, banks, the gaming industry or other charitable organizations. He felt it strange that if a provision exists prohibiting these activities, there is either no enforcement or selective enforcement. He noted it would be embarrassing or hard to enforce this provision since pillars of the community are involved in many instances. Mr. Petty stated the support of his office in allowing lotteries for charitable purposes. He stated his office would also support a blanket repeal of this statute.

Mr. Petty stated that the Solicitation Review Board has a broad definition of "charitable organization" as including those who add to or benefit some sort of group. He noted there is a restriction on the applications, requiring the charitable organizations to have a tax exempt status under the IRS standards.

Chairman Stewart asked if a door prize would come under the term "lottery". Mr. Petty stated that pursuant to NRS 462.010 et seq. the definition of "lottery" is very specific. He felt a door prize could fall under that definition.

Mrs. Ham asked if the casinos are in violation with their raffles. Mr. Petty felt they were, but it is not enforced.

Miss Foley asked about tickets handed out for door prizes where they are not paid for. If the chance to win is not paid for, is that considered the same as buying the ticket? Mr. Petty stated the interpretation is that if the element of consideration is removed, then it is not a lottery or raffle. He noted, however, that an attempt to create a scheme removing the element of consideration is considered a facade and prosecuted.

Janice Pine, Reno City Councilwoman, stated that the Reno City Council is unanimously in support of AJR 24. She indicated she would not go on record as saying the City Council would support the repeal of all lotteries. She stated their interest is primarily in raffle tickets sold by non-profit organizations and they did not discuss the raffles held by casinos. She brought the committee's attention to SB 312 which removes the title of "convicted person" from those selling raffle tickets and caught.

Mr. Sader asked if the Council had gone into the difference between charity and other non-profit organizations. Ms. Pine stated they did not. She indicated they were primarily con-

cerned with situations involving the Girl Scouts, Lion's Club, Elk's Club, etc., who apply for permits with tickets already printed and when denied a permit, sell the tickets anyway.

Miss Foley pointed out that the language of the bill does not speak to the people selling tickets or conducting the raffles, but only to where the proceeds go. She then asked if the raffle tickets in casinos are actually purchased or just given away. Ms. Pine felt they were given with a slot jackpot.

Esther Nicholson came forward with questions for the committee as follows: With reference to the language that says that the Legislature may authorize a lottery or allow the sale of lottery tickets, does that mean that the State could, in line with Senator Faiss' and Senator Raggio's resolution, allow the State to set up a State lottery? Chairman Stewart and Mr. Sader felt it did. Ms. Nicholson also questioned whether all senior citizen activities would be considered charity. She felt there was a number of areas in the bill which need to be clarified. She suggested both the Senate and Assembly Judiciary Committees meet jointly and consider these areas. Ms. Nicholson further indicated that her reading of SB 312 indicated the bill removed the entire statute prohibiting lotteries and not just the language referring to the "convicted persons".

Chairman Stewart once again indicated there would be another meeting scheduled to hear further testimony on AJR 24.

Mr. Sader pointed out that in the sections of the statutes dealing with corporate law, there are definitions or distinctions made for types of organizations covering a number of areas. Mr. Sader felt the question was what areas does "charitable organizations" cover. Mr. Stewart felt there might be further definitions contained in the statutes.

Mrs. Cafferata addressed the question of whether the State may authorize a lottery, stating that there is a difference between a State lottery and the Legislature versus private enterprise doing it. She felt that should be looked into and clarified.

Assemblyman Price passed out a newspaper article, EXHIBIT A, and referred to the testimony given on March 10 on AB 178. He indicated he had asked the gentleman from Fish & Game if he could recall any incident in the southern part of the state which had enough significance to appear in the newspaper. Mr. Price reminded the committee that the witness indicated he had been the head game warden for 8 years and responded no to the question.

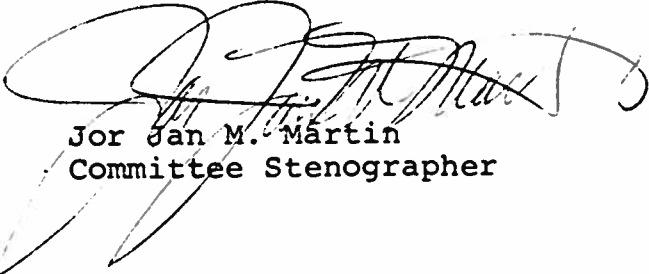
Mr. Price then drew the committee's attention to the two articles which appear in EXHIBIT A. He couldn't understand this gentleman not remembering a problem with his agency which appeared in the newspaper on March 9. He stressed the fact that the Legislature does not have the time to research every subject which arises, nor does it have the facilities. He felt that the Legislature should be able to depend upon the agencies to be completely truthful in their testimony at the hearings. He pointed out that in the past, if an agency was not in favor of a bill, they would attach a substantial fiscal note. It was as a result of this and as a result of the Chairman of the NIC appearing before the Legislature and being less than truthful, that the signs present in the committee room now became procedure: i.e. witnesses must be sworn under oath before testifying.

Mr. Price then told the committee about the game wardens arresting and handcuffing an individual without the authority to do that. He indicated that it was a citizen's arrest and they should have notified the police department and asked for assistance. Mr. Price asked that the bill be brought back to the committee as well as the gentleman who testified on March 10 to discuss their conduct in front of the committees and the way they use their authority now.

Mr. Thompson moved AB 178 be re-referred to committee, seconded by seconded by Mr. Malone, and carried unanimously by the committee.

Since there was no further business, Chairman Stewart adjourned the meeting at 9:03 a.m.

Respectfully submitted,



Jor Jan M. Martin
Committee Stenographer

61st NEVADA LEGISLATURE
ASSEMBLY JUDICIARY COMMITTEE
LEGISLATION ACTION

DATE: March 11, 1981
 SUBJECT: AB 178: Requires game wardens to enforce additional criminal statutes.

MOTION:
 DO PASS _____ AMEND _____ INDEFINITELY POSTPONE _____
 RECONSIDER _____ RE-REFER TO COMMITTEE XX
 MOVED BY: Thompson SECONDED BY: Malone

AMENDMENT:

MOVED BY: _____ SECONDED BY: _____

AMENDMENT:

MOVED BY: _____ SECONDED BY: _____

VOTE:	MOTION		AMEND		AMEND	
	YES	NO	YES	NO	YES	NO
Thompson	<u>XX</u>	—	—	—	—	—
Foley	<u>XX</u>	—	—	—	—	—
Beyer	<u>XX</u>	—	—	—	—	—
Price	<u>XX</u>	—	—	—	—	—
Sader	<u>XX</u>	—	—	—	—	—
Stewart	<u>XX</u>	—	—	—	—	—
Chaney	<u>XX</u>	—	—	—	—	—
Malone	<u>XX</u>	—	—	—	—	—
Cafferata	<u>XX</u>	—	—	—	—	—
Ham	<u>XX</u>	—	—	—	—	—
Banner	<u>XX</u>	—	—	—	—	—
TALLY:	<u>11</u>	—	—	—	—	—

ORIGINAL MOTION: Passed XXX Defeated _____ Withdrawn _____
 AMENDED & PASSED _____ AMENDED & DEFEATED _____
 AMENDED & PASSED _____ AMENDED & DEFEATED _____

ATTACHED TO MINUTES OF _____ March 11, 1981

insight

20 LAS VEGAS SUN

Monday, February 4, 1980

Las Vegas SUN

EDITOR AND PUBLISHER... H.M. Greenspan

EXECUTIVE VICE PRESIDENT... Mike O'Callaghan

MANAGING EDITOR... Len Suttner

GENERAL MANAGER... Burt Guy

Police State Tactics Not For Nevada

Two armed Fish and Game agents arrest and throw a young craps dealer in jail. His crime: failure to show up in court on a charge of not possessing a fishing license.

What started as a traffic ticket-type citation on a May afternoon mushroomed into a major "bust" by state Wildlife Department enforcement agents.

The victim was embarrassed in front of fellow employees, even asked if he was armed though he clearly had nowhere to put a gun in his dealer's shirt and pants.

Policy Of Restraint

And handcuffed? If he had to be restrained as a matter of policy he could have been led to the state car, then handcuffed away from the view of customers, casino workers and his bosses.

For their trouble, he spent two hours in the overcrowded, dangerous Clark County Jail and was released on his own recognizance. He didn't even have to post the \$100 bond.

Certainly, state officers need to enforce laws to protect Nevada's wildlife for future generations. Hunting and fishing licenses are an important tool of regulation.

A Few Details

But examine some of the facts surrounding the case:

•The 30-year-old dealer had simply left his license at home when he was cited May 13. An easy check of a computer printout before the arrest would have confirmed he was within the law, thus saving taxpayer's money.

•The arrest came more than eight months after the fishing citation was issued and seven months after he had last heard from the Wildlife Department. After such a delay, one might consider the case closed or forgotten.

Hardly Felonious

•Agents could have telephoned the man to ask him to produce a license or arrange to surrender for booking. No Strip dealer is going to flee town to avoid arrest on a \$100 fishing warrant.

Wildlife Department officials said it is the duty of the arrested fisherman or hunter to prove his innocence by producing a license in court. Apparently, agents have forgotten a citation is a criminal proceeding, putting the burden of proof on the state.

They explain the delay in making the arrest by claiming agents were too busy. It's fine to go out and issue legitimate citations, but you better forget it if you can't handle the paperwork.

The Paper Chase

Clearly, common sense was swept by the wayward flow of headlines, quasi-police action by the Wildlife Department. Its director, Jim Greenley, says his intent was that the man would be released.

It is evident Greenley's absence from Nevada for several years before becoming director a month ago underscores the need for him to immediately handle the action of his agents, which he supports. They are accountable to a higher state... but not in Nevada.

Under Greenley's plan, if his department, maybe he would be...

Lamb accuses game agents of break-in

Lamb and Sen. Norman Glasser, D-Hallock, questioned Greenley about several aspects of the department spending program. Glasser was critical of the non-game portion, money to protect turtles and non-game species of fish.

Lamb asked Greenley whether he didn't think it would be better if the entire wildlife program were made self supporting. "I think they would be glad to pick up the tab," he said referring to hunters and fishermen.

Greenley said the department is involved in a total wildlife program. He said it has been criticized severely in past years for not paying enough attention to non-hunted species. These non-game programs are financed from state general fund money rather than license fees from hunters and fishermen.

Lamb said the incident in Pioche was "a nasty affair" in which residents bought mention in Cedar City, Utah, and returned with it to their Nevada homes. He said agents entered the house to check whether the animal was illegally harvested, apparently thinking it was a deer.

United Press International State Business Columnist... Chairmap Floyd Lamb, D-Las Vegas, Tuesday accused three fish and game agents of illegally "spending into a house" in Pioche while trying to check out a possible game fisherman.

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