

## MINUTES

JUDICIARY COMMITTEE  
January 24, 1977  
9:10 a.m.

Members Present: Chairman Barengo  
Mr. Price  
Mr. Coulter  
Mr. Sena  
Mrs. Hayes  
Mr. Ross  
Mr. Polish  
Mr. Banner  
Mrs. Wagner

Members Absent: None

This meeting was called to order by Mr. Barengo at 9:10 a.m. He stated that before this meeting began, he would like to remind the members of the committee to be sure to review "The Problems of Medical Malpractice Insurance" as is in 77-1. He mentioned that he was sure this would come before the committee and wanted everyone to be prepared.

The issues to be looked at this morning, Mr. Barengo advised, are that of the Report to the Legislative Commission of the Recommendations by the Citizens' Advisory Committee Studying Sexual Discrimination in Nevada's Laws\*. Mr. Barengo then stated that they had a member of the Legislative Counsel Bureau present this morning to speak on the issues.

Mr. Stan Peck then introduced himself as an attorney with the legal division of the Legislative Counsel Bureau and that he was the staff member that worked with the Citizens' Advisory Committee in putting together the report.

Mr. Peck began with reference to the first couple of pages in said report, giving basically, a little background as to how the report developed. He stated that approximately ten months ago, he conducted a very careful reading of all of the Nevada Revised Statutes and during the course of that study, he made an attempt to identify every provision in the Nevada Revised Statutes which contained an actual sex-based reference which might be interpreted as sexual discrimination. Following said reading, he put together a preliminary report which was presented to the Citizens' Advisory Committee and over the course of four (4) meetings of discussions, the committee ultimately made recommendations as to what they thought would be the proper course for the Legislature to take. Following that Mr. Peck stated that he put together this particular report which contains the recommendations of the Citizens' Advisory Committee.

At Mr. Barengo's request, Mr. Peck then proceeded to go

\* Attached as Exhibit A.

through the Report.

Gender Reference Provision (p. 3) - Mr. Peck reported that in our statutes, generally speaking, the masculine pronoun is used in every instance to denote a particular office or in dealing with the third person, as opposed to the feminine reference. The committee recommended that the gender reference provision declaring words in the masculine include words in the feminine and neuter genders, applying only to segments of the NRS, and made applicable throughout.

Reasonable Man Statute (p. 4) - Mr. Peck stated that they usually run into this problem in dealing with tort matters. The committee recommended that perhaps the best thing to do with this one, was to have the Legislative Committee amend the reference to delete the male reference and to insert "person" to avoid any possible discriminatory effect.

Compromising a Claim of a Minor (p. 4, par. B) - Mr. Peck reported that in this NRS 41.200, the law indicates that the father is the parent that is responsible for compromising any claim of a minor child if they have a claim against a third party. The recommendation of the committee was that this be changed to allow either parent to compromise a claim of a minor child.

Women As Members of the Vestry in Protestant Episcopal Churches (NRS 82.310, § 6) (p.4) - Mr. Peck reported that basically this indicated that the governing body of the Church vestry should be composed of not more than one-half (1/2) women. There was no similar restriction imposed on the membership as far as men went. The committee recommended that this section be repealed. Mrs. Sue Wagner then inquired of Mr. Peck if he knew the background of this statute. Mr. Peck stated that he could give the background as to when it was placed into law, but, that he did not know the purpose and upon further checking with the Episcopal Church officials here, they also, did not know the purpose. However, they assured Mr. Peck that at this time, there was no logical basis for this statute within the church. They told him that women presently served on the vestry and there was no restriction as to how many could serve.

At this time, Mr. Barengo, interjected a further question on the issue of Compromising a Claim of a Minor. Mr. Peck further clarified the stand of the committee in stating that they felt that both parties should have the responsibility on this matter.

Rules to Determine the Existence of a Partnership (NRS. 81.070 § 4) (p. 5) - Mr. Peck explained that an exception to the existence is when an annuity is paid to a widow of a deceased party, there was no provision which related to a female member of a partnership who was deceased.

Liens on Homestead (NRS 115.040) (p. 5) - Mr. Peck mentioned that this was basically self-explanatory in the booklet. The committee felt that this was, more or less, a reflection of a wife maybe being subservient to her husband and could not act on her own initiative, but would be subject to control and domination of her husband. The committee's recommendation was that this be deleted. In further review of this by Mr. Peck, he advised that the committee further recommended amendment to provide the same rights to either spouse, in looking at NRS 115.050 and 115.070.

Support Obligations of a Husband and Wife (p.6) - Mr. Peck stated that, generally, Nevada law reflects that the husband is responsible for the care and support of his wife and if he fails to provide said support, any person may in good faith supply her with articles for support and recover their value from the husband. He further stated that no right of action exists against the separate property of the wife. The committee felt that there should be some consideration given as to the kind of property the wife has; that she might have a lot of property herself. It is just more or less an equalization situation.

Support of Illegitimate Children - Mr. Peck stated that the law specifically states that the mother, as well as the father, of the child born out of wedlock and not legitimized owe that child necessary maintenance, education and support, the remainder of chapter 126 of NRS pertains only to means and methods of securing support from a father. Usually it is the situation where the father is the one who has run off and is not providing support for the child, but, the committee felt that at least by the black letter law, the law should indicate when a father has custody of the minor that the mother should pay child support.

Divorce--Preliminary Orders Concerning Children - This section deals principally with the doctrine that a child of tender years is better suited to be placed in the custody of his mother than with his father, Mr. Peck explained. The committee felt very strongly that

this was a discriminatory provision due to the fact that there are probably many instances in which a father is equally suited to have the children. Their recommendation would be to the Courts, to recognize the fact that this situation may exist and to fully examine all of the criteria in a particular case and make a determination based on that rather than any presumption which exists that the mother is better suited.

Following there was a discussion, opened by Mrs. Hayes, regarding whether or not this was presently being tested in the Oregon courts. Mr. Peck said that he had attached some exhibits where these domestic matters were being tested in various Courts. He made reference to p. 73 of the booklet, Exhibit B, p.1.

Mr. Barengo then offered for the purpose of record and the general public attending this meeting, that if the members of the committee didn't seem to aware of this Report that was being dealt with, they had only received copies this morning.

Adjudication of Alimony and Property Rights (p.8) - Mr. Peck stated that the committee set out some criteria herein in a listing of eight (8) items and as noted in the bottom paragraph, these provisions with the exception of number two (2) are presently being considered by the courts in the State of Oregon. NRS 125.150. Mr. Barengo then offered that last session it was this particular committee which followed this recommendation and that it was the Senate that did not wish to go along with it and that they were there to the last hour of the closing day trying to come to terms. Mrs. Wagner said that they did include the first part, that of the equality of the alimony, but, that they didn't address, last session, the criteria consideration which she feels is very important.

Separate Maintenance - Mr. Peck reported that in present Nevada law, it authorizes a woman who has grounds for divorce to come into the Court and apply to receive separate maintenance during the period of her separation from her husband until such time as she decides to file for divorce or the divorce is granted. It does not take into consideration whether or not she has sufficient means on her own to take care of her needs during this period. They feel it is a blanket provision which authorizes the woman to get it. The committee proceeded to enumerate on pages 9 and 10 of their booklet certain provisions taken from section 308 of an act entitled, "Uniform Marriage and Divorce Act," proposed by the 1970 National Conference of Commissioners of Uniform State Laws. They enumerated various factors and considerations that they feel the Court should analyze prior to making any kind of award for separate maintenance.

Incapacity of Executors, Administrators and Estates of Missing Persons - This change is principally a cosmetic change, Mr. Peck stated. He stated that present law provides that when an executor dies or becomes incapacitated for any reason, the Courts consider the "widow" as the next person in line to be appointed as executor or made an administrator. The committee wanted this to now read mutually to insure that there is no chance of this being misconstrued.

Support of the Family - Existing Nevada law only permits a widow to remain in possession of a homestead or to receive a family allowance when her husband dies. The committee felt that this was obviously discriminatory and that this same thing should be available to the husband in case his wife died. Once again, Mr. Peck said that this is more or less a situation of equalization.

Persons Capable of Committing Crimes - § 8 of NRS 194.010 specifically excuses "married women" from liability for all crimes they commit, except where the crime is punishable by death, if they were acting under violent threats or commands of their husbands. The committee felt that this section should be repealed. Mr. Peck stated that in § 9 just below that almost gives the same rights to the parties only it gives it to both the husband and the wife, so they didn't feel that 8 was necessary or that it added much to what was already in the existing law.

Sex Offense Provisions - Mr. Peck stated that this was a very large area to cover. The committee considered these, but, due to the complexity of the matter and not really having sufficient time to analyze all the laws themselves, they just basically wanted to make the recommendation that all of Nevada's laws be amended to make them applicable to both sexes. The committee dealt more specifically with statutory rape. They advocate a bill similar to the "sexual battery" bill which was introduced in the 1975 legislative session, with slight modifications. The committee ultimately recommended that all of the various provisions in our law be changed to delete the "rape" reference, as such, because historically it has only been a crime that could be committed by a man. They wanted to change the terminology in order to reflect that both sexes could be equally susceptible to completing these crimes. Mr. Barengo asked if Mr. Peck thought that, at a later date, he could take this issue and expand on it. Mr. Peck agreed to this.

Prostitution (p.11) - The committee felt that the statutes do not really reflect that a male, as well as, a female can be a prostitute. They recommended that if we are going to have prostitution laws on the books, that they should read to provide the same protection or recognize the fact that there are male prostitutes, as well as, female prostitutes. Additionally, Mr. Peck noted that in NRS 201. 370 it states



that any male who habitually resorts in a house of prostitution is guilty of a misdemeanor. The committee felt that this was obviously so vague, as how often do you have to be in a house of prostitution to be habitually there, so they recommended that this be repealed.

Criminal Sanctions for Nonsupport - Mr. Peck stated that this, more or less, gets back to the area that has been discussed before and that is the common law duty of the husband to support his wife and his duty to his children. Nevada imposes a criminal sanction on the husband who fails to support his wife. The committee felt that this provisions should reflect an equal obligation on the female. Mr. Price asked if the effectiveness of this had been determined by the committee. Mr. Peck answered that no, this was not the principle function of the committee.

Employment of Vagrants in Public Works - This section dealt with only males convicted of vagrancy were subject to a requirement of performing labor on public works. Once again, the committee felt that, if in fact this law was constitutional, why should it be restricted solely to males performing labor. They felt that in many instances, the woman would be equally suited to perform labor.

Power of a Sheriff and Other Public Officers to Command Assistance - Mr. Peck stated that this, once again, indicated that only males are subject to the command of a sheriff or other public officer. The committee felt that this should reflect that females should also be subject to those commands.

Veterans' Rights and Benefits - The committee discussed the fact that there was a very recent case that came out in Massachusetts (Federal District Court), which indicated that veterans' benefits were unconstitutional and in violation of womens' rights. Throughout history, women were not subject to serve in the military the same as men. The case in Mass. was that of a male that had taken a civil service test and actually scored lower than a woman taking the same test; he would be put on a higher scale due to his veterans' status. The courts said that this was unconstitutional and discriminatory against women. In a similar case that dealt with a statute similar to Nevada's, the court did not make a determination that the law was unconstitutional based principally that they had insufficient data to consider. The court said, in that instance, that if the plaintiff had come into court and demonstrated enough evidence that the statute, although neutral on its face, had a much greater impact on females. In other words, there were more females that were not able to get jobs as a result of this statute. In any event, the committee's recommendation was that based on the all-volunteer army that we have had now for a few years, and based on the amount of women we now have in the military, our current provisions should be modified to reflect these changes.

Determination of Residence for Election Purposes - The committee felt that this provision should be amended to reflect a non-gender term in order to place the same emphasis on where a woman works or where a woman may reside in case the situation is that of her being the sole supporter of the family.

Revenue and Taxation - This allows widows \$1000.00 tax exemption on an assessed valuation of the property. The committee felt that this was not justified and that the widowers should have the same exemption. He noted Exhibit D which he attached in the booklet wherein it provides the fiscal information.

Discrimination Between Teachers' Salaries - I believe we indicated here in this report, Mr. Peck stated, that this was probably a provision that was enacted sometime back to make sure that females were not discriminated against. They felt that now that time has passed, this provision should now be amended to reflect that no discrimination in salary should exist for equal jobs.

State Militia - (NRS 417.126) - Mr. Peck stated that basically he felt that this was a cosmetic change more than anything else. They had numerous references to "bodies of men", "enlisted men", or "men" when referring to militia members. The committee felt that they should be amended to reflect that men and women may serve in the state militia.

Duties of the Commissioner for Veterans Affairs - Mr. Peck stated that this indicated that the commissioner for Veterans Affairs should assist widows of veterans upon request for the rights they might be entitled to under the Veterans laws. The committee felt that this should be amended to reflect that this right should also be extended to a widower of a veteran as well.

Nevada Highway Patrol Membership - Mr. Peck stated that this was really rather unique because he talked to the head of the Nevada Highway Patrol and he indicated to him that, contrary to what the law says with regard to men serving as members of the Nevada Highway Patrol, that women were presently being tested and were being hired as highway patrol women. The committee simply recommends that the law be amended to reflect what the current practice was in the division. Mrs. Wagner mentioned that it was her understanding that basically the reason that there are women in the Highway Patrol is because of federal funding. In other words, she said, in order to collect federal funds, there was certain criteria they must follow and that is the reason and not the fact that it might reflect a change in attitude here in the state. Mr. Peck stated that he had no reasoning given to him by the Highway Patrol.

Forest Practice - Mr. Peck stated that, once again, this might be just a cosmetic change that the committee wants, however, it could be one that would have obvious discriminatory effects. In forest practice, if you are a logger, you have to submit a logger plan indicating the number of male employees you have that are available for fire fighting. The committee felt that the problem here might be that if you were a logger and were required to submit a plan that identified the number of male persons that you employed for the purpose of fighting fires and that women were not suitable to be included on such plans, that a result might be that a woman would not be employed equally with a man. The committee, therefore, recommended that this "male" reference be deleted and that it be expanded to reflect male or female employees.

Labor - Mr. Peck stated that "employee" is defined in chapter 208 of NRS to include male and female persons and yet in the provisions dealing with employment in the smelters, open mines and surface workings, there are references to "workingmen". Mr. Peck stated that he did contact Mr. Stan Jones who is the Labor Commissioner in the state of Nevada and he indicated that regardless of the reference here to "workingmen" that women were eligible and were being hired to work in these capacities. Nevertheless, the committee felt that probably the "workingmen" should be deleted and the "employee" reference be substituted.

Employment of Minors - Mr. Peck stated that in the statute which now covers the employment of minor girls in an activity identified as injurious, immoral or dangerous, for profit either directly or indirectly, such as a "public dancehall", should either be repealed or changed to reflect male or female minors.

Unemployment Compensation Due to Pregnancy - Mr. Peck stated that this was a very strong issue and recommended that the legislature study this issue and make a determination as to what would be fair for the sex.

Insurance - Mr. Peck stated that current law requires a female, on making application for an agent's or broker's or solicitor's license, to indicate whether her husband had ever been involved in the insurance business. This information is not required of a male applicant. Therefore, the committee recommended that either this section be deleted or expanded to include both male and female applicants.

Miscellaneous Health Provisions - Mr. Peck stated that as the law now reads, an employer with five or more men or three or more women in the same location is to provide separate lavatories or convenience room for each sex. The committee did recommend that this should reflect the same number for each sex or that it just be shown as a number, over which there should be a number of restrooms which could be locked from



the inside and that could be used for either sex.

Mrs. Wagner asked if this report had been accepted by the majority of the committee members. Mr. Peck stated that most of the items in the report were accepted unanimously by the entire committee with very few exceptions.

Chairman Barengo pointed out that the meeting today was not to pass on these items, but, only to make the committee members familiar with those items covered to determine what action the committee should take on them. He also advised all those present that anyone desiring a copy of the report could obtain one through the Council Bureau.

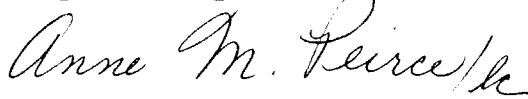
Mr. Peck commented that the report was simply a study of the Nevada Revised Statutes which referred to one sex or the other in perhaps a discriminatory manner, and which they recommended should either be repealed or expanded to cover both sexes. He stated that this was not due to ERA specifically.

Mrs. Hayes motioned that these recommendations be drafted as bills and studied on their merits. After further discussion among the members, it was decided that the section of Unemployment Compensation Due to Pregnancy and the section on Adjudication of Alimony and Property Rights, be deleted as they are included in legislation already instituted by Jim Banner and Sue Wagner respectively.

The motion was seconded by Sue Wagner as noted.

All items on the agenda having been taken care of, Chairman Barengo adjourned the meeting at 10:15.

Respectfully submitted,



Anne M. Peirce, Assembly Attache

BULLETIN No. 77-16 WAS SUBMITTED AS AN ATTACHMENT AND CAN BE FOUND IN THE  
RESEARCH LIBRARY OR AT THE WEB ADDRESS BELOW

**RECOMMENDATIONS BY THE CITIZENS' ADVISORY COMMITTEE STUDYING SEXUAL  
DISCRIMINATION IN NEVADA'S LAWS:  
LCB BULLETIN No. 77-16**

[HTTP://WWW.LEG.STATE.NV.US/DIVISION/RESEARCH/PUBLICATIONS/INTERIMREPORTS/1977/BULLETIN77-16.PDF](http://www.leg.state.nv.us/division/research/publications/interimreports/1977/bulletin77-16.pdf)

HEARING

COMMITTEE ON JUDICIARY

Date Sat. 2/5/77 Time 9:00 a.m. Room see below

Bill or Resolution  
to be considered

Subject

SJR 5

Ratifies proposed constitutional amendment relative to equal rights for men and women.

Hearing will be held in Las Vegas at the Las Vegas City Commissioners Chambers.  
400 East Stewart, Plaza Level

AGENDA FOR COMMITTEE ON..... JUDICIARY.....

Date...Feb...2, 1977.....Time 3:00 p.m.....Room...Assembly Chambers

Bills or Resolutions  
to be considered

Subject

Counsel  
requested\*

E.R.A. Hearings

ASSEMBLY & SENATE

AMENDED AGENDA FOR COMMITTEE ON JUDICIARY

Date 1/27/77 Time 8:30 a.m. Room 131

Bills or Resolutions  
to be considered

Subject

Counsel  
requested\*

To hear remarks from Gaming Commission and  
Gaming Control Board.

\*Please do not ask for counsel unless necessary.

7421



AGENDA FOR COMMITTEE ON.....JUDICIARY.....

Date.....1/21/77.....Time 9:00 a.m. Room 131.....

Bills or Resolutions  
to be considered

Subject

Counsel  
requested\*

To hear remarks from Gaming Commission and  
Gaming Control Board.

\*Please do not ask for counsel unless necessary.

7421

SENATE & ASSEMBLY

AGENDA FOR COMMITTEE ON JUDICIARY

Date 1/20/77 Time 10:00 a.m. Room see below

Bills or Resolutions  
to be considered

Subject

Counsel  
requested\*

Committees will attend the meeting of the  
Gaming Control Board.

1150 E. Williams  
North East Capital Plaza  
Room 220

\*Please do not ask for counsel unless necessary.

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