

MINUTES OF COMMISSION MEETING July 18, 2002

Present at the meeting of the New Jersey Law Revision Commission held at 153 Halsey Street, 7th Floor, Newark, New Jersey, were Commissioners Albert Burstein, Hugo Pfaltz, Jr., and Vito Gagliardi, Jr. Professor Bernard Bell of Rutgers Law School, Newark, attended on behalf of Commissioner Stuart Deutsch and Professor William Garland of Seton Hall Law School attended on behalf of Commissioner Patrick Hobbs.

Minutes

The Commission approved the Minutes of the June 13, 2002 meeting with the following comment: page 2 states that ballots must be prepared in a foreign language if a significant number of people speak that foreign language, not 10% of the population. This issue must be resolved at a future meeting.

Games of Chance

The Commission discussed a letter received by the New Jersey Department of Law and Public Safety, Division of Consumer Affairs, Office of Consumer Protection, Legalized Games of Chance Control Commission dated July 10, 2002 and objecting to the entire Draft Report without identifying specific issues. The Commission asked staff to contact the Department and ask them to specify the objections so that the Commission could address them.

As to the objection that any reform would require referendum, the Commission asked staff to place that requirement prominently in the introduction of the Report, even though the Report already indicates that legal reform of games of chance law requires passage by referendum under the New Jersey Constitution.

Mr. Gagliardi reported that he had met with Edward McGlynn to discuss the redemption issue. Mr. McGlynn agreed to draft language that would maintain the status quo as the Draft Report was intended to do. Mr. McGlynn then would ask his clients to support the Report.

The Commission then re-visited the definition of games of chance. The Report borrowed language from N.J.S.A. 2C:37-1. Commissioner Gagliardi stated that if the outcome of the game is determined only by skill, the game should not be considered a game of chance. Mr. Cannel stated that New Jersey common law did not recognize a meaningful distinction between pure chance and mixed chance and skill games. Professor Bell objected to the term "material degree" as used in the definition of a game of chance. He believed that term was too vague to provide guidance. He preferred using the term "random." The Commission asked staff to review the phrase in the Report and, if possible, produce a more accurate definition, focusing upon the concept of "randomness" and, if necessary, expanding the list of exceptions.

Elections

Mr. Cannel explained that the Commission had been given a first draft of the section of the election law on petitions, or how to become a candidate in a political election.

The Commission considered the issue of an affiant acknowledging signatures on a petition to nominate a candidate. Current law requires each person collecting signatures on a list to acknowledge that he saw all signatures being written on the petition during his period of activity. The Commission believed that this requirement was onerous and impractical. The Commission decided to delete the "saw all signatures" language and to reduce acknowledgment to state that person in good faith believed that all persons who signed were qualified.

As to 19A:8-3, the Commission recommended a style change to remove the repeated use of "shall" and to make a single list subject to one verb. The Commission also asked staff to delete subsection (e). Regarding the number of signatures required to nominate a candidate, the Commission determined that the requirements were not onerous. For example, a person may petition to run for U.S. Senate on the basis of 800 signatures.

The Commission then discussed the structure and role of political parties. The Commission directed staff to delete the gender sensitive terms "committeemen" and "committeewomen," since it has raised problems where not enough persons of appropriate gender were available to take these positions. Political parties exercise real authority in vacancy positions. The Commission discussed whether this issue required further examination. Chairman Burstein stated that the existing statute was an anachronism that did not fit the revision project. When the original statute was enacted political parties had real power; that is not longer the case. He asked staff to look into this issue.

As to districts, Mr. Cannel suggested that number of committee people could be determined according to population of district. He recommended at least one per district or one per 600 registered voters. No decision was reached on this issue.

Uniform Arbitration Act

Professor Bell had distributed to the Commission and staff a recent decision of the New Jersey Supreme Court involving an arbitration clause found in an employment contract. The Court split 4-3 in upholding the validity of the term thereby indicating substantial differences among the learned judges and casting some doubt upon its precedential value given the expected change in personnel on the Court.

Chairman Burstein and the other Commissioners noted the problems with the

arbitration process such as the ability to deviate from law, minimize the discovery process, broaden the rules of evidence and different approaches used by different arbitrators and their organizations.

Mr. Cannel stated the uniform law attempted to deal with these issues by limiting the role of the arbitrator to actions a court may take. But, a question was raised: what if the parties agree to expand the powers of the arbitrator? Mr. Cannel also stated that under the uniform law, arbitrators were required to follow the substantive law.

The Commission asked staff to continue its study of the report and to prepare a draft Tentative Report.

Miscellaneous

The next meeting is scheduled for September 26, 2002.