

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

January 16, 2002

1:38 p.m.

MEMBERS PRESENT

Representative Scott Ogan, Vice Chair
Representative Jeannette James
Representative John Coghill
Representative Kevin Meyer
Representative Ethan Berkowitz
Representative Albert Kookesh

MEMBERS ABSENT

Representative Norman Rokeberg, Chair

COMMITTEE CALENDAR

CONFIRMATION HEARINGS:

Select Committee on Legislative Ethics

Bonnie Mehner - Anchorage
Arthur S. Robinson - Soldotna
H. Connor Thomas - Nome

- CONFIRMATIONS ADVANCED

PREVIOUS ACTION

No previous action to record

WITNESS REGISTER

BONNIE MEHNER, Appointee
Select Committee on Legislative Ethics
2923 McCollie Drive
Anchorage, Alaska 99517

POSITION STATEMENT: Testified as appointee to the Select
Committee on Legislative Ethics.

ARTHUR S. ROBINSON, Appointee
Select Committee on Legislative Ethics
35401 Kenai Spur Highway
Soldotna, Alaska 99669

POSITION STATEMENT: Testified as appointee to the Select Committee on Legislative Ethics.

H. CONNOR THOMAS, Appointee
Select Committee on Legislative Ethics
PO Box 61
Nome, Alaska 99762

POSITION STATEMENT: Testified as appointee to the Select Committee on Legislative Ethics.

ACTION NARRATIVE

TAPE 02-1, SIDE A
Number 0001

VICE CHAIR SCOTT OGAN, acting as chair, called the House Judiciary Standing Committee meeting to order at 1:38 p.m. Representatives Ogan, Coghill, James, Meyer, and Kookesh were present at the call to order. Representative Berkowitz arrived as the meeting was in progress.

CONFIRMATION HEARINGS

Select Committee on Legislative Ethics

Number 0047

VICE CHAIR OGAN announced that the committee would consider three appointees to the Select Committee on Legislative Ethics: Bonnie Mehner, Arthur S. Robinson, and H. Connor Thomas.

Number 0137

BONNIE MEHNER, Appointee, Select Committee on Legislative Ethics, testified via teleconference. In response to the question of why she wished to serve on the Select Committee on Legislative Ethics, she said she viewed it as another way of serving her community and anticipated that it would be a change from what she usually does in her regular profession of real estate. She noted that she is active in the community, and while she had not anticipated the extent of the "hoops and whistles" she would have to go through, she is willing to serve on the committee.

VICE CHAIR OGAN noted that although ethics are not always spelled out in the statutes, they are the "heart of the intent." He surmised that Ms. Mehner might be asked to make some tough

judgment calls from time to time, adding that he assumes she is aware of and comfortable with the inherent responsibility.

MS. MEHNER concurred.

REPRESENTATIVE KOOKESH noted that he has reviewed Ms. Mehner's resume, and that he is supportive of her appointment, particularly in light of the fact that she graduated from Alaska Methodist University, from which he, too, graduated.

REPRESENTATIVE JAMES, after noting that Ms. Mehner's resume indicated she attended 16 different schools while growing up, asked how this experience influenced her.

MS. MEHNER said it was a positive experience, helping broaden her as a person by exposing her to lots of different situations and to people in different walks of life. She observed that when a person moves around a lot as a child, he/she could grow up either being open to new ideas or being shy.

REPRESENTATIVE MEYER recalled that when he was serving on the Anchorage Assembly, Ms. Mehner served as the chair of the Anchorage Arts Advisory Commission. He added that Ms. Mehner represented that group very well, and he expressed confidence that she would serve well on the Select Committee on Legislative Ethics.

VICE CHAIR OGAN reminded members that signing the reports regarding appointments to boards and commissions in no way reflects individual members' approval or disapproval of the appointees, and that the nominations are merely forwarded to the full legislature for confirmation or rejection.

Number 0628

REPRESENTATIVE JAMES moved to report the nomination of Bonnie Mehner to the Select Committee on Legislative Ethics out of committee. There being no objection, the confirmation was advanced.

Number 0673

ARTHUR S. ROBINSON, Appointee, Select Committee on Legislative Ethics, testified via teleconference. In response to the question of why he wished to serve on the Select Committee on Legislative Ethics, he said he envisions serving on the committee as a good way to volunteer meaningful community

service on a part-time basis. He offered that the Select Committee on Legislative Ethics carries out an important government function and that he wanted to assist in this process.

REPRESENTATIVE JAMES noted that Mr. Robinson is an attorney and surmised that as such, is probably used to cut-and-dried sorts of situations. She said that she has always had the belief that "we all really know what ethical behavior is, but we do need to have somebody look over us." She asked Mr. Robinson whether he thinks it true that in determining what's ethical and what isn't for those in public service, it's not necessarily what is right or wrong, but rather what has the looks of being right or wrong.

MR. ROBINSON, in response, said that in many instances (some of which are addressed in the [Standards of Conduct] statutes), the appearance of being ethical is as important as being ethical. He added that certainly there might be times when questions will arise regarding whether doing something or not doing something will fall into the category of unethical conduct, or have the appearance of doing so under some circumstances.

REPRESENTATIVE JAMES, remarking that "it's kind of subjective," asked Mr. Robinson what he would use to base his decisions on.

MR. ROBINSON said that according to his understanding, work on the Select Committee on Legislative Ethics involves two things: one, making decisions based on complaints that a legislator or legislative employee has done something unethical (which requires investigating the facts and determining whether the [Standards of Conduct] statutes have been violated; and two, responding to inquiries from legislators [and legislative employees] as to whether specific conduct would be unethical. For the latter, the committee would review the question in light of the statutes and past advisory opinions to formulate an advisory opinion specific to the current question. Thus, he surmised, his personal opinion would not have much to do with any decisions the Select Committee on Legislative Ethics makes as a whole regarding complaints since the committee is constrained to matching the facts of any complaint with existing statute. He also surmised that the same would be true of advisory opinions even though these do not entail any investigation; the committee would still be relying on statutes and precedents to form advisory opinions.

Number 0965

REPRESENTATIVE JAMES posited that it is in the advisory opinions where subjectivity could play a part; she suggested that in looking to give advisory opinions, the Select Committee on Legislative Ethics might need to be a little bit stricter with regard to what is considered ethical behavior.

REPRESENTATIVE BERKOWITZ remarked that there is no prohibition in the [Legislature's] ethical standards against engaging in conduct that has the appearance of impropriety; because it's only in the preamble, he added, it does not have any statutory strength. He suggested that "perhaps that's one of the issues we can cure later on down the road" by attaching more weight to avoiding the appearance of impropriety.

REPRESENTATIVE JAMES said it is her personal belief that in her own personal behavior, she needs to avoid [conduct] that might have even the appearance of being unethical.

VICE CHAIR OGAN pointed out that anyone who wants to get reelected doesn't want to create the appearance [of impropriety]; "ultimately the voters are who hold you accountable," he added. He suggested that during election season, a lot of the charges of ethics violations are simply based on partisan politics instigated by people who would like to see a person out of office. He asked, "How do you separate the wheat from the chaff?"

MR. ROBINSON explained that if it is a complaint situation, the main responsibility would be to investigate it to determine whether the allegation has any substance to it based on real facts. If the complaint cannot be substantiated, it does not need to be acted on. He acknowledged that in the political world, it can be hard to determine, sometimes, what's the "real stuff" and what's not because of political maneuvering. He reiterated that as a member of the Select Committee on Legislative Ethics, he would be constrained to finding out what is really going in terms of facts as opposed to merely loud allegations. Without facts, the committee would not be able to support any recommendation against a legislator or legislative employee.

VICE CHAIR OGAN noted that one of the aspects of having a citizen legislature is that members occasionally change jobs, and this can potentially raise conflict-of-interest questions.

Number 1273

REPRESENTATIVE BERKOWITZ moved to report the nomination of Arthur S. Robinson to the Select Committee on Legislative Ethics out of committee. There being no objection, the confirmation was advanced.

Number 1305

H. CONNOR THOMAS, Appointee, Select Committee on Legislative Ethics, testified via teleconference. In response to the question of why he wished to serve again on the Select Committee on Legislative Ethics, he said that he enjoyed his first term and that he is now familiar with how the process works. He added that serving on the committee is an opportunity to provide public service without an overwhelming time commitment. When asked which of his prior-term experiences stand out the most, he referred to potential conflict of interest issues, those that have arisen in connection both with lobbyists and others who are not lobbyists.

VICE CHAIR OGAN asked whether Mr. Thomas had any specific recommendation for legislators regarding proper procedures for clearing things with the Select Committee on Legislative Ethics. He related that he has asked for advisory opinions over the years.

MR. THOMAS said that the real heart of what the committee does, according to his experience, is issue advisory opinions. He continued:

"I think that's the opportunity that is provided for feedback on things that may ... create an appearance of impropriety; it may not be an actual violation of the ethics code, but a person should be told that. And the fact that they call and ask for an advisory opinion -- I totally agree that that is really ... the meat of what the committee does and should be doing, because anytime you can avoid a complaint, you've done a service.

VICE CHAIR OGAN recounted that he has actually observed the press criticizing legislators for asking for an advisory opinion on something, on the grounds that it implies that if a legislator asks for an advisory opinion before doing an activity, he/she must have a guilty conscience.

MR. THOMAS said he disagrees with that assumption. He added, "It seems to me like the prudent thing to do."

Number 1510

REPRESENTATIVE MEYER moved to report the nomination of H. Connor Thomas to the Select Committee on Legislative Ethics out of committee. There being no objection, the confirmation was advanced.

ADJOURNMENT

Number 1528

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 2:00 p.m.