

SENATE JUDICIARY COMMITTEE

MINUTES

The January 30th, 1969 meeting was called to order by Chairman Monroe at 10:00 a.m.

Committee members present: Senator Monroe, Chairman
Senator Hug
Senator Christensen
Senator Dodge
Senator Young
Senator Bunker

Committee member absent: Senator Swobe

Guest: Frank Daykin, Legislative Council.

Chairman Monroe requested Mr. Daykin to explain SJR 3. Proposes to amend Nevada constitution to provide for acquisition of voting residence by military personnel and federal employees.

Mr. Daykin explained this bill would allow a person in military service to change his residency to allow him to vote in Nevada. If the person was originally domiciled in Texas and had moved his family to Nevada and establish a home he could qualify to vote in Nevada. The situation would also work in reverse. He used Nevada and Texas as examples as they are the only two states that now forbid this by law. This result was compiled by a Supreme Court decision rendered in 1966, therefor the resolution was drafted.

There was a general discussion directed to Mr. Daykin. Senator Christensen asked what qualifications would be required to establish a residence. Mr. Daykin stated the legislature would have to prescribe by law how they would establish the requirements. SJR 3 does not spell out the qualifications but merely makes the provision that it can be done. This would also apply to a civil service employee as well as the military. He would establish his intent by moving his family to Nevada and establishing a home.

Senator Dodge asked what would happen if this was approved and the majority would use this residency as an excuse to enroll their children in the Nevada Universities as a resident. Mr. Daykin explained that this would provide only for a residency as far a voting priviliges, however after a six month period he would become a resident by law and the student would be able

SENATE JUDICIARY MINUTES
January 30, 1969

-2-

to enroll as a resident student. Mr. Daykin felt if this was passed it would encourage false residency less than the present law.

Senator Young stated he was quite puzzled by the language and felt the affirmative act should be spelled out and provided by law.

There was considerable discussion over the definition of domicile. Senator Dodge felt domicile was a place to live and by setting up a home for him family would establish the intent. Mr. Daykin was very definite in stating that he disagreed with Senator Dodge and that domicile applied somewhat more than just the residence but it was an affirmative act of changing his location coupled with the intent. Mr. Daykin offered to investigate this and report back to the committee.

Chairman Monroe stated if this was amended again they would have to start all over again as this was presented in 1967.

Senator Young would like to have the law spelled out and included in this Resolution.

Senator Christensen moved this be passed
Senator Hug Seconded the motion

Ayes: Senator Christensen, Senator Hug, Senator Dodge,
Senator Bunker.

Nays: Senator Young

Motion carried.

Senator Dodge remarked he would not like to amend the constitution and still have questions arise. Mr. Daykin pointed out that the person would have to take affirmative action and file a notice of intent with the County Clerk and establish a home to qualify for this privilege.

Senator Young asked for an explanation of the matter in italics, the latter part of Section 3 be explained. Mr. Daykin advised they merely took out the wording in the present law and this merely repeats what was previously said.

Mr. Daykin offered to return to the committee soon with a definite definition of domicile.

Chairman Monroe stated a motion had been made and carried to pass, and the motion was then retracted.

SENATE JUDICIARY MINUTES
January 30, 1969

-3-

SJR 4. (54th Session). Proposes constitutional amendment to clarify qualifications of petitioners required to recall public officers.

Mr. Daykin explained this was a technical amendment changing the term qualified electors to registered voters. The petition would not have to be signed by those who voted but by the equal number to those who actually voted. This does not change the operation of the recall of public officers but merely clarifies.

Senator Dodge stated there would be a greater number of petitioners for recall at 25% of the voters voting in a general election that voted for a Justice of the Supreme Court.

Senator Dodge moved this be passed.
Senator Christensen seconded the motion.
Motion carried.

SJR 22. (54th session). Proposes constitutional amendment to require supreme court to sit en banc and deletes quorum provisions.

Mr. Daykin advised this stemmed from the enlargement of the Supreme Court from three to /five members and adds that the Court shall sit en banc to hear and determine all cases. Three of the five members would be a quorum and under the present legislation it would only require three. At the time the number of Judges was increased there was a gentlemen's agreement they would sit en banc on all cases. Mr. Daykin felt this should be passed now as it could be adopted in 1970 and the new Judicial Articles would not be ready until 1972. The new articles will have more flexibility in the event there are additional Judges in the future.

Senator Young asked why this couldn't be deferred and let the voters choose what they wanted and Mr. Daykin explained they would not be submitted at the same time as SJR 22 is two years ahead. The new legislation provides that if the number of Supreme Court Judges is increased beyond the five members then they could sit in panels but at the present time the five members must sit en banc.

Senator Dodge suggested this be set aside until the new legislation is available and then consider both. This was agreeable to all. This was set aside for future consideration.

SENATE JUDICIARY MINUTES
January 30, 1969

-4-

SB 35. Provides standards for rendition of deficiency judgments.

Mr. Daykin explained as the law now stands, a mortgage can be foreclosed by a Judicial sale and judgment made for the amount of the deficiency. This now provides that property secured by a Deed of Trust can be handled by a Trustee sale and recover deficiency judgment for the balance. Under the Trustee Sale the amount can not be more than the obligation.

Senator Dodge remarked this would apply mainly to commercial lenders rather than private lenders.

Mr. Daykin said there were many states that have a practical equivalent of this legislation.

Senator Young asked who would pay the fee for the appraiser.

Mr. Daykin advised the cost of the sale would be paid first, then the creditor would receive his amount and what was left would go to the debtor, so actually the debtor would be paying for the appraiser as part of the cost of the sale. The Court has the power to fix the fees for the cost of the sale. A deficiency judgment can not be for more than the appraised value and the amount of the indebtedness which was secured by the mortgage at the time of sale.

Senator Hug requested this be held for a few days as he would like to contact Mr. Emerson Wilson of the Nevada Title Company and discuss it with him.

Mr. Daykin remarked this bill strikes a balance for the commercial lender and the private lender.

SJR #1. Excludes fiscal matters from state and local initiative and referendum.

Mr. Daykin remarked the amendments proposed by Senator Brown actually narrows the scope of the original bill.

Senator Christensen asked if any other states had a similar law without the provisions of the amendment and Mr. Daykin stated that many of them do.

It was Senator Christensen's opinion the law was much better before the proposed amendment and suggested Senator Brown be requested to appear before the committee to discuss it.

SENATE JUDICIARY MINUTES
January 30, 1969

-5-

Senator Dodge stated to give up the referendum and initiative petition with regard to money would create a handicap on the legislative bodies.

Chairman Monroe will ask Senator Brown to attend a future meeting and the bill was set aside.

SB 24. Authorized school districts to insure peace officers against tort liability in certain cases.

Chairman Monroe advised he had tried to contact the Clark County District Attorney however he was out of town but in talking to the Deputy District Attorney he was advised the legislation could have been used recently in the Las Vegas area during the recent school riots.

The bill was set aside until the Clark County District Attorney returns to Las Vegas and can be contacted.

SB 64. Increases punishment for assault and battery on peace officers. Introduced by Senators Lamb and Herr.

Senator Dodge stated there had been a lot of time spent in preparing the criminal code and he did not believe it should be corrected by piecemeal.

Senator Young felt the penalty was much too stiff however, he would be glad to listen to Senator Lamb and Senator Herr.

This was set aside to be considered later.

SB 67. Provides for posting of voting results.

Chairman Monroe suggested a hearing be set up on all election bills.

Senator Dodge suggested Russ McDonald be contacted to find out how many election bills will be prepared and then consolidate them and have one hearing.

This was agreeable to all.

Meeting adjourned at 10:50 a.m.

Respectfully submitted,

Jeanne M. Smith, Secretary.

Approved; _____