

SENATE JUDICIARY COMMITTEE

PUBLIC HEARING ON S.B. #82

March 1, 1971

In the absence of Chairman Monroe, Vice-Chairman Close called the hearing to order at 9:40 a.m.

Committee Members Present: Vice-Chairman Close
Senator Dodge
Senator Foley
Senator Swobe
Senator Wilson
Senator Young

Others Present: Jim Guinan
Judge Waters
Mike Fondi - District Attorney - Carson City
Judge McDaniel

S. B. #82 - Increases number of district judges in first, second and eighth judicial districts.

Judiciary Committee

The committee will discuss the proposition that arose from this bill for redistricting of certain districts to save two judges from our request.

Vice-Chairman Close: We are not here to discuss whether or not, but how redistricting can be accomplished.

Jim Guinan: The Board of Governors generally endorse any reasonable redistricting if it will help level out the workloads.

Judge Waters: I would have to oppose moving Churchill from the first district. Number one, I don't think its necessary, and number two if you move Churchill into Judge Young's district, you're going to destroy something we have now. Judge Young is the kind of judge who could go into any district and do a good job. If you put Churchill county into his district you wi-1 tie him down so that he will not be able to move around and help.

I don't think the work in the first district is such that it needs more than two judges. My calendar is not crowded, and I'm taking care of my share of the district's business.

I would like to see the first district geographically departmentalized by making Carson City department 1 and the other four counties department 2. Being the judge of department 2, I worked out a schedule on it and it works out very well. It can be done by Judge Gregory and myself except for one thing: that is elections. If you run for election in all five counties, you should work in all five counties.

Geographically departmentalization of the district would retain the flexibility that we presently have with the two judges and at the same time allow the judge to run only in the counties where he works. As far as travel is concerned, cutting Churchill off from my district would cut down on my travel quite a bit, but would increase Judge Young's travel. If you departmentalized the district, it would increase my travel from 350 miles a week to 410 miles a week, but would cut out travel for department 1 and would thereby save the state money on travel.

I say departmentalize rather than split the district for this reason. The convenience for litigants and the convenience of counsel. It would give us some flexibility that we wouldn't have if we split the whole district. On cost, another judge for this district would be \$24,000 and would have to do the same travel I do, which would run up to \$2,000 a year, he would have to have chambers in the counties. I think we would have to have another courtroom provided in Douglas and Carson City. Frankly, there's not enough business in the first district for two judges to take care of. I don't think we need another judge and I don't think we need our district divided.

Senator Dodge: Judge Waters, do you conceive that there is anyway at this time we could departmentalize effective immediately and change the election district. Or would that in fact be setting up a new judicial district and as far as the election process, would run afoul of the constitution.

Judge Waters: I think you can change the district, when you don't abolish an office, any way you want.

Mike Fondi: I agree with Judge Waters that we don't need a new judge in the first judicial district. I don't think we can afford it financially, and I don't think the workload justifies it. I think that with working judges the problem could be taken care of. I am concerned with the future of the district with respect to two judges being able to take care of the district as it is presently comprised. The reference has been made of taking Churchill County out of the first district and putting it into the sixth district. I question whether this is possible to do during the terms of the present judges. They were elected from that district and I wonder if we don't have a problem accomplishing that before 1975.

I think its the overall problem we have to look at. In the last 10 years Carson City has grown to three times its size, and I estimate during the next ten years we are going to double our population. I think that with this type of growth in mind, and Douglas County is matching us if not growing faster, you've got to look to the idea of taking this district and dividing it up into something more manageable. I think its ridiculous for a judge to have to drive 120 miles a day to conduct court when he's only going to be there for one day, and that district is so far removed from the day to day problems that he's required to be there. I don't think the courts are designed to try to have an available judge to bounce around from place to place. They may not like to try a case, but as long as they are serving that district, it's their obligation to do so.

I think that two judges in the first district, without being departmentalized, has its value in the convenience of having two judges.

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I think we have a long range problem, not just an immediate one. The immediate one I think could be solved if all of our judges worked as hard as Judge Waters.

Senator Foley: Do you have any objections to the departmentalization Judge Waters proposed?

Mike Fondi: I do have an objection because it puts us into the one judge for Carson City bracket.

Senator Wilson: When you mentioned your initial reaction to the Assembly Bill which would take Churchill out of the first and put it into the sixth district. You said at first you liked it. I inferred from your testimony that you developed some reservations about it.

Mike Fondi: I liked the concept, as long as it isn't passed at the next election. I think it has considerable merit and I would probably support it. I haven't discussed it with any attorneys in Fallon, so I don't know how they would feel.

Senator Dodge: I can clear that up. I have appraised the county commissioners and attorneys who would practice in that county. They have great respect for Judge Young and would just as soon have him for a judge in that area. When he was here, I discussed this with Judge Young and he asked that we develop what the workload was over there. We studied it, and there were 67 court days there. He said based on last years experience, he actually had available about 60 days.

He also raised the question about if in a multi-county district, people would want to give up the flexibility of two judges. I found this was a reservation most people had in Fallon. They asked that if we have to redraw the districts, to make a big enough district to include them in one that would involve two judges.

Apropos of the Lander-Eureka District, is there anyone here that could offer any comment as to how that could be redistricted as of, say, 1975?

Jim Guinan: The Lander-Eureka District is not big enough to justify a judge and I think everyone knows that Judge Sexton sat in Las Vegas for years and is now sitting in Reno and does not spend much time in his own district. That means that the people in Lander and Eureka counties are electing a judge for Clark and Washoe Counties, which I don't think is the way the system was designed to work. The same thing applies for Judge Young. We think the districts ought to be worked out in such a way that the judge would sit most of the time in his own district where he is elected, and would only be on call in emergency situations to go elsewhere. That would mean that you eliminate the third judicial district, and increase the size of some of the others. I don't know how that would be handled exactly, but I think you should look at population figures and workloads.

The Board of Governors did take a position on number of judges. They think that Clark needs a minimum of 4 new judges, and Washoe should have one. They don't think Judge Sexton should be sitting in Washoe so therefore Washoe should have one new judge. We ought to try to equalize on a basis of population so that the judges would sit in the districts where they are elected.

Judge McDaniel: I've only been on the bench two months so my statements are based on being a practicing attorney in Elko for 18 years.

I am not here to attempt to do away with the third judicial district, but you did ask the question of what might be done. I had Judge Wilkes up to Elko and we talked about this. His case load would warrant adding Eureka and Lander to his district. It was also a possibility of adding Eureka to the seventh and Lander to the fourth with the idea that we could serve general assignments. He could go to Eureka and Austin toward the first of the month, and I would go to Lander and back to Eureka the latter part of the month, or vice versa. That way we would be able to give those counties two days service a month where as now they are only receiving one. That is only premised on the idea that you would take Churchill out of the first and putting it in the sixth. If you don't do that I think that Lander would more logically fall into the sixth judicial district. Then possibly Judge Wilkes and Judge Young, through assignment, would only have to make one trip into that area a month and still give two days service, which is more than they are getting now.

Senator Dodge: In light of that regard, would there be any merit in creating one new district out there that would comprise all of those counties and put two judges there?

Judge McDaniel: You have such great distances between where the judges presently preside. You are talking about over 100 miles every way you go. I don't think that would accomplish a great deal.

I would like to say that the main problem is getting more judges in Clark County. But if you do eliminate the third district so that one of these judges has responsibility to cover Lander and Eureka, you can't then expect them to be going to Clark County continuously. The real problem is Clark County and you have to have more judges there.

Judge Waters: I have been down in Clark County from time to time, and they have got to have at least 4 more judges down there. The population warrants it, the amount of litigation warrants it.

Meeting adjourned at 10:30 a.m.

Respectfully submitted,


Eileen Wynkoop, Secretary

Approved: _____