

JUDICIARY COMMITTEE
157th ASSEMBLY SESSION

MINUTES

MARCH 22, 1973

Acting Chairman, Robert Barengo, called the meeting to order.

MEMBERS PRESENT: MESSRS: Barengo, Hickey, Glover, Torvinen, Fry,
Huff, Lowman, Craddock (late), & Ms. Foote.

Mr. Barengo announced he had received an amendment which would resolve the conflict in A.B. 105 and A.B. 66. He said that with the Committee's approval he would report the bill out with the amendment.

Mr. Lowman moved to accept the amendment and report A.B. 66 out, Mr. Glover seconded.

Mr. Huff voted against this motion.

MOTION CARRIED DO PASS A.B. 66 with amendments.

A.J.R. 10 SUMMARY-Proposes to amend Nevada constitution to permit supreme court to hear oral argument outside of Carson City.

Ms. Foote moved Indefinite Postponement of AJR 10, Mr. Fry seconded.

Mr. Lowman said that he had received communication from Justice Mowbray and it is his feeling that the court should be able to sit in Southern Nevada.

Mr. Glover stated that he feels this would impose undue hardship on the taxpayers because supporting a venture of this nature considering the retinue of the court could be quite expensive.

Voting against Indefinite Postponment was Mr. Lowman, & Mr. Huff.
Voting for the motion Mr. Barengo, Mr. Fry, Mr. Glover, and Ms. Foote
Mr. Craddock and Mr. Hickey were absent for the vote.
Mr. Torvinen abstained from voting.

Mr. Fry stated that he felt consideration of AJR 14 thru AJR 18 should be included in one motion.

Carson City Justice of the Peace Tom Davis addressed the Committee on S.B. 168 and S.B. 179. He said that he feels that the four year term would give the JP's a better opportunity to get settled into their jobs, and advance the quality of the justices of the peace. Speaking in behalf of the JP's, Mr. Davis said that this is what is needed. A two year term is expensive to the tax payer since a JP no sooner gets acquainted with his responsibilities than it is time for another election. "We will attract better men to office with a four year term."

Mr. Davis told the Committee that the primary concern with S.B. 179 is to bring the travel and subsistence allowance for the justices of the peace current with any other county or state employee. It is needed especially when the justices have to attend schools which are not paid for by law enforcement assistance, and association meetings.

He said that there had been some conflict with other bills which had provided for actual expenses, but that they would want this bill to supercede any prior bill which might cause confusion.

Washoe County District Attorney Bob Rose appeared to testify on A.B. 544. He informed the Committee that this is a bill designed to prohibit appeals from denial of a writ of habeas corpus from district court to the Nevada Supreme Court. The District Attorney's and law enforcement members present at the conference called recently by Attorney General Bob List endorse the intent of this legislation. He noted however that the Supreme Court has expressed concern that this bill may be unconstitutional, and that even if you prohibit the appeal, original petitions of habeas corpus will be filed with the Nevada Supreme Court so the problem will still exist since the Constitution permits this. In view of this the Court has drafted a proposed bill which will be introduced which will do two things: 1. when an appeal is taken the record will be made on a priority basis before any civil litigation, it will be sent immediately to the supreme court and no briefing or oral arguments will be allowed. The supreme court will summarily decide the matter. The justices feel that once they get the record they will be able to act within 10 to 15 days. This would cut the process down to approximately two months where it now consumes the better part of a year. 2. It would not be in violation of the Nevada constitution.

In view of the above testimony, Mr. Lowman moved Indefinite Postponment of A.B. 544, Ms. Foote Seconded.

MOTION CARRIED UNANIMOUSLY INDEFINITELY POSTPONE A. B. 544

Mr. Hickey requested that a Supreme Court Justice be asked to appear in behalf of A.J.R. 10.

Mr. Torvinen moved to reconsider A.J.R. 10, Ms. Foote seconded.
MOTION CARRIED

Mr. Barengo remarked that since the bill previously mentioned only has to do with habeas corpus he wished to take action on A.B. 416.

A.B. No. 416 SUMMARY-Eliminates interlocutory appeals in criminal cases.

Mr. Barengo reminded the Committee that in a footnote of a specific case the Supreme Court requested this action be taken. He further explained the intent and reviewed previous testimony on March 13 from the District Attorneys of both Clark and Washoe County who feel this is needed legislation.

Mr. Huff moved to recommend DO PASS, Ms. Foote seconded.

MOTION CARRIED UNANIMOUSLY DO PASS A.B. 416

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Supreme Court Justice A. Gunderson told the Committee that it has long been a desire of the Clark County Bar Association for the Court to hear cases in Southern Nevada. He read a letter which he had written over one year ago to Mike Hinds who at that time was President of the Clark County Bar Association. He had written explaining that a movement in this area would have to come from members of the Clark County Bar in view of the fact that legislators had previously heard testimony that Clark County Bar members enjoyed coming to Carson City etc. Justice Gunderson related that on every occasion since that time that he has appeared in Clark County some member of the bar questions as to when the Court will be able to hear arguments in Clark County. He went on to say that the Justices would be more than willing to do this. He stated that at the beginning of this type of program they could schedule a week of arguments two times per year. Probably in September and again in February or March. He feels that the cost should be weighed against the present state expense involved when governmental agencies have to come to Carson City for arguments. At present members of the Supreme Court go to Las Vegas once a year anyway to swear in new admittees etc. a calendar could be scheduled at that time thereby providing no extra fees with the respect of plane fare.

Mr. Hickey noted that he had received a letter from Mike Hinds endorsing this legislation.

It was explained that AJR 14, 16, 17, & 18 are breakouts of Proposition 4. Justice Gunderson said that he would rather not comment on these at this time. Although he felt that proposition 4 would have been a plus for the administration of justice he has not studied the individual parts to determine whether he feels they would stand on their own merits.

Justice Gunderson said that he would like to see a constitutional amendment which would enable the legislature to set a larger amount for the justices of the peace which would be in concurrence with AJR 15, & 21. He would prefer it to say "or such larger amount" rather than "or such other amount" because someone might feel that this might be an attempt to reduce the justice of the peace courts out of existence, and this is not the intent. He said that he felt the judicial article in the constitution should also be amended, because the constitution states that the Supreme Court of Nevada has appellate jurisdiction in all cases above \$300.00, and this would create the situation we are trying to avoid. "I think there is no doubt that this amendment would open the door to salutary reform.

When Mr. Lowman asked Justice Gunderson if anything is being done to solve the problem that will result in the loss of the Court Administrator he replied that he had talked with Senator Brown and expressed a

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dissappointment because the court administrator has done so much to set up educational programs for the justices of the peace, making them feel a part of the judiciary etc. In speaking with Senator Brown I asked about funding for the seminars etc., so that the strides that have been made in orientation and education would not be lost. After this discussion Justice Gunderson said that he then contacted Reno Justice of the Peace Bill Beemer and they contemplate getting together with an individual in the special court section at the College of State Judiciary in Reno to try to figure out what amount of money is needed to maintain the level of educational benefits that the judges and justices of the peace have experienced during the term of the court administrator.

Assemblyman Bode Howard appeared before the Committee to speak in opposition to A.B. 475. He stated that this is a bill which has appeared before the legislature for the past three sessions and the main purpose is to abolish the job of Judge Sexton. Mr. Barengo asked what the population of Eureka and Lander counties is, and Mr. Howard said, "approximately 1500". The problems arise from the rapid growth of Lander County and the transient traffic violations from Interstate 80.

Mr. Torvinen pointed out that in this judicial district we are speaking of a population below 2,000, whereas there is probably an average of 20,000 people in the rest of the districts.

A.J.R. 10 SUMMARY-Proposes to amend Nevada constitution to permit supreme court to hear oral argument outside of Carson City.

Mr. Lowman moved to recommend DO PASS, Mr. Hickey Seconded.

Mr. Torvinen noted that Justice Gunderson had recommended an amendment to put the criminal court of appeals in also, and that he would like to restrict the area of hearing to Clark County and Carson City.

Mr. Hickey said that he would rather not restrict it, and there was limited discussion concerning these amendments. Mr. Barengo asked if the motion to recommend DO PASS would include both amendments and Mr. Lowman agreed.

MOTION CARRIED DO PASS AJR 10 with amendments

Mr. Barengo suggested that the Committee read over the rest of the resolutions and bills scheduled for today and be prepared to vote on Monday at the regular meeting.

Mr. Craddock moved to recommend DO PASS on AJR 21, Mr. Huff seconded. After Committee discussion concerning the need for amendments and etc. on this legislation it was generally felt that it would require some perusal before action could be taken. Mr. Craddock and Mr. Huff withdrew the motion.

Mr. Lowman announced that he now had the amendments to A.B. 33 which represented a meeting of the minds between the Clark County District Attorney and the Southern Nevada Drug Abuse Council. They would

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MAKE the committment decision judicial rather than by the District Attorney. Mr. Lowman stated that before he made a motion to DO PASS on this bill he would arrange for each Committee member to have a copy of the proposed amendments to review over the week end. He also requested that the Committee decide about requests from Judge Compton. Mr. Barengo agreed to schedule action on A.B. 33 on Monday.

The Chair declared the meeting adjourned.

March 6, 1973

Senator Archie Pozzi
Nevada State Legislature
Carson City, Nevada 89701

Dear Senator Pozzi:

I want to apologize, to start with, for the length of this letter. It contains some matters concerning the First Judicial District that I urgently desire to bring to your attention, and ask for your support.

I noticed in the paper Sunday, March 4th, on the back page of the Nevada State Journal, quite an extensive write up on the necessity in Washoe County for additional judicial help.

In pointing to the following statistics, I am not asking for help in the First District. First off, Washoe County, or the Second Judicial District, has a population of 121,068 people according to the 1970 census. Clark County, by the same census, has a population of 273,288 people. Carson City has a population of 15,468 people. Storey County has a population of 695 people. Churchill County has 10,513 people. Douglas County has a population of 6,882 people. Lyon County has a population of 8,221 people. Clark County, the Eighth Judicial District, thus has a population of 27,329 people for each of its ten judges. Washoe County has a population of 20,178 people for each of its six judges. Department One of the First District, composed of Carson City and Storey County, has a population of 16,163 people for its one judge. Department Two of the First District, composed of Churchill, Douglas and Lyon Counties, has a population of 25,616 for its one judge.

Clark County has, of course, by far the largest number of tourists of any district in the state. Washoe County is second, and probably, Douglas County is third. I make this statement based largely on the reports of the Tax Commission on revenue received from gaming taxes. Clark County has about three-quarters of the collections in the state, Washoe County is next, and Douglas County is third, and suprisingly, Douglas County has more than two-thirds of the revenue that is generated in Washoe County from this source. I only quote this as an indicator of tourist travel within the state. Tourist travel, of course, increases the population of the state on a transient basis, and just the fact that tourists are in the state creates more work, not only for police, but for the courts. Another factor affecting this District, and in particular Department One of this District, is the fact that so many

cases wherein the State is a party have to be heard in Carson City. In the above statistics I have not used anything but the census figure for the reason that others are based on Chamber of Commerce, Department of Commerce, or power company estimates, which are just that, and in the case of the Chamber of Commerce estimates, of course, they are generally puffed somewhat. I've used only the official figures, since they are the only ones that we know of that are true. Douglas County has grown tremendously, as has Carson City. Churchill County is in the process of doing the same thing now, and Clark County and Washoe County, of course, have tremendous increases, but we don't know what those increases actually amount to. It is my understanding that Clark County at this time is not asking the Legislature to increase the number of Judges. It is my understanding that Washoe County is asking for two more District Judges. I don't know what Judge Gregory is doing in Department One in this District. I have heard that he is asking that another Judge be assigned for the whole District. I want to assure each of you gentlemen to whom this letter is going that another Judge is not necessary in Department Two of the First Judicial District. The only settings on my calendar in Department Two that go beyond May 15th, are settings that are in the fall and are scheduled that far off at the request of counsel representing both of the parties. I have available, and Assemblyman Jacobsen has seen them, the calendar records for the past year and one half in this Department, and my current calendar for scheduled trial work.

My principle point in writing this letter to you is to request that you consider sponsoring and supporting a bill to divide this District into two separate Districts. The present First Judicial District to be composed of Carson City only, the remaining four counties in the District to be a separate District with a separate numerical denomination, and to be composed of Douglas, Storey, Lyon and Churchill Counties. This differs from the present line up in that I've added Storey County to Douglas, Lyon and Churchill. There apparently is some question of excessive work in the present Department One of Carson City and Storey County. I am sure that in combination with the three counties that I now have, Storey County can be well taken care of.

There is one more factor that should be spoken of, and that is the factor of travel within this District. In the past year I have traveled something in excess of 16,500 miles on official duty. The addition of Storey County to Lyon, Churchill and Douglas Counties would not add more than 500 miles to that travel.

Again, and in closing, I will very much appreciate any effort you may make to sponsor and support legislation to make this District into two Districts as set forth above.

Yours very truly,

RICHARD L. WATERS, JR.
District Judge

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AGENDA FOR COMMITTEE ON JUDICIARY

Date MARCH 22, 1973 Time 1:30 PM Room 240

<u>Bills or Resolutions to be considered</u>	<u>Subject</u>	<u>Counsel requested*</u>
AJR 10	SUMMARY-Proposes to amend Nevada constitution to permit supreme court to hear oral argument outside of Carson City.	
AJR 14	SUMMARY-Proposes to amend Nevada constitution by providing for merit-plan appointments of judicial officers to fill vacancies.	
AJR 15	SUMMARY-Proposes to amend Nevada constitution by authorizing legislature to fix jurisdiction of justices of the peace.	
AJR 16	SUMMARY-Proposes to amend judicial article of Nevada constitution to provide for discipline of judges.	
AJR 17	SUMMARY-Proposes to amend Nevada constitution by providing merit plan for succession and appointment of justices of the supreme court.	
AJR 18	SUMMARY-Proposes to amend Nevada constitution by providing for central administration of court system.	
S.B. 168	SUMMARY-Increases terms of justices of peace to 4 years.	
S.B. 179	SUMMARY-Increases travel and subsistence allowance for justices of peace.	
A.B. 475	SUMMARY-Eliminates third judicial district.	
A.B. 544	SUMMARY-Eliminates right to appeal from certain district court orders relating to writs of habeas corpus.	

*Please do not ask for counsel unless necessary.