

JUDICIARY COMMITTEE
57th NEVADA ASSEMBLY SESSION

252

MINUTES

MARCH 29, 1973

The second meeting of this day was called to order by Mr. Keith Hayes Chairman, at 5:30 PM.

MEMBERS PRESENT: MESSRS: HAYES, BARENGO, GLOVER, TORVINEN, HUFF, FRY
LOWMAN, HICKEY, AND MISS FOOTE.

MEMBERS ABSENT: NONE

Mr. Hayes announced that we would consider old business first.

A.J.R. No. 14 SUMMARY Proposes to amend Nevada constitution by providing for merit-plan appointments of judicial officers to fill vacancies.

Mr. Lowman explained that AJR 14, 16, 17, & 18 are breakouts of Proposition 4. Mr. Glover stated that although he had voted for the measure he felt the will of the people was clearly not in favor of it. Mr. Torvinen pointed out that in the last thirty to forty years there have only been two justices elected to the Supreme Court, everyone else was appointed. A strong argument in favor of the Missouri Plan is that since almost everyone gets to the Supreme Court by appointment anyhow we are really not changing anything, we are improving it because we are limiting the appointments to people who are qualified by a hopefully, non-political selection commission. The newspaper campaign against this was based on the fact that there was a majority of lawyers on the selection commission and on the discipline committee and they felt that they would "take care of their own". Mr. Torvinen went on to say that this is not true because in the over twenty states who have this plan it is very effective. Mr. Hayes said that he subscribed to the idea that people who are judged have a right to select their judges in a district court, and that there is a lot to be said for a merit plan selection in the Supreme Court. Mr. Torvinen said that AJR 14 would only apply when a vacancy occurs before the expiration of a term of office so that it does not effect the election process. This resolution merely states that the governor can't appoint a person to judicial office unless he is named as a qualified person by the judicial selection commission.

Mr. Torvinen moved to recommend DO PASS, Mr. Fry seconded.
MOTION CARRIED UNANIMOUSLY DO PASS AJR 14.

A.J.R. No. 16 SUMMARY-Proposes to amend judicial article of Nevada
M Constitution to provide for discipline of judges.

Mr. Barengo moved to recommend DO PASS, Mr. Torvinen seconded.

Mr. Torvinen informed the Committee that in 1970 he was appointed to

PAGE TWO

MARCH 29, 1973 PM

attend the first annual conference on judicial discipline. This is becoming wide spread over thirty states now have some type of judicial discipline. The kind of judicial discipline commission created by AJR 16 was patterned after California which was one of the first states to institute this. It has been very effective.

Mr. Barengo pointed out that in these bills it would be necessary to amend and include the criminal court of appeals since this Committee passed a bill creating this and if it should pass it would have to be in these resolutions also.

Mr. Torvinen said that we could put this in these resolutions in an optional way. The Committee agreed with this and to amend AJR 14 also.

Mr. Barengo moved to amend AJR 16 and recommend DO PASS, Mr. Torvinen seconded.

MOTION CARRIED AMEND AND DO PASS AJR 16

AJ.J.R No. 17 SUMMARY-Proposes to amend Nevada constitution by providing merit plan for succession and appointment of justices of the Supreme court.

Mr. Glover moved INDEFINITE POSTPONMENT, Mr. Huff seconded. Mr. Glover said it has been rejected by the people already.

Voting against the motion: Messrs: Hayes, Barengo, Torvinen, Fry, Lowman and Miss Foote.

MOTION FAILED

Mr. Barengo moved to amend and recommend DO PASS, Mr. Torvinen seconded. Voting against the motion: Hickey, Huff, & Glover.

MOTION CARRIED AMEND AND DO PASS AJR 17

A.J.R. No. 18 SUMMARY-Proposes to amend Nevada constitution by providing for central administration of court system.

Mr. Barengo moved to amend and recommend DO PASS, Mr. Fry seconded. Mr. Glover not voting.

MOTION CARRIED AMEND AND DO PASS AJR 18

A.B. No. 368 SUMMARY-Requires registry of purchasers to be maintained by adult book stores.

Miss Foote moved INDEFINITE POSTPONMENT, Mr. Barengo seconded. Voting against the motion: Hayes, Huff, & Lowman.

MOTION CARRIED INDEFINITE POSTPONEMENT A.B. 368

MARCH 29, 1973²⁵⁴

A.B. No. 529 SUMMARY-Provides for disposition of certain unclaimed funds.

Mr. Fry moved INDEFINITE POSTPONMENT, Mr. Hickey seconded.

Mr. Torvinen explained that the main purpose of this bill is to get unclaimed money orders taken care of but it is in conflict with some other statutes in it's present form. He also said that it is too late in the session to make a good bill out of it.'

MOTION CARRIED UNANIMOUSLY INDEFINITE POSTPONMENT A.B. 529.

A.B. No. 475 SUMMARY-Eliminates the third judicial district.

Mr. Torvinen said this bill would have to be amended. The first district is Carson City, the third district becomes Douglas, Churchill, Storey and Lyon counties. Eureka goes to the 7th and Lander to the 6th.

Mr. Barengo moved to amend and recommend DO PASS, Mr. Torvinen seconded.

MOTION CARRIED UNANIMOUSLY AMEND AND DO PASS A.B. 475

A.B. No. 453 SUMMARY-Enacts uniform revision of article 9 of Uniform Code relating to secured transactions.

Mr. Barengo mentioned that we had heard favorable testimony on this bill, and Mr. Fry said that he had some amendments. Mr. Torvinen said that he had 3 and 1/2 hrs of tape which explains what the bill does which belong to the LCB ordered at Mr. Torvinen's request. This is an involved piece of legislation which is even difficult for attorney's to understand, but it is needed and it has been recommend that all states update it. Mr. Huff said that he would have to abstain from voting since he wouldn't be sure of what he is voting on. Mr. Fry submitted amendments from three Reno attorneys who are very involved with and write articles about the UCC.

Mr. Fry moved to amend and recommend DO PASS, Mr. Barengo seconded.

Mr. Huff not voting

MOTION CARRIED AMEND AND DO PASS A.B. 453.

S.B. No. 168 SUMMARY-Increases terms of justices of peace to 4 years.

Mr. Glover moved to recommend DO PASS, Mr. Hickey seconded.

Mr. Huff said on the basis of a bad experience in his area he would have to vote against the motion

MOTION CARRIED DO PASS S.B. 168

S.B. No. 179 SUMMARY-Increases travel and subsistence allowances for justices of peace.

Mr. Glover moved to recommend DO PASS, Mr. Barengo seconded.

MOTION CARRIED DO PASS S.B. 179

A.J.R. No. 25 SUMMARY--Memorializes President of United States and Congress to continue funding for legal aid program.

Mr. Barengo testified that this is a good bill. About two weeks the Supreme Court of Nevada issued an order requesting the same thing.

Mr. Barengo moved to recommend DO PASS, Mr. Hickey seconded.

Mr. Torvinen moved to amend the motion to provide an amendment with the provision that the requirement--one of the objectives of OEO supported legal aid was to lobby for and encourage legislation for the poor and to take action against governmental agencies in behalf of the poor--this should be deleted. In other words we ask that the funds be forth coming without those present guidelines. Mr. Barengo said he would strenuously object to this since there is a certain duty when people are getting money to insure that they are getting it correctly. Legal aid is to act as a watchdog.

The vote in favor of amending the motion: Hayes, Torvinen, Huff, Fry, and Lowman.

Mr. Hickey and Miss Foote not voting.

Mr. Barengo and Mr. Glover voted against the motion.

MOTION TO AMEND CARRIED

Voting Against the motion to amend and DO PASS: NONE

MOTION CARRIED UNANIMOUSLY AMEND AND DO PASS AJR 25. Mr. Torvinen to get amendment.

A.J.R. 29 SUMMARY--Proposes to amend the constitution of the State of Nevada to change membership of the board of pardons and parole

Mr. Fry said that something was done on this in the last election.

Mr. Fry moved INDEFINITE POSTPONMENT, Mr. Hickey seconded.

MOTION CARRIED INDEFINITE POSTPONMENT AJR 29

A.J.R. 30 SUMMARY--Proposes to amend state constitution by providing for suspension of public officer or employee indicted for felony and for removal upon conviction of a felony.

Mr. Huff moved to recommend DO PASS.

Mr. Barengo said he would object because there was no allowance for due process. A person would be suspended on indictment and this could be politically motivated. Mr. Hickey felt this would be very dangerous. Mr. Huff said it is dangerous not to do something.

Mr. Barengo pointed out that this bill only includes grand jury indictment and questioned what happens with criminal complaints that go to preliminary hearing. Mr. Torvinen said that he agreed with the concept but this bill doesn't do the job.

Mr. Hickey moved INDEFINITE POSTPONMENT, Mr. Fry seconded.

Voting against the motion: Hayes, Huff, and Lowman.

MOTION CARRIED INDEFINITE POSTPONMENT AJR 30

A.C. R. 33 SUMMARY-Requests supreme court to study rules and make certain amendments regarding admission to practice law.

Mr. Fry moved INDEFINITE POSTPONMENT, Miss Foote seconded. Mr. Barengo asked if this could be amended to at least transmit this request to the supreme court. It was the concensus of the Committee that Mr. Barengo could make this a personal venture.

Mr. Hickey abstained from voting.

MOTION CARRIED INDEFINITE POSTPONMENT A.C.R. 33

A.B. No. 560 SUMMARY-Gives special counsel same authority as district attorneys in prosecuting labor and industrial relations claims for labor commissioner.

Mr. Fry moved INDEFINITE POSTPONMENT, Mr. Lowman seconded.

Mr. Barengo told the Committee that he had talked with Stan Jones and he has no objection.

MOTION CARRIED UNANIMOUSLY INDEFINITE POSTPONMENT A.B. 560

A.B. No. 765 SUMMARY-Prohibits unauthorized posting of land.

Mr. Fry explained that this is to stop people from cutting off access to public land etc. without authority.

Mr. Huff moved to recommend DO PASS, Mr. Fry seconded.

MOTION CARRIED UNANIMOUSLY DO PASS A.B. 765

On A.B. 779 Mr. Hayes requested the secretary to call the Gaming Control Board, Mr. Jacka, Mr. Bible, and Southern Nevada Gaming, and set the bill for consideration on Tuesday or Wednesday.

A.B. No. 780 SUMMARY-Provides for less than unanimous verdicts in most criminal cases.

Mr. Huff moved to recommend DO PASS, Mr. Hickey seconded. Mr. Hayes cited the Juan Corona murder case in California as an example of what can happen when a nut gets on the jury.

Absent for the vote: Mr. Lowman

Voting against the motion: Mr. Torvinen and Mr. Fry.

MOTION CARRIED DO PASS A.B. 780

A.B. No. 781 SUMMARY-Prohibits specifically larceny of vehicles.

Mr. Hayes said that this is the joy ridding statute. Mr. Barengo said it is badly needed. Mr. Fry felt that this should be amended to specifically let the court or jury have the discretion. Mr. Fry agreed to get the amendment.

Mr. Huff moved to amend and recommend DO PASS, Mr. Hickey seconded.

MOTION CARRIED UNANIMOUSLY DO PASS A.B. 781

A.B. No. 783 SUMMARY-Provides for removal action in district court against elective officer.

Mr. Barengo informed the Committee that this bill sets up a different statutory procedure than impeachment or accusation.

Mr. Fry moved INDEFINITE POSTPONMENT, Mr. Hickey seconded.

MOTION CARRIED INDEFINITE POSTPONMENT A.B. 783

A.B. No. 788 SUMMARY-Requires that found abandoned property or weapons be turned over to law enforcement agency and sets up procedure for disposition.

Mr. Barengo moved INDEFINITE POSTPONMENT, Mr. Glover seconded.

Mr. Lowman absent for the vote.

MOTION CARRIED INDEFINITE POSTPONEMENT OF A.B. 788

A.B. No. 794 SUMMARY-Prohibits landlord from shortening time periods allowed lessee by NRS 40.250.

Mr. Torvinen said that if a provision in violation of this bill was included in a lease it should not be a crime. Mr. Barengo said this would meet with approval. This would encompass on Page 2, L.27,28,&29.

Mr. Barengo moved to amend and DO PASS, Mr. Huff seconded
Mr. Barengo agreed to get the amendment.

MOTION CARRIED AMEND AND DO PASS A.B. 794.

A.B. No. 819 SUMMARY-Proscribes certain use of telephone.

Miss Foote noted that they had heard some supportive testimony on matters of this nature in her Elections Committee.

Mr. Glover moved to recommend DO PASS, Miss Foote seconded.

Mr. Lowman absent for the vote.

MOTION CARRIED DO PASS A.B. 819

MARCH 29, 1973

238

A.B. No. 821 SUMMARY-Permits payment of jurors and witnesses in justice court cases.

Nobody seemed to know the reasoning behind this bill and it was suggested that we have Mr. Demers testify before the Committee.

A.B. No- 844 SUMMARY-Changes penalty for receiving stolen goods and provides prosecution in municipal court.

Mr. Torvinen informed the Committee that this has already been done.

Mr. Fry moved INDEFINITE POSTPONMENT, Miss Foote seconded.
MOTION CARRIED INDEFINITE POSTPONMENT A.B. 844

A.B. No. 852 SUMMARY-Prohibits free broadcast of item, material or performance which is obscene or harmful to minors.

Mr. Barenco pointed out that under sub-section 3, Page 3, Line 29 any advertising of Michaelangelo's DAVID would be covered as a crime. Mr. Hayes said that this bill in it's present form may not do the job, but something should be done. He said he takes real outrage to having X-rated movies shown on the home television screen. Mr. Hayes said that he would try to work out the language etc. to try and come up with a presentable piece of legislation.

A.B. No. 871 is held for further testimony from Mr. Calhoun and Mr. Bennett

A.B. NO. 875 is held for consideration until Mr. Lowman is present.

A.B. NO. 879 is a bill requested by the City of Las Vegas but the reason is vague. The Committee requested the secretary to get in touch with Mr. Bill Adams for testimony on this bill.

A.B. NO. 881 was questioned as to effect by Mr. Barenco and he requested the bill's author, Mr. Jacobsen appear in it's behalf.

A.B. No. 884 SUMMARY-Prohibits the procurement of more than one nonrefilable prescription of a controlled substance in any 72-hour period.

Mr. Barenco moved INDEFINITE POSTPONMENT STating that if a Doctor authorizes a prescription you should be able to have the medication, Mr. Hickey seconded.

MOTION CARRIED INDEFINITE POSTPONMENT A.B. 884

Mr. Hayes announced to the C-ommittee that Mr. Garver from the DA's office in Las Vegas had brought in a bill request providing for an adversary hearing in cases of obscenity patterned after a Texas statute which has stood the test of time. Mr. Hayes requested the Committee introduce this bill. Mr. Barenco made a motion to this effect, Mr. Hickey seconded.

Mr. Torvinen not voting. Mr. Lowman Absent for the vote.
MOTION CARRIED. COMMITTEE INTRO.

Another bill for the protection of minors from obscene material, also patterned after a Texas law was asked to be introduced. Mr. Huff moved to accept this as a Committee bill, Mr. Hickey seconded. Mr. Torvinen abstained from voting on this motion also stating that "it is too late in the session".

MOTION CARRIED COMMITTEE INTRODUCTION

Mr. Hayes brought up the letter received by each Committee member from L.V. Judge, Compton, requesting bill draft requests. The Committee discussed a few of the requests, but in general felt that it is too late this session to try to accomplish these requests.

Mr. Fry recommend we adjourn.

MEETING ADJOURNED.