

SENATE JUDICIARY COMMITTEE

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MINUTES OF MEETING HELD

23rd DAY OF FEBRUARY, 1973

The meeting was called to order at 9:10 a.m. Senator Close in the Chair.

PRESENT: Senator Foley
 Senator Bryan
 Senator Dodge
 Senator Hecht
 Senator Swobe
 Senator Wilson
 Mr. Robert Legakes, Justice of the Peace,
 Las Vegas Township
 Mr. Tom Davis, Justice of the Peace,
 Carson City
 Mr. William Beemer, Justice of the Peace, Reno
 Mr. Rusty Nash, Attorney, Legal Aid Society

S.B. 168 - Increases terms of justices of peace to 4 years.

Judge Legakes testified that in the townships of Clark and Washoe Counties the position of J. P. is a full time job and the workload is tremendous. In an effort to have the ability to accomplish something and to follow through with any accomplishment, a 4 year term would be more effective. It would also eliminate the expense involved in running for office every two years.

Senator Dodge remarked that the rationale for a 2 year term might have been the consideration that a person appointed or elected was not satisfactory. Mr. Davis replied to that comment by pointing out that the caliber of men and women now running is higher than it has ever been due to the fact that they are trying to upgrade their own standards through schooling. "Bad apples" would be minimal.

Judge Beemer agreed with Mr. Davis' statement and expounded further saying that only in the last several years has there been an effort of any kind to educate and upgrade the justices of the peace. There was no incentive to have conferences or set up meetings because there was no way to fund those meetings, and the J. P.'s got no direction from the members of the bench or the bar association. Now, through assistance from the LEAA and legislation, the J. P.'s have training sessions. They are dedicated people who work extremely hard. The legislature should consider this "bottom-of-the-bird-cage" level of the judiciary a little more seriously than it has

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done in the past. It is not inexpensive to run for this office. It would cost at least \$3,000 to put on a campaign just to show the person running is interested in the position.

S.B. 177 - Increases certain fees allowed to Justices of peace.

Senator Close had received a copy of a letter from Eileen Carson, Court Clerk in Clark County, asking that this bill be amended to allow the J.P. to keep \$1.00 for taking bail on an O.R. This would result in \$1,000 of income for the county.

Tom Davis testified that this bill would increase the fees for marriages performed by justices' of the peace to be the same as charged by marriage commissioners. Presently he is compensated \$5.00 for every marriage; under this bill he could charge \$15.00 for marriages performed during the weekdays and \$20.00 for marriages performed at night or on the weekends.

S.B. 178 - Broadens provision for substitution of justices of peace.

Judge Beemer testified that if by necessity he needs to ask another judge to sit for him, there is no way to reimburse that judge for the difference in pay. In Washoe County there are 5 judges, but Judge Beemer feels they are not all qualified to sit in his place. To bring a justice only making \$480 a year into his court and expect him to take over the workload but not be paid the same as he is, would be unfair.

He suggested the committee consider for future legislation a concept of appointing a temporary justice of the peace, perhaps a lawyer as in municipal court, who could sit in the justices' capacity when necessary.

S.B. 179 - Increases travel and subsistence allowances for justices of peace.

Judge Legakes testified that the proposed legislation would raise travel and subsistence allowances from \$10.00 to \$20.00 and \$25.00 in conformance with other state employees. However, there is another bill in the Assembly which would change the state employees allowances to \$25.00 and \$30.00. Judge Legakes asked the committee to conform this bill with the other bill mentioned if it passes.

S.B. 180 - Provides for summary eviction orders after hearing on affidavits.

Judge Beemer testified that in a summary eviction notice, the landlord gives proper notices to the tenant to pay or get out. If the tenant files an affidavit stating he has paid, even though he has not, the only thing that can be done is to file an unlawful detainer action, which constitutes an additional notice, and another hearing. If the tenant has complied, the courts have to tie it off.

Mr. Rusty Nash of the Legal Aid Society testified that many times landlords do not follow the provisions of 40.253. A typical example, which he has come across, is a landlord who will lock a tenant out of his apartment with no notice, and he will refuse to return the tenant's belongings. However, landlords, and especially small ones, need summary proceedings to protect them against tenants who do not pay their rent. The basic question is whether the justice of the peace should be allowed some procedure other than an unlawful detainer action. The idea of an informal hearing might be a good one, as long as there was proper notice.

Mr. Nash had the following suggestions about the summary eviction procedure: The landlord be required to file a civil action when he originally serves notice. Right now the J.P.'s cannot do anything with a counter affidavit filed by the tenant since the landlord does not need to file a civil action when he originally gives notice.

Once the judge signs the order, it should be served upon the tenant and he should be given 24 hours to comply. If he does not comply, the sheriff would evict. The eviction notice is often served one or two months beforehand and then the landlord and tenant come to an agreement. If something else happens the landlord could say the tenant was served three months ago and the tenant could be evicted within 24 hours.

Section 40.253 (subsection 2b) provides that a landlord may, in a peaceable manner, provide for nonadmittance of the tenant by locking, or otherwise. Many times the landlord interprets this to mean he can lock the door immediately without notice. Perhaps language should be added to the effect that the landlord may provide nonadmittance after 24 hours, if notice was served and not complied with.

Another section should be added indicating that the time limits contained in NRS 40.253 or 40.250 are minimal, and any attempt to get around this minimal time limit by a lease, or otherwise, would be fraud.

Finally, to solve the problem of real estate agents or landlords with money flagrantly disregarding notice procedures, some provision should be added to NRS 40.250 or 40.253 stating that non-compliance of notice requirements by a landlord should constitute a misdemeanor offense and be punishable by a fine.

Senator Foley mentioned a proposed model uniform act which would encompass a uniform landlord-tenant act, and asked Mr. Draper if he felt the act would sufficiently cover all the points he brought out. Mr. Draper felt that Mr. Barengo introduced such a bill in the Assembly which would encompass a model landlord-tenant act and felt it would answer most of the problems he mentioned.

S.B. 181 - Permits substitute justices of peace to recover expenses.

Judge Davis testified that this bill would provide room and board expenses for a judge who is asked to sit in another jurisdiction.

S.B. 182 - Increases number of justices of peace in certain townships.

Judge Legakes testified that this bill would apply to Washoe and Clark Counties exclusively. He had compiled statistics (attached hereto) comparing the caseload and it does support the need for a third J.P. in Las Vegas township. As the bill is drafted, if approved it would provide an additional judge in November of 1974. They need the judge now and requested this bill be amended to be effective July, 1973.

Senator Dodge asked if he had talked with the county commissioners about this since it would be a county expense. Judge Legakes replied that the county commissioners are aware of the need but say "the legislature gives us more judges but no more money." It would add a cost of \$54,000 to the J. P. budget, but they turn more back to the county in fines and fees than it costs to operate the court. The additional funds would be needed for the J. P.'s salary, Bailiff, Court Clerk and Court Reporter. They do have access to an additional court room.

Judge Beemer testified that the County Commissioners in Reno are aware of the need for a second J. P. and are trying to resolve the budget at this point. They might be able to appoint a J. P. to serve 50 percent of the time. He also agreed that the person is needed now, rather than November, 1974.

S.J.R. 10 - Proposes to amend section 14 of article 5 of the Nevada Constitution to permit the Legislature to enact laws enabling the justices' and municipal courts to suspend sentences and grant probation.

Judge Beemer testified that presently if a man were found guilty of a criminal offense, he would have to be fined or incarcerated. They have no alternatives, but fines and incarceration are not always the proper answer.

Judges Legakes and Davis also indicated they are in favor of this resolution.

A.B. 35 - Limits the period of time during which a person may have his driver's license revoked for subsequent convictions of driving "under the influence."

Senator Dodge asked the Judges if, in their experience, the revocation of a driver's license for a second offense is a tremendous hardship on a bread-winner, and if there shouldn't be some limited area where a restricted license could be issued to enable a man to drive back and forth to work.

Judge Beemer felt this this procedure is not revocation but crucifixion, and it can only encourage people to violate the law out of necessity. He recommended mandatory jail sentence of 10 days, rather than revocation. The court could provide an opportunity for a hearing and a limited license.

Judge Legakes agreed and Judge Davis commented that most people who are forced to drive back and forth to work, while their license is revoked, get stopped for an equipment violation, not for drinking.

Chairman Close excused the witnesses and thanked them for their testimony.

S.B. 199 - Expands definition of "public officer" to include employees and other staff of public boards for purposes of penal statutes.

Senator Wilson will draft an amendment as discussed on February 22nd. Senator Bryan moved to amend and "DO PASS." Senator Wilson seconded. Motion carried.

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A.B. 153 - Authorizes formation of nonprofit corporation for scientific purposes.

Committee reviewed the testimony given by Assemblyman Torvinen. Senator Bryan moved DO PASS. Senator Dodge seconded. Motion carried.

S.J.R. 10 - Proposes to amend section 14 of article 5 of the Nevada Constitution to permit the Legislature to enact laws enabling the justices' and municipal courts to suspend sentences and grant probation.

Committee reviewed the testimony received previously. Senator Bryan moved DO PASS. Seconded by Senator Wilson. Motion carried.

S.B. 177 - Increases certain fees allowed to justices of peace.

Senator Dodge was not sure the bill should be passed out of committee since the legislature has been trying to get the J. P.'s out of the marriage business for several years. The Carson City J.P. is presently performing 2,000 marriages a year at \$5.00 each.

The committee agreed to indefinitely postpone action on this bill.

S.B. 178 - Broadens provision for substitution of justices of peace.

The committee felt that Senate Bills 178, 179, and 181 are all fairly well related so should be given some thought and perhaps incorporated into one bill.

S.B. 182 - Increases number of justices of peace in certain townships.

Senators Dodge and Hecht pointed out that if this bill, which provides for one additional judge in Reno passed, the problem of asking a judge to sit in another's absence, referred to by Judge Beemer in discussion of S.B. 178, would be resolved.

The meeting was adjourned at 10:50 a.m.

Respectfully submitted,

Eileen Wynkoop
Eileen Wynkoop
Secretary

APPROVED:

M. Q. Dill

ACTIONS HANDLED BY LAS VEGAS JUSTICE COURT
AS COMPARED TO
ACTIONS IN 37 OTHER COUNTIES

	Las Vegas Justice Court	Other Justice Courts
Preliminary Hearings	1,433	371
Misdemeanors	3,211	3,308
Traffic Violations	51,600	15,909
Small Claims	3,368	7,117
Civil Actions	558	1,188

COUNTY OF CLARK
OFFICE OF THE JUSTICE OF THE PEACE
COUNTY COURTHOUSE
Las Vegas, Nevada 89101

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Justice of the Peace
REX A. BELL
ROBERT G. LEGAKES

Telephone
386-4011
Ext. 435
Ext. 436

February 22, 1973

Legislative Committee
State of Nevada
Carson City, Nevada 89701

Dear Legislators:

I would like very much to have been present today to speak to you regarding the bills that have been drafted and are before you at this time concerning the office of Justice of the Peace. Due to a heavy court schedule I am unable to attend and, therefore, Judge Legakes is representing me as well as himself.

As to S. B. 168, it is my opinion that the term of the Justice of the Peace, at least for our particular township and the Reno township, should be raised to four years. These two particular areas involve full time judicial work and proceedings and therefore should be put on the same level as a District Court Judge at least with regard to term of office. Needless to say, this would eliminate the great expense involved in campaigning in these two large areas.

With regard to S. B. 182, the Las Vegas township needs three Justices of the Peace. We have a tremendous workload. Judge Legakes and I find ourselves in the position of working overtime most of the week while our desks seem to pile higher and higher with the work that needs to be done outside of the courtroom. Because of the tremendous workload it is difficult for either of us to have a vacation. This means calling in a Justice of the Peace from another area from time to time who may also be so tied up with his business that he may not be able to relieve us.

We believe that with regard to S. B. 180 that the time on disputed tenant evictions should be amended to read "within 48 hours".

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It would seem that S. B. 178 which allows salary and per diem for a Justice of a Peace setting for another would be a better proposal than S. B. 181.

It is my feeling that S. B. 179 should be effected in that there needs to be an increase in subsistence and allowance for Justices of the Peace.

We definitely feel that the small claims jurisdiction should be raised. This should make it easier for the District Court, and although it would put a greater strain on the Justice Court it may also solve the problems for people who do not have very large claims but ones that are somewhat intermediate.

We also feel that the Justices of the Peace should have probation powers as this would be an effective tool for the Justice Court for obvious reasons.

I feel that contempt powers for the Justices of the Peace should be increased for at least one week.

There should be clear provisions for the Justice of the Peace to call and pay jurors as well as provisions to pay for witnesses called by the court.

The Justice of the Peace should be able to appoint and maintain his own court clerk and bailiff in that they are very important and close to him.

It would appear that under the new decisions handed down by the Supreme Court of the United States that counsel should be appointed for certain misdemeanor cases and if we don't act now I am sure these decisions will come back to haunt us.

With regard to A. B. 45, we feel that a driver's license should not be suspended before conviction. This would be extremely unfair to those individuals later found to be innocent.

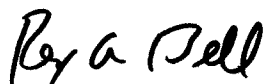
We also feel that mandatory jail sentences for people driving under

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suspended licenses should be left to the discretion of the court.

My very best to all of you.

Sincerely,



REX A. BELL
Justice of the Peace

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