ASSEMBLY

Election Committee Minutes
January 28, 1975

Tuesday, 8:00 a.m.
Room 336

Members Present:	Demers	Vergiels
	Sena	Wagner
	Chaney	Young
	Heaney	

Members Absent: None

Guests	Representing
Bill Isaeff	Attorney General
Frank Fahrenkopf	Republican Committee (AB 14)
Bill Adams	City of Las Vegas
David Howard	Washoe County Voters Registrar
Clifford Devine	Washoe Co. Democratic Chairman
Vaughn Smith	Carson City Clerk Treasurer

The meeting was called to order at 8:10 a.m. by Chairman Demers and the roll was called by the Secretary.

Chairman Demers announced the legislation to be considered is AJR No. 1 and AB 14.

Chairman Demers read paragraph #2 of Mrs. Norma Joyce Scott's letter, a copy of which is enclosed in the minutes. Mrs. Scott is the Chairman of the Mineral County Republican Central Committee. Her feeling was that the removal of the 6 month residency requirement would be a mistake.

Mr. Isaeff spoke to give the committee some background on AJR No. 1. According to a Supreme Court decision, the residency requirement was regarded to be unconstitutional. This deprives persons of travel and is unconstitutional. The Attorney General recommends that AJR No. 1 be amended. Enclosed with the minutes is a copy of a letter dated June 19, 1972 from Attorney General List entitled Elections: Voter Registration addressed to Mr. Stanton B. Colton, the Registrar of Voters, Las Vegas (5 pages).

Chairman Demers summarized that the above laws passed by the Supreme Court are very persuasive and the residency requirement would probably have to be dropped. The Chairman stated that no action would be taken until the following week on AJR No. 1.

Assembly Bill No. 14 was introduced by Mr. Vergiels. The biggest attempt of this bill is to limit signs to 22 inches in the shorter dimension and 28 inches in the longer dimension. It is to be placed only on occupied property on which there is an occupied dwelling or business establishment with the permission of the occupant. AB 14 would be a savings of paper and it would be an attempt to eliminate sign pollution. These signs are not meant to compete with billboards. It is designed to give campaigners

the chance to advertise more cheaply and representation will be more important rather than how much money you have to advertise.

Mr. Fahrenkopf said he was not sure how the size of 22 by 28 would avoid the sign pollution. Mrs. Wagner was complimented on her campaign in that her signs were displayed in good taste on the lawns of private residences. Mr. Farenkopf was not sure that 22 by 28 was small enough. According to AB 14, the idea of the bill is excellent, but the size and the language concern him. You could say that you cannot post a sign without permission of the owner. Chairman Demers said the bill could extend to private property as well as trailers and vans.

Mr. Adams said the city of Las Vegas had wrestled with the problem of signs since 1960 and they reached somewhat of a solution by charging the candidates $25. to remove signs. In other words, a candidate is charged a flat fee of $25. and the city removes his campaign signs provided the sign is anything under 4 by 8 feet. The candidate can elect to pick up his own signs and he is given 15 days to do so.

Mrs. Wagner stated that the proposal said nothing about enforcement of the campaign signs and it was decided that breaking the law on campaign signs would be considered a misdemeanor.

Mrs. Scotts letter concerning AB 14 was summarized by Chairman Demers and is to be part of the record. (Paragraph No. 3), letter enclosed.

Mr. Howard said the biggest problem faced is having the posters torn down by various people and he felt they should not be left in vacant lots. Chairman Demers stated the purpose of the bill is to stop signs on unimproved property.

One of the problems Mrs. Wagner foresaw is that everyone will be hustling busy corners and a resident may very well say they don't want any signs.

Another problem of signs according to Mr. Vergiels is that children use them as swords, especially on unoccupied property, whereas, the property owner will probably only have 1 or 2 signs on his property. Mr. Vergiels feels that the profileration of signs are going to get worse. He feels strongly that something must be done, especially the uniformity in size.

Mrs. Wagner asked Mr. Vergiels if he had considered a bill that would eliminate all signs. Mr. Vergiels stated that his idea was to restrict the signs; leave it up to the property owners whether to put up the signs and uniformity.

Chairman Demers reminded the group that we have election codes from38 states which can be referred to in the Council Bureau. This list of states can be found with the minutes of Jan. 21, 1975.

Mr. Heaney asked if all signs should be abolished in vacant lots. The answer was yes, and all signs that are placed on private property should be with the owners permission.

Mr. Devine stated that he was concerned about the man with the little expense account. If a man does not have a commercial sign, he will be somewhat limited. In other words, candidates might feel compelled to use TV or commercial bill boards. You should have legislation of 15 days to clean up the signs following elections. Chairman Demers stated the bill is designed to stop signs on unimproved property. There is more value to a small sign in a yard. Mr. Demers felt that Mr. Devine's apprehension was unwarranted at this time.

Mr. Heaney felt you should have a permit for any sort of sign. No sign should be bigger than 4 by 8 feet.

Mr. Vergiels felt that the bill should be given a fair hearing. With the public, it is something visible and they would like to have something done.

Mr. Smith said he would like to expand on what Mr. Vergiels said. He stated that we have local ordinances to control property rights of people. If there is enforcement on local levels, it would be easier. There is also the problem of safety and there are too many signs carelessly placed. Commercial signs can cost $150. per month and higher which might take the campaigner out of the campaign. In Carson City, there are many ideal vacant lots, but the problem is the clean-up. In Carson City, the Boy and Girl Scouts pick them up. The highway department also does their job in case of the highway right-of-way. The law should be to control spending and not make running for office a costly thing.

By this restriction, Chairman Demers felt it will help the "little guy", as you will be restricting them to size and placement.

Chairman Demers asked that the speakers get together and come up with some amendments based on the experience of other states. The final action for AJR No. 1 will be taken up at the meeting for next week, February 4. Between now and February 4th, the committee was asked to come up with their recommendations on AB 14.

The meeting was adjourned at 9:28 a.m.

Respectfully submitted,

Martha Laffel

Martha Laffel
Assembly Attache

2 Enclosures a/s
/ml

ASSEMBLY

AGENDA FOR COMMITTEE ON Elections

Date January 28, 1975 Time 8:00 a.m. Room #336

Bills or Resolutions to be considered	Subject	Counsel requested*
AJR No. 1 of the 57th Session	Summary--Proposes to amend Nevada constitution by eliminating the 6-month residency requirement for electors. Fiscal Note: No. (BDR C-329)	
AB 14	Summary--Regulates election campaign signs. Fiscal Note: No. (BDR 24-14)	

*Please do not ask for counsel unless necessary.

7421

AJR1

P. O. Box 756
Hawthorne, Nv 89415
January 25, 1975

Daniel J. Demers, Chairman
Committee on Elections
Nevada State Assembly
Carson City, Nv 89701

Dear Mr. Demers:

Thank you for your letter regarding the hearings next week. I am sorry that I will not be able to attend them. I would like to express my opinion on the proposals mentioned in your letter.

On Assembly Joint Resolution #1, it is my feeling that removal of the six (6) month residency requirement would be a mistake. In this mobile country we live in, perhaps we would gain more voters by changing this requirement, bout would they be educated voters. Right now the candidates have problems enough trying to educate those of us who qualify as voter at this time, on all their attributes without taken on newcomers to the state who know nothing of the state or its' politics. Six months is a short time to acquaint yourself with this wonderful state of Nevada and its' people. Also wouldn't lessening the residency requirement invite certain factions to move people intc the state to control elections?

Assembly Bill #14, as I understand it from your letter, sounds like an improvement of what we have now. Actually I don't believe there are any limitations of size on campaign signs now and there should be. I also agree with the placement of signs on property only where there is an occupied building. During our last election many of the vacant lots throughout the state seemed to become forests of campaign signs. They were certainly not an attractive site and usually made most of the signs unreadable. I would also like to see something done about opposing candidates attaching their campaign sins to those already in place. This has become a common practice of campaign workers and should be discouraged. It is unfair to the first candidate and adds nothing to the stature of the additional ones. Could all candidates also be required to see that their campaign signs are removed within a certain time follcwing the election?

I hope my comments will be of use to you and the committee in their deliberations.

Sincerely,

Norma Joyce Scott

Norma Joyce Scott (Mrs.)

(1)

AJR1

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STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL
ROOM 341, LEGISLATIVE BUILDING
CARSON CITY 89701

ROBERT LIST
ATTORNEY GENERAL

June 19, 1972

OPINION NO. 85

Elections; Voter Registration--Nevada Constitutional Six Months State Residence Requirement for entitlement to vote preempted by the provisions of the 14th Amendment to the U. S. Constitution. Dunn v. Blumstein, 92 S. Ct. 995 (March 21, 1972)

Mr. Stanton B. Colton
Registrar of Voters
County of Clark
400 Las Vegas Blvd. South
Las Vegas, Nevada 89101

Dear Mr. Colton:

QUESTION

Your predecessor in office, Mr. Thomas A. Mulroy, asked this office for an opinion regarding the effect of the decision of the U. S. Supreme Court in the case of Dunn v. Blumstein, 92 S. Ct. 995 (March 21, 1972), on the residence for voting requirement contained in Article 2, Section 1 of the Constitution of the State of Nevada. More specifically, Mr. Mulroy had asked whether any election official registering voters in the State of Nevada may require proof of residence within the State of Nevada for six months as required by the Constitution and Statutes of the State of Nevada rather than the 30 day voter processing period discussed and apparently established by the U. S. Supreme Court in Dunn v. Blumstein, supra. For the reasons stated below, we believe that the Nevada Constitution has been superseded and that it is incumbent upon Registrars of Voters to enforce only a 30 day voter processing requirement rather than any residence requirement.

ANALYSIS

In proceeding to advise state officials that the State Constitution has been superseded or overruled by the U. S. Supreme Court's interpretation of the provisions of the Federal Constitution, the Attorney General must proceed with great care and must be certain that his advice is based upon clear and compelling case law precedent. This is a difficult task and one which this office has evaluated carefully. Unless it is virtually certain that a court of competent jurisdiction would strike down the provisions of the State Constitution, this office would be reluctant to advise any public official not to adhere to the requirements of that Constitution. We note, however, that Article 1, Section 2 of our State Constitution requires:

> " * * * the Paramount Allegiance of every citizen is due to the Federal Government in the exercise of all its Constitutional powers as the same have been or may be defined by the Supreme Court of the United States * * *."
> (Emphasis added)

Article 2, Section 1 of the Nevada Constitution provides eligibility for voting as follows:

> " * * * All citizens of the United States (not laboring under the disabilities named in this constitution) of the age of eighteen years and upwards, who shall have actually, and not constructively, resided in the state six months, and in district or county thirty days next preceding any election, shall be entitled to vote for all officers that now or hereafter may be elected by the people, and upon all questions submitted to the electors at such election; * * *.

NRS 293.485(1) provides:

> "Except as provided in section 1 of article 2 of the constitution of the State of Nevada, every citizen of the United States, 18 years of age or over, who has continuously resided in this state 6 months and in the county 30 days and in the precinct 10 days next preceding the day of the next succeeding primary or general election, and who has registered in the manner provided in this chapter, shall be entitled to vote at such election."

These are the durational residence requirements which must be examined in light of Dunn v. Blumstein, supra. These durational residence requirements apply only to state elections since the Federal Voting Rights Act of 1970, 48 U.S.C. Section 1973aa-1 established a 30 day requirement for participation in federal elections for president and vice president.

On March 21, 1972, in Dunn v. Blumstein, supra, the U. S. Supreme Court upheld the decision of a three-judge Federal district court in Tennessee invalidating that state's one year durational residence requirement as well as the three month county durational residence requirement for eligibility to vote in Tennessee state elections. The Court determined that the provisions of the Tennessee Constitution and the Tennessee Code establishing durational residence requirements did not further any compelling state interest and that they violated the equal protection clause of the 14th Amendment of the United States Constitution. In his opinion for the majority, Mr. Justice Marshall discussed the impact of durational residence requirements, noting that they impinge on the exercise of the right to travel and can act to deprive citizens' fundamental political rights. The opinion is comprehensive. Arguments made by Tennessee regarding the desirability of an educated populace, the preservation of a common interest in matters pertaining to a community's government and the preservation of the purity of the ballot box by preventing dual voting were all discussed and found to be wanting as an adequate explanation for the use of durational residence requirements.

Mr. Justice Marshall noted that 30 days appear to be "an ample period of time for the state to complete whatever administrative tasks are necessary to prevent fraud * * *." He noted that Tennessee had a registration cutoff point of 30 days before an election and that this reflected the judgment of the Tennessee legislature that election officials can take necessary precautionary measures to insure the purity of the ballot within a 30 day period. Nevada's registration closes on the fifth Saturday preceding any election. (NRS 293.560). This effectively is 30 days.

Subsequent to the Dunn decision, a number of durational residence cases were decided by the U. S. Supreme Court and disposed of in memorandum form. Three of these cases specifically concerned six month state constitutional voter residence provisions similar to those established by Article 2, Section 1 of the Nevada Constitution and NRS 293.485(1). Each of the decisions was in memorandum form indicating that the U. S. Supreme Court had little question about the interpretation it wanted placed on the Dunn decision. In Amos v. Hadnott, 92 S. Ct. 1304 (1972), the Court affirmed a three-judge Federal court's ruling that Alabama's six month constitutional durational requirement was unconstitutional. In Donovan v. Keppel, 92 S. Ct. 1304 (1972), the Court affirmed

a three-judge Federal court's decision that Minnesota's six month constitutional and statutory durational residence requirement was unconstitutional. In Whitcomb v. Affeldt, 92 S. Ct. 1304 (1972), the Court affirmed a three-judge Federal court's decision that Indiana's six month constitutional and statutory durational residence requirement was unconstitutional. In the case of Ferguson v. Williams, 92 S. Ct. 1322 (1972), the Court vacated a three-judge Federal court's ruling that the constitutional requirement of four months residence for voting found in the Mississippi Constitution was valid.

In the case of Cocanower v. Marston, 92 S. Ct. 1303 (1972), the Supreme Court vacated the judgment of a three-judge Federal court upholding Arizona's one year durational requirement for voting ordering the District Court to reconsider the case in light of the Supreme Court's decision in Dunn v. Blumstein, supra. The United States Supreme Court took a similar action in the case of Fitzpatrick v. Board of Election Commissioners of the City of Chicago, 92 S. Ct. 1305 (1972), and in Lester v. Board of Elections for the District of Columbia, 92 S. Ct. 1318 (1972). Both District Courts were advised to reconsider their prior decisions in light of Dunn v. Blumstein, supra. In Davis v. Kohn, 92 S. Ct. 1305 (1972); Virginia State Board of Elections v. Bufford, 92 S. Ct. 1304 (1972); Canniffee v. Burg, 92 S. Ct. 1303 (1972); and Cody v. Andrews, 92 S. Ct. 1306 (1972), the Supreme Court affirmed the action of lower Federal Courts in overturning the durational residency requirements of Vermont, Virginia, Massachusetts, and North Carolina, respectively. In the eleven memorandum decisions issued by the U. S. Supreme Court as a result of Dunn v. Blumstein, supra, constitutional and statutory provisions for durational residency requirements as long as one year and as short as four months have been directly or indirectly struck down by the Court in summary fashion. We would also note the decision of the Supreme Court of California on May 4, 1972, in the case of Young v. Gnoss, _____P.2d _____ (1972), in which the 90 day durational residency requirement within a California county and a 54 day durational residency requirement in a precinct were struck down as violative of the equal protection clause of the 14th Amendment as applied in Dunn v. Blumstein, supra.

Attorneys General in fourteen states have advised appropriate state officials that the standards of Dunn v. Blumstein, supra, must be met. We particularly note the Opinion of Attorney General Scott of Illinois specifically advising a state's attorney that the six months durational residency requirement of the Illinois Constitution is violative of the equal protection clause of the 14th Amendment to the U. S. Constitution.

Given the language of Dunn v. Blumstein, supra, the actions of the U. S. Supreme Court subsequent to its rendering of the Dunn decision, the actions of various Attorneys General and the language of the Nevada Constitution, it appears that there is little alternative but to declare that it is the opinion of this office that any court examining the durational residency requirements of Article 2, Section 1 of the Nevada Constitution and NRS 293.485(1) would find that the Nevada Constitution and Statutes violate the 14th Amendment to the U. S. Constitution.

CONCLUSION

The mandate of the U. S. Supreme Court is clear. The Nevada durational residency requirement violates the 14th Amendment to the U. S. Constitution. We therefore advise your office to allow all persons to register to vote if they attempt to register within the time established by NRS 293.560 for the close of registration. We would also note that the provisions of NRS 298.090 to 298.240 regarding "new residents" voting in presidental elections would no longer be applicable.

Respectfully submitted,

ROBERT LIST
Attorney General

By 
Michael L. Melner
Deputy Attorney General

ELECTION CAMPAIGN REFORM

AT PRESENT, THERE IS WIDE DISPARITY IN THE REQUIREMENTS FOR THE REPORTING OF CAMPAIGN CONTRIBUTIONS AMONG THOSE WHO SEEK POLITICAL OFFICE. THERE IS ONE LAW FOR FEDERAL CANDIDATES, ANOTHER FOR LEGISLATIVE CANDIDATES AND NO LAW AT ALL FOR OTHER STATEWIDE CANDIDATES.

THE NEVADA LEGISLATURE TOOK A POSITIVE STEP IN 1973 WHEN IT ENACTED A MEASURE REQUIRING ALL ASPIRANTS FOR THE SENATE OR THE ASSEMBLY TO REPORT THE AMOUNT OF MONIES EXPENDED IN CAMPAIGNS.

NOW, I BELIEVE THE TIME HAS COME FOR THE LAW TO BE EXPANDED. I AM THEREFORE RECOMMENDING LEGISLATION TO REQUIRE ALL CANDIDATES FOR STATE OFFICE TO REPORT TO THE SECRETARY OF STATE THE FOLLOWING:

-- THE TOTAL NUMBER OF DOLLARS OBTAINED FROM CAMPAIGN CONTRIBUTORS.
-- THE INDIVIDUAL SOURCE OF EACH CONTRIBUTION EXCEEDING AN ESTABLISHED MINIMUM AMOUNT, WHICH MIGHT BE $100 OR $500.
-- FINALLY, THE TOTAL NUMBER OF DOLLARS EXPENDED ON THE CAMPAIGN.

I AM ALSO RECOMMENDING THAT NEVADA'S CITIES AND COUNTIES ADOPT SIMILAR REPORTING REQUIREMENTS. IF THEY FAIL TO DO SO, THEN THE LEGISLATURE MIGHT WANT TO CONSIDER THE IMPOSITION OF A LAW APPLYING TO LOCAL SUBDIVISIONS WHEN IT CONVENES IN 1977.

SUCH UNIFORM LEGISLATION IS NOT ONLY DESIRABLE BUT FAIR. AT THE PRESENT TIME, SOME CANDIDATES NOT COVERED BY LAW STILL FEEL COMPELLED TO MAKE A COMPLETE FINANCIAL DISCLOSURE. OTHERS ARE NOT SO INCLINED.

IT IS TIME TO PUT EVERYONE ON THE SAME GROUND THROUGH THE WEIGHT OF LAW.

AB14

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P. O. Box 756
Hawthorne, Nv 89415
January 25, 1975

Daniel J. Demers, Chairman
Committee on Elections
Nevada State Assembly
Carson City, Nv 89701

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Norma Joyce Scott

Norma Joyce Scott (Mrs.)

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