

Date: March 7, 1979

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Members Present:

Chairman Hayes
Vice Chairman Stewart
Mr. Banner
Mr. Brady
Mr. Coulter
Mr. Fielding
Mr. Horn
Mr. Malone
Mr. Polish
Mr. Prengaman
Mr. Sena

Members Absent:

None

Guests Present:

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| Zane Azbarea | North Las Vegas Municipal Court |
| Hal V. Dunn | Carson City Sheriff |
| Wesley Frensdorff | Episcopal Church Bishop |
| Doug Hill | Administrative Office of the Courts |
| Ed Psaltis | Administrative Office of the Courts |
| Bill Reinken | Episcopal Church Senior Warden, Carson City |
| Terry Reynolds | Administrative Office of the Courts |

Chairman Hayes called the meeting to order at 9:10 a.m.

ASSEMBLY BILL 228

Removes distinctions based on sex from NRS 82.310.

Chairman Hayes said that the question on the minds of the members of the Committee was why there was the reference to the Protestant Episcopal Church in the law.

Bishop Frensdorff said that the reference to the Protestant Episcopal Church seemed to be a historical matter as far as he could determine. He said the statutes go back to the territorial days. He said the church did not have a particular concern about preserving the statute except as it might affect the eight congregations of the church in Nevada regarding their status of being incorporated. He said that one congregation has been involved in litigation over the past two years, and attorneys for the church felt that it would be best if the statute was not repealed until that litigation was completed. He said that the church was, however, in favor of the presently proposed amendments.

Mr. Stewart said he was glad to get the feelings of the church regarding the present bill and the possibility of repealing this statute altogether. He said he would be willing to wait until the church initiated further action to take this statute off the books.

Mr. Brady said he was not so much concerned with the women's rights issue involved in this situation as he was with the business of the church such as running the elections. Bishop Frensdorff said he could not disagree, but he said there was concern with changing the statute at the present time.

Mr. Reincken said that ultimately except for the questions raised by the Bishop, he felt the statute should be repealed. He noted that the churches do not presently follow the time schedule that is in the statute for holding their elections. He felt that the law as it presently stands has lost most of its effectiveness anyway.

ASSEMBLY BILL 415

Specifies term of office of police judges.

Mr. Hill stated that this bill only affected third class cities. He said it changes the term of elected police judges from two years to four years. He stated also that there is a problem in third class cities where the city council appoints the police judge. He said this creates a situation where a city council could be exercising judicial powers by their control over the judge. A judge could be removed if the fines he was imposing were not bringing in enough revenue. He said that the Nevada Supreme Court has said that conduct which involves such a probability that prejudice would result is deemed inherently lacking in due process.

Mr. Psaltis said that since 1971 there has been an ongoing training course for justices of the peace and municipal court judges. He said that the sessions are held periodically to review changes in laws. He related the costs for various types of sessions. He said that when a judge is only in office for two years, he has just begun to operate effectively, and it becomes expensive if a new judge has to go through the same training processes.

Mr. Prengaman stated that it appeared to him that this bill was something that was addressing possibilities. He asked if there was any pressing need for the bill. Mr. Hill read a story from the newspaper in Yerington about a police judge that had been appointed by the city council. The story said that this individual was placed on a six-month probation by the council.

Mr. Reynolds said he had done most of the field work regarding problems encountered by judges who have been appointed by city councils. He said that the judge in Caliente had been

receiving \$5.00 for every citation where a person was guilty. Because it was not felt this was a good situation, he said that the procedure had been revamped to give the judge a salary. Even then, the city council set the salary, and after a period of years, they wanted to fire him because he was not bringing in what they felt was enough revenue.

Mr. Reynolds further related that a judge in Las Vegas had been called in by the city council for giving delayed sentences. He was told that he could not do this because the city was depending on the revenues. He said that if this judge had not been elected, the city council would probably have gotten rid of him.

Mr. Reynolds said that the Administrative Office of the Courts had been seeking legislation to the effect of setting the salaries of police judges or having the salaries paid by the State.

Mr. Hill said that the only type of civil action the police judge has jurisdiction over is in tax cases where the city is involved. He said that even in this situation, the police judge could be in a pressured position from the city council.

Mr. Stewart stated that there could be abuses on the other hand where a judge would be dismissing "wholesale" cases. There was further discussion on a question raised by Mr. Stewart on the need of the language in Section 1, Subsection 1.

Judge Azbarea related the jurisdiction of the police court. He said that after he was elected to his position, he was faced with a new city manager and council. He said that from the things that were requested of him from these individuals, he knew they were not aware of what the court functions were. He said that if he had not been appointed, the conflict that resulted would probably have left him without a job.

ASSEMBLY BILL 416

Provides that sheriffs rather than justices of peace are ex officio county coroners.

Mr. Hill said that there are two ways that coroners can be appointed in the State. One is that the county commissioners appoint someone to act as coroner, which he said is done in Douglas, Clark and Washoe Counties. The second alternative is that the Justice of the Peace acts as coroner.

Mr. Hill said it was felt that the problems arises when the Justice of the Peace in his duties as such and as coroner inspects a body whereby he may declare a person dead, gathers evidence surrounding the death, holds an inquest concerning the death, and then finally holds a preliminary hearing to determine whether or not a crime was committed and if anyone

should be bound over to district court for trial. He distributed the results of a questionnaire (Exhibit A) that was sent to 41 justices of the peace across the State concerning their possible dual role as coroner. He said that 86% of those responding act in a dual capacity. He said there was a concern raised in response to a question whether the judges felt it was necessary to disqualify themselves when a conflict existed, and only 17% responded with a yes answer.

Mr. Reynolds said that a situation that could occur might be an automobile accident. Since he had to inventory the personal effects on a dead person, he might come up with alcohol or drugs. Later on if some type of trial comes up, this judge would have had first hand knowledge of what was found at the scene, and it would definitely seem to appear that there was a conflict.

Mr. Stewart stated that this bill would make the sheriff the coroner. Mr. Hill said he did not necessarily support that the sheriff be made the coroner, but he did feel that the justice of the peace should not be performing the investigative function. Mr. Stewart said he thought a sheriff would be a worse choice than a justice of the peace.

Mr. Fielding said he would have to disagree, and he said that many times a sheriff is at the scene of an accident or crime, and he is performing an investigative function anyway.

Chairman Hayes asked if it might be better to state in the law that the justice of the peace is still the coroner, but the sheriff would handle investigations.

Sheriff Dunn said that the day-to-day responsibilities of the sheriff or police department require a great deal of investigation that is by statute placed on the coroner. He said that a sheriff usually has the staff that can make an ongoing investigation as compared to a coroner who may be working on a part-time basis.

Sheriff Dunn felt that whatever action was taken, the coroner should remain a part of another county office especially in the smaller counties. He said that in Carson City he believed if this transfer was made, the sheriff would be continuing to do things he does now. He said that in California, a great number of sheriffs are sheriff-coroners. He said he did have some concern about being able to retain doctors to perform coroners duties at what would be a mutually-agreed reasonable fee.

Chairman Hayes asked Mr. Hill to consult with the bill drafter concerning possible amendments on this bill.

ASSEMBLY BILL 486

Clarifies penalties for certain batteries.

Chairman Hayes stated that the Senate Judiciary Committee intended to amend a previous bill similar to this bill to include provisions of A.B. 486. She said it may not be necessary to proceed with this bill after the other bill is amended.

ASSEMBLY BILL 378

Permits district attorney to certify photographs of certain property held as evidence and return property to owner before trial.

Chairman Hayes said this bill had been discussed in the previous day's meeting. She said that the District Attorneys Association had submitted amendments that the Committee members had seemed to have been satisfied with.

Mr. Polish moved to Amend and Do Pass A.B. 378; Mr. Sena seconded the motion. The Committee unanimously approved the motion.

ASSEMBLY BILL 228

Chairman Hayes said she thought that Page 1, Lines 17 through 21 should be amended out of the bill after hearing the testimony at this meeting.

Mr. Brady said that the church is breaking the law with their present means of holding elections. He said the law is totally meaningless, and he suggested repealing the whole NRS concerning the Protestant Episcopal Church. He said church issues had nothing to do with the State.

Chairman Hayes stated that she felt the Committee should abide by the request of the church to leave the statute as is except for the amendment proposed by A.B. 228 until after the present litigation is settled.

Mr. Polish moved to adjourn; Mr. Horn seconded the motion. The meeting was adjourned at 10:40 a.m.

Respectfully submitted,

Carl R. Ruthstrom Jr.

Carl R. Ruthstrom, Jr.
Secretary

Please mark an "X" in the appropriate space.

1. Do you serve as both Justice of the Peace and coroner?
31 yes 86% 4 no 11% N/A 1 3%
2. Do you believe that Justices of the Peace should act as coroners?
6 yes 17% 27 no 75% N/A 3 8%
3. If you do act as both Justice of the Peace and coroner, have you ever been called upon to investigate the cause of death of a person, and later been asked to determine at a preliminary hearing whether the suspect in this death should be bound over for trial?
15 yes 42% 17 no 47% N/A 4 11%
4. If you have experienced the situation described in (3), did a conflict of interest arise between your investigative duties as coroner and your judicial duties as Justice of the Peace?
10 yes 28% 10 no 28% N/A 16 44%
5. Did you find it necessary to disqualify yourself in the proceedings?
6 yes 17% 15 no 42% N/A 15 42%
6. Are there medically trained personnel available in your county who could serve as coroner?
25 yes 69% 7 no 19% N/A 4 11%
- a. If the answer to (6) is no, are there other personnel who could serve as coroner? Please list these:
EMT, Doctors, Police, Sheriffs
7. Would you support legislation to remove coroner duties from Justice of the Peace duties?
27 yes 75% 5 no 14% N/A 4 11%

This questionnaire was mailed to 41 justices of the peace outside of Clark and Washoe Counties. Thirty-six replies were received for a response of 88%.