

The meeting was called to order at 10:00 a.m., Senator Close was in the Chair.

PRESENT: Senator Close
Senator Hernstadt
Senator Don Ashworth
Senator Dodge
Senator Ford
Senator Raggio
Senator Sloan

ABSENT: None

SB 19 Raises monetary limit of jurisdiction of justices' courts.

Senator Hernstadt testified that there is an almost identical Assembly Bill that has been introduced, so there is interest in the Assembly to adopt this. The \$300 limit that was set by the Constitution and now is set by law, by a referendum that was passed in November, was set in 1864. At that time an ounce of gold was worth \$20 in paper. Last night according to the price of gold, an ounce was about \$235 an ounce, or some 12 times as much. So just to keep a parity, you would want to raise the monetary limit about twelve times. Small Claims Court is the people's court, and \$300 with inflation just does not cover very much. If you must engage the services of an attorney, you are looking toward at least three or five hundred dollars in cost. If you have a \$1,000 claim, you either take the choice of reducing that amount of your claim to \$300 and going to Small Claims, or engaging an attorney and then collecting the \$1,000 and giving away a good portion of it in fees. The bill, as I have drafted it, would raise the fee in District Court, which is where you go with an attorney to \$2,000 and Small Claims Court would be raised to \$1,000. I am not hard and fast on those figures, if you want to raise them all to two or three thousand dollars that is alright. There are several attorneys on this Committee, and I look forward to their counsel and advice, but the amount clearly should be increased, and I hope that it could be increased substantially.

Senator Close asked Senator Hernstadt if he had questioned any of the judges or just pulled them out of the air?

Senator Hernstadt stated that basically he had just pulled them out of the air in order to get the bill started. Last session there was some discussion in the Judiciary Committee as to whether the figure should be one, two or three thousand.

Senator Dodge stated that he was on an interim study committee for the '77 session. There was a discussion one day about this justice court monetary jurisdiction with a fellow who was the director of the state trial judges at the University at Reno. He stated to us that he could not understand why on a simple money claim, the jurisdiction couldn't be raised to \$5,000. I think this is a very important subject, as it gets involved with the work loads of the court system. We might get involved with a few more J.P.'s, if you increase these limits, but you might also relieve a lot of the work in district courts.

Senator Close stated the problem he has with this bill is that we are not just dealing with Justices in Washoe and Clark County, who are experienced judges or attorneys. We are talking about Justices out in the small counties who have no experience when they get involved with that amount of money.

Senator Dodge stated that we might make the jurisdictional limits different, depending upon whether it is just simply a money demand for an account, that is say past due, or whether you get into some other areas. You still preserve the right, under our system, to a trial de novo in District Court. I feel that if this is just a money claim, even the Justice of the Peace in the rural area can exercise pretty good judgment, particularly if it is a claim that is clear on the evidence. The biggest work loads in the Justice Courts now are the claims on past due accounts.

Senator Raggio stated the Committee should recall the Constitution was changed to allow the legislature to make the adjustment, we were locked into the \$300 figure, but I don't think anyone would disagree that figure is arbitrary. I have talked with both Judge Beemer and Judge Minor in Reno on this proposal, and they both have some reservations. I would have assumed that the Justice Courts were uniformly eager to have their jurisdictional limits raised. However, these two judges have asked me to report to this committee that they would like to testify on this bill. Judge Beemer and Judge Minor anticipate a sudden surge in small claims matters already, because of the change of making and reestablishing the garnishment in aid of execution. They both suggest something like \$1,200 and \$500 in small claims. This possibly might accomodate your concern, which I also share. I feel even in Justices Courts in small counties they can think logically on these money claims. I think there is more concern about the increase in case loads if it is raised all at once to a high amount. The two judges suggest that we proceed with a reasonable raise

with respect to jurisdictional limits, and then see how it works out.

Senator Don Ashworth stated that he felt there should be a fiscal note on this bill. The question he has is whether or not both justice and district court were taken into consideration as far as diminishing case loads were concerned.

Senator Close stated the point was well taken and he will request a fiscal note. The changes that may be made may require additional Justices of the Peace or clerks or other things of that nature.

Judge Charles Thompson, Eighth Judicial District, Las Vegas, testified that at this point he doesn't feel anyone has statistics to say what the impact would be one either the Justice or District courts. For example, there will be an impact on filing fees. No one really knows how much of the case load now being processed through District Court will go to Justice Court, or how much time will be relieved in District Court. Also, it is a fact that the District Courts will soon be asking for more judges, and perhaps this would be a way of relieving some of that problem. If I were to choose a threshold, standing down in Clark County and looking a business there, I would probably be looking at \$2,000 or \$2,500 as a figure. I can see where we are entering into an area where we really don't know what the effect is going to be, so I see nothing wrong with going to the \$1,200 figure. We can always come back in a couple of years and have some statistics to see what the \$1,200 figure has done to the courts. There may be some justification in the future for raising the threshold in larger areas and leaving it lower in the smaller areas. This is permissible and is now being done in California. Small Claims Court is supposed to be just that, a court where litigants go without lawyers, to litigate their cases. Unfortunately, the Small Claims Court has been used as much by the non-individual, by the corporate collection agency. I would suggest some language change in the first section in Chapter 73, so that it would be involved only with natural person cases. I also agree that the Justice Court be a court of record. Now, if an individual or the other side has an attorney, they ought not to be in Small Claims Court, they should be in District Court. Section 4, page 3, of NRS 73.010 describes the jurisdiction for Justice Court. I would ask to have included here the following language: on line 19 after the comma, "...a party who is not represented by an attorney...", this would then bring it to the natural person.

Senator Close asked what would happen in the case where you had an apartment and the tenant moves out owing rent, or if a corporation owns the apartment. Are you then precluding the corporation from bringing action?

Judge Thompson stated that it could, by court rule, be required that all plaintiff corporations be represented by an attorney, and the defendant corporations could be represented by an individual.

Senator Dodge stated that the language here then, is the key as to whether you are represented by an attorney. If you set the language as recommended, then if you have a collection agency, that has a lot of assignments of accounts, you are not going to keep them out of Small Claims Court. The agency just won't be represented by an attorney. They will send some guy in the office that files all the claims.

Senator Raggio suggested there could be some language inserted stating that he is suing on his own behalf.

Senator Dodge stated that if you were trying to differentiate between a collection agency and a corporation, you are not improving the situation any by the language suggested. The agency will just come in through some lay representative, rather than an attorney.

Senator Hernstadt stated that if, for example, I own an apartment house, individually, as a sole proprietorship, I would be able to go down and sue for past due rent. Under the rule you suggest, if Mel owned an apartment house, as a corporation, he would be precluded from using Small Claims Court. I fail to understand why a legitimate businessman should be precluded from going down himself, or sending his credit girl, just because he is not the sole proprietor.

Judge Thompson stated that the corporation is a separate legal entity. If the corporation is represented by someone in court, it ought to be a lawyer, one who represents another legal entity. If he is not a lawyer, then he is practicing law without a license. If an individual is sophisticated enough to do business in the commercial world as a corporation, he ought to be able to afford a lawyer to represent him.

Senator Sloan asked if Judge Thompson had an opinion on the rescheduling of the amounts of the courts. Do you feel that there would be an increase in the number of appeals from Justice Court to District Court? Also, are people not more inclined to want to appeal a \$5,000 case than a \$300 case?

Judge Thompson stated that there could very well be an increase in the work load for both courts. If you make the Justice Court a court of record, and the review is on the record, it will not increase the load substantially because you do not have a trial de novo in those cases where a record is kept.

Senator Dodge stated that in the 1960's he chaired a committee on the court systems. One of the inequities that exists in the situation now, where Justice Courts are not courts of record, is not so much in the civil area as the criminal area with a misdemeanor. If a misdemeanor is judged to be guilty in a Justice Court he has a second shot at it on a trial de novo in District Court, whereas a felon only has one shot at it in the District Court. We pursued, at that time, how we could make Justice Courts a court of record, and one of the problems, particularly when you get outside of the urban areas, is the question of court reporting. We looked into a system in Alaska, which was used at that time, and I think can be used herein, and that is just to put the hearings on tape. This system could be used even in the urban areas. Admittedly you might have a foul up on occasion with that record. However, if there was something faulty with the record, you would have a trial de novo, or go back and reconstruct the record in the Justice Court. When you have a tape that has the clear story of what has transpired in the Justice Court, all you have to do is sit as a court of appeal.

Judge Thompson stated he would agree as in this day of electronic equipment this would be a good way to keep the record. However, you still would have to have someone transcribe it.

Senator Sloan stated that with testimony the way it is, you are making the biggest demand on your enforcement people. They have to appear twice on misdemeanors in Justice and District court. Since the compensation is difficult, we lose a lot of misdemeanor cases in Municipal Court simply because the policeman is responding on a felony. Senator Sloan also feels that the Committee should look at the jurisdictional levels in Municipal Courts, as they are tied at the present time to \$300 to correspond with the Justice Court. If one is changed, NRS 266.555 should be changed to raise the jurisdictional level in Municipal Courts. There are also certain problems on forfeiture on bail bonds, so there is a gray area when you have a bond in excess of \$300. When you are talking about forfeited recognizance that is the important part, it is one that has been a source of tension between the bail bond industry, my former office, and also the city attorney.

Judge Thompson stated that by changing NRS 1.020 to include all courts is permissible constitutionally under Article 6, Section 8 of the Constitution. The language should be changed to read: "the Supreme Court, the several District Courts, Justices Courts hearing civil cases as the request of either party, and such other courts as the legislature shall designate, shall be courts of record". This would enable either party to request a transcription so that the appeal can be on the record.

Senator Dodge asked if it would be feasible to establish universally a court of record in Justice Court on all cases, including misdemeanor cases. If we could do that, then we wouldn't have to put the qualifying phrase in the language.

Senator Raggio stated he felt that the court reporters would be upset by this. They have never accepted the fact that they can be replaced by electronic means. There is one problem with the misdemeanor, in trying to avoid a trial de novo, would it in effect then become an appellate court to review the Justice Court? If so, then do you deprive the Supreme Court the jurisdiction to hear appeals in these cases? I would think you would not want to give the misdemeanor a double appeal.

Terry Reynolds with the Administrative Office of the Courts, testified his office has been examining both the Justice Court and District Court dockets. They have found that in the period from 1968 through 1978, there was an increase in civil filings in District Courts. This has almost doubled in that time period. However, in Justice Courts, there has been small incremental increases in small claims cases. They did find that around the state there were more executions of garnishments. The small claims figures have dropped off or stabilized in the past few years in most areas of the state. What his office has found that in trying to anticipate the passage of question 2, it is most difficult to get information on what the impact would be in exact dollar amounts. The amounts are not put into the dockets, when cases are registered in Justice Courts. He personally feels that the training of the J.P.'s is adequate to handle an increase in jurisdiction. Even at a figure higher than \$2,000 a special training course could be instituted. The J.P.'s have had sessions on small claims over the last few years to get them oriented with the problems of small claims, and this could be done again.

Senator Close asked if Mr. Reynolds had a recommendation as to the levels that the Committee should start out with.

Mr. Reynolds stated that he did not feel his office should make a recommendation on the amount.

Doug Hill, Legal Counsel to the Office of the Supreme Court, testified he felt the justice court should be made a court of record because this is very important in the area of appeals. He stated that if the jurisdictional level is raised, the appeals are going to be increased substantially. He feels that parties should definitely not be represented by an attorney in proceedings in small claims courts. He does feel that if the jurisdictional amount is raised, it will increase the number of justices in Clark, Washoe and Carson, as they could already use another J.P. in Carson City.

Senator Close asked Mr. Hill if there was a way to gauge how many J.P.'s would be required if the limit was raised to \$2,000.

Mr. Hill stated that he had no idea, but suggested that perhaps testimony from the judges themselves could give the Committee a better idea.

Senator Hernstadt asked if Mr. Hill would comment on the language of having only natural persons come to small claims court? He has a problem with the preclusion of corporate entities or their employees from using small claims court.

Mr. Hill stated this comes out of legal training. A corporation is not a natural person. In California there is a provision for small claims court that does not allow attorneys in small claims court, the language however, does not go as far as "natural persons". He does feel that only an attorney who is representing himself, or a firm in which he is a general partner and all the other partners are attorneys, should be allowed.

Senator Close asked what would happen if the amount is raised to \$750 or \$1,000, and the defendant wanted someone to represent him?

Mr. Hill stated this would then be shifted over. You would have small claims from say \$0 to \$1,000 and at the same time in the other jurisdiction from \$0 to \$2,000. They would be parallel so either jurisdiction could handle it, depending if you went with an attorney or not.

Senator Raggio stated that he felt that Judge Minor and Judge Beemer should be contacted to testify.

Senator Dodge stated he felt a general invitation should be extended to all the justices in order for the Committee to really get into this particular area of threshold and also in the areas of expansion and making all courts, courts of record.

Senator Close stated that he would set hearings on this bill for next Tuesday. This would give sufficient time for notification.

No action was taken at this time.

SB 59 Adopts revision of Uniform Federal Tax Lien Registration Act.

Senator Close stated that at the present time there is a Uniform Federal Lien Registration Act. This act has been a law since 1967. Periodically the Uniform Law Commission updates its laws, which are recommended for inactment by each state. As a member of the Commission, I bring changes up periodically, whenever there has been some amendment. This particular bill requires that the federal tax liens be filed in accordance with 825 through 837. This is in the statute at the present time. This bill sets forth the way they are to be filed, and merely clarifies that point.

Senator William Hernstadt moved that S.B. 59 be passed out of Committee with a "Do Pass".

Seconded by Senator Don Ashworth.

Motion carried unanimously.

There being no further business at this time, the meeting was adjourned at 10:50 a.m.

Respectfully submitted,

Virginia C. Letts, Secretary

APPROVED:

Senator Melvin D. Close, Chairman

SENATE BILL NO. 59—SENATORS CLOSE, DODGE,
K. ASHWORTH AND GLASER

JANUARY 19, 1979

Referred to Committee on Judiciary

SUMMARY—Adopts revision of Uniform Federal Tax Lien
Registration Act. (BDR 9-745)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

EXPLANATION—Matter in *Italics* is new; matter in brackets [] is material to be omitted.

AN ACT relating to liens; adopting the revision of the Uniform Federal Tax Lien
Registration Act; and providing other matters properly relating thereto.

*The People of the State of Nevada, represented in Senate and Assembly,
do enact as follows:*

- 1 SECTION 1. Chapter 108 of NRS is hereby amended by adding
- 2 thereto a new section which shall read as follows:
- 3 *The Uniform Federal Lien Registration Act applies only to federal*
- 4 *tax liens and other federal liens, notices of which are required or per-*
- 5 *mitted to be filed in the same manner as notices of federal tax liens.*
- 6 SEC. 2. NRS 108.825 is hereby amended to read as follows:
- 7 108.825 NRS 108.825 to 108.837, inclusive, *and section 1 of this*
- 8 *act, may be cited as the Uniform Federal [Tax] Lien Registration Act.*
- 9 SEC. 3. NRS 108.827 is hereby amended to read as follows:
- 10 108.827 1. *Notices of liens, certificates and other notices affecting*
- 11 *federal tax liens or other federal liens must be filed in accordance with*
- 12 *NRS 108.825 to 108.837, inclusive, and section 1 of this act.*
- 13 2. Notices of liens upon real property for [taxes] obligations pay-
- 14 able to the United States [.] and certificates and notices affecting the
- 15 liens [., shall] *must* be filed in the office of the county recorder of the
- 16 county in which the real property subject to [a federal tax lien] *the*
- 17 *liens* is situated.
- 18 [2.] 3. Notices of federal liens upon personal property, whether
- 19 tangible or intangible, for [taxes] obligations payable to the United
- 20 States [.,] and certificates and notices affecting the liens [., shall] *must*
- 21 *be filed as follows:*
- 22 (a) If the person against whose interest the [tax] lien applies is a
- 23 corporation or a partnership whose principal executive office is in this

Original bill is 3 pages long.
Contact the Research Library for
a copy of the complete bill.