

MEMBERS PRESENT: Chairman Stewart
Vice Chairman Sader
Mr. Thompson
Miss Foley
Mr. Beyer
Mr. Price
Mr. Chaney
Mr. Malone
Mrs. Cafferata
Mrs. Ham

MEMBERS ABSENT: None

GUESTS PRESENT: Frank Daykin, Legislative Counsel
David Howard, Office of Secretary of State

Chairman Stewart called the meeting to order at 8:11 a.m. and asked for testimony on SB 107 first.

SB 107: Conforms certain statutory provisions to constitutional provisions relating to jurisdiction of courts of record.

Frank Daykin, Legislative Counsel, stated that SB 107 is another reviser's bill pursuant to Chapter 220 of NRS. He continued by saying that when the jurisdiction of the justices of the peace was raised last session pursuant to the Constitutional amendment, the district courts were not amended to conform to the changes. There were several provisions dealing with jurisdiction of the district courts which were outmoded by the change in the Constitution and which are conformed by this bill.

Mr. Daykin stated that the most important part is the short Section 6 on page 7, which says repeal NRS 2.080, 2.100, 3.190, 3.200 and 3.210. He indicated that the first two sections recite in detail the jurisdiction of the Supreme Court, which is now fixed by the Constitution as appellate jurisdiction in cases arising in the district court; 3.190, 3.200 and 3.210 recite in detail the jurisdiction of the district court in a manner partly altered by the Constitution. Since the Constitution must prevail, it was Mr. Daykin's proposal that the statutory sections be deleted. He then proceeded to outline the other changes in the bill.

Section 1 deals with clarifying the jurisdiction of the justice courts by making it "this and no more" because the Constitutional reference to the jurisdiction of the district courts is matters excluded from the jurisdiction of the justice courts. Mr. Daykin

explained by saying that the Legislature sets the jurisdiction of the justice courts, the district court has original jurisdiction of all other matters, and the supreme court has appellate jurisdiction of cases arising in the district court.

At line 4 on page 1, the language "and no others" was included to make it clear that jurisdiction was limited, and the jurisdiction was adjusted to exclude questions of title to or boundaries of real property. Mr. Daykin stated that the word "possession" has been misleading because the justice courts are expressly given jurisdiction of evictions, which deal with possession of real property. He indicated that without changing the money amounts, the various references were "cleaned up" dealing with incorporated or unincorporated city. An unincorporated city never had a legal existence and the justices have been for many years trying questions under county ordinances, therefore the language was changed to read "ordinance of a county, city or town". Mr. Daykin stated repetitive elements were deleted, such as paragraph (e), commenting that jurisdiction was given in actions for the recovery of money only if it did not exceed \$750 and that the language of (e) - "bonds or undertakings conditioned for payment of money" - was duplicative.

At lines 6 through 9, page 2, in the case of evictions, if damages are sought and the damages claimed do not exceed \$750, the justice court has jurisdiction as well as in the case of a straight eviction without damages ((g) landlord and tenant).

Mr. Daykin pointed out that the language in paragraph 2 was changed to prevent a defendant in an eviction action from getting it delayed by trying to raise a question of the title or boundary of the property from which he is being evicted, thereby forcing the landlord into the district court.

The criminal jurisdiction was revised to solve the problem with assault and battery on peace officers by simply saying "all misdemeanors and no other criminal offenses" at paragraph 3 on page 2.

Mr. Sader referred to the changes at lines 6 through 9 of page 2, asking if this section would apply in the case of an action for unlawful or fraudulent holding of land, requiring that there be a damage claim. Mr. Daykin stated that the relationship of landlord and tenant exists, the justice of the peace has jurisdiction in all cases. If it is the case of possession of lands and tenements unlawfully or fraudulently and not between landlord and tenant, unless you are seeking damages less than \$750, district court would have jurisdiction. He stated that the language was written to carry out as clearly as possible the policy of the 1979 act.

Mr. Sader asked about jurisdiction in an action where no damages were being sought. Mr. Daykin responded that an action merely seeking restitution of property by someone not a landlord, would be in the district court's jurisdiction. His reasoning was that that type of action would involve some sort of more complex issue of property law. He stated that in modern time people seldom merely squat upon property without some claim of right. Mr. Daykin indicated this might be a question for consideration, since it doesn't go to the eviction of a squatter.

Mr. Sader asked if the district courts now have to handle squatter's claims or similar actions. Mr. Daykin indicated there are very few actions of that type and felt that under the law prior to this amendment, the action could be brought initially in the justice court, but if a question of title or boundary were raised it would be transferred to the district court.

Chairman Stewart noted that section (h) does not indicate the type of action such as trespass, injunction, etc. Mr. Daykin stated that injunction would not be within the jurisdiction of the justice court since there is no authority to issue injunctions given anywhere. He noted that the Constitution, in a section unamended by the last amendment, refers to the district courts having the power to issue writs of injunction.

With reference to section (g), Mr. Stewart asked if a tenant owes a landlord rent in the neighborhood of \$1,000, would that action be brought in justice court. Mr. Daykin stated the money claim could not be brought in justice court, since money claims are limited to \$750. He felt that in that situation an action could be brought in the justice court summarily for possession and bring an action, if the rents exceeded \$750, in the district court for recovery upon the contract. Mr. Stewart asked if the unlawful detainer action could be brought in the district court as well as suing for the damages. Mr. Daykin stated that you could before the Constitutional amendment, but the amendment ratified in 1978 says the district courts have original jurisdiction of actions excluded from the jurisdiction of the justice courts, the purpose being to eliminate concurrent jurisdiction.

Mr. Daykin continued on to Section 2 of SB 107, stating that it deals only with costs and makes it clear that this section is limited to the district court.

Mr. Stewart asked about jurisdiction of preliminary hearings, to which Mr. Daykin replied they are provided for in Title 14.

Mr. Stewart asked if there is another provision which allows for attorney's fees since Section 2 deals only with costs. Mr. Sader responded to the question by saying that unless attorney's fees are specifically excluded, there are statutes in Chapter 14 allowing attorney's fees for any cause of action in which the amount pled for is under \$10,000. Mr. Daykin stated he felt that covered it and that the provision had never been in Chapters 66 or 18.

Proceeding to Section 3 of SB 107, Mr. Daykin stated this was in the civil practice of the justice courts and eliminates the old language copied from the former provision of the Constitution which enumerated the matters which justice court could not try and refers the reader back to Section 4.370. He noted this section then gives the procedure for getting into the district court if a question is raised which falls outside the jurisdiction of the justice court.

Section 4 deals with mechanic's liens, with the substantive portion appearing at page 4, lines 31 through 34. Mr. Daykin stated that this language was taken out since (k) was taken out and (j) is of actions for the enforcement of mechanic's liens where the amount of the lien sought to be enforced does not exceed \$750. The provision was therefore duplicative and could be removed.

Mrs. Cafferata asked why lines 3 through 5 of page 4 were being deleted. Mr. Daykin stated the language was redundant since the Nevada Rules of Civil Procedure provide for that and are applicable in all cases where a special provision does not exist.

Section 5 is amended to remove the limiting reference to the district court since there are provisions for claims of under \$750 to be in justice court and over \$750 in the district court. He noted that this procedure applies to either court according to the amount of the lien. He pointed out that this section had been cleaned up by a previous bill providing for the signature of the principal on the bond. He commented that this bill would be amended accordingly in the event of the passage of the previous one. Chairman Stewart noted he had already received the conflict notice and Mr. Daykin stated he would prepare the appropriate amendment.

Mr. Daykin continued to Section 6, stating that it is the repeal of sections superseded by the Constitution as discussed earlier.

Mr. Sader asked if Mr. Daykin had discussed this bill with the judges. Mr. Daykin stated that at various times he had reviewed sections with various judges who raised questions, including a justice of the Supreme Court. He commented that each of the approaches to the various sections had been concurred in by some-

one, but all sections had not been discussed with all the judges. He noted that some of the amendments were suggestions of judges and some were the analysis of the Legislative Counsel.

Mr. Daykin stated he would prepare the conflict amendment and return it to Chairman Stewart. Mr. Sader requested that a decision on this bill be delayed until he could discuss it with the Washoe County judges, to which Chairman Stewart agreed.

SB 103: Removes certain requirement regarding filing of annual statement of corporations and abolishes certain certificate issued to corporations.

David Howard of the Secretary of State's Office stated that this bill is a product of their office to clear up an inequity in one section and to provide for an omission in another part from last session. He stated that Section 1 deals with professional corporations having to file an annual statement with the office of the Secretary of State, requesting that the statement be notarized. Mr. Howard noted that this causes his office a problem in that they do not require private and domestic corporations to have their statements notarized and, as a result, receive the statements of professional corporations without notarizations necessitating that they be sent back. Mr. Howard felt that if the other corporations were not required to have their annual statements notarized, the professional corporations should not be required to. He noted it would save both time and money if that were amended accordingly.

Mr. Howard stated that Section 2 deals with updating this section in accordance with what was passed last session in that the annual list of officers required to be filed with the Secretary of State are now on an annual basis rather than from July 1 to June 30. He noted that this section was overlooked in the last session.

Mr. Beyer asked if this was a document that could result in revocation of a charter if not filed, as dealt with in a previous bill. Mr. Howard stated the previous bill dealt with foreign corporations failing to file a list of officers. Mr. Beyer asked if a foreign corporation could be a professional corporation as well. Mr. Howard responded no, because professional corporations are those corporations put together by professionals who are individuals licensed to do a certain function, such as attorneys, doctors, dentists, etc. He noted that professionals are dealt with under Section 80 and foreign corporations are dealt with under Section 78. Mr. Beyer asked about legal or engineering

firms whose home offices were in other states with branch offices in Nevada. Mr. Howard stated they were treated as a professional corporation rather than foreign corporations pursuant to Chapter 80. For further clarification, Mr. Howard stated that individuals licensed to do business in the state as professionals by meeting various requirements, such as doctors, attorneys, etc., are considered professionals.

Mrs. Cafferata moved DO PASS SB 103, seconded by Mr. Price, and unanimously carried by the committee, Mr. Banner being absent for the vote.

Chairman Stewart noted that he had received several requests for the committee to extend the hearings on AB 112. He stated that unless there was objection by the committee, he was not inclined to take any more testimony. Mrs. Cafferata asked who wanted to testify, to which Mr. Stewart responded that the historical people wanted to rebut some of the testimony by the mining companies. He stated that he had told them he would accept their opinions in writing and submit it to the committee.

On a question from Mr. Price, Mr. Stewart stated that Mr. Dini had proposed an amendment that the issue of a determination should go to the county commissioners rather than the historical people, and further that the county commissioners, in their determination, should make a judgment of whether it is for the public benefit and not just the benefit of the mining people.

Chairman Stewart appointed a sub-committee to review the testimony and conduct hearings if they wished. He asked Mrs. Cafferata, Miss Foley, and Mr. Sader to serve on the committee, with Mr. Sader acting as chairman.

Chairman Stewart noted that he would be discussing AB 68 at the work session on Wednesday.

The meeting was adjourned at 8:45 a.m.

Respectfully submitted,


Jor San M. Martin
Committee Stenographer

**61st NEVADA LEGISLATURE
ASSEMBLY JUDICIARY COMMITTEE
LEGISLATION ACTION**

DATE: March 3, 1981

SUBJECT: SB 103: Removes certain requirement regarding filing of annual statement of corporations and abolishes certain certificate issued to corporations.

MOTION:

DO PASS XX AMEND _____ INDEFINITELY POSTPONE _____
RECONSIDER _____

MOVED BY: CAFFERATA SECONDED BY: PRICE

AMENDMENT:

MOVED BY: _____ SECONDED BY: _____

AMENDMENT:

MOVED BY: _____ SECONDED BY: _____

VOTE:	MOTION		AMEND		AMEND	
	YES	NO	YES	NO	YES	NO
Thompson	<u>XX</u>	___	___	___	___	___
Foley	<u>XX</u>	___	___	___	___	___
Beyer	<u>XX</u>	___	___	___	___	___
Price	<u>XX</u>	___	___	___	___	___
Sader	<u>XX</u>	___	___	___	___	___
Stewart	<u>XX</u>	___	___	___	___	___
Chaney	<u>XX</u>	___	___	___	___	___
Malone	<u>XX</u>	___	___	___	___	___
Cafferata	<u>XX</u>	___	___	___	___	___
Ham	<u>XX</u>	___	___	___	___	___
Banner	<u>ABSENT</u>	___	___	___	___	___
TALLY:	<u>10</u>	___	___	___	___	___

ORIGINAL MOTION: Passed XX Defeated _____ Withdrawn _____
 AMENDED & PASSED _____ AMENDED & DEFEATED _____
 AMENDED & PASSED _____ AMENDED & DEFEATED _____

ATTACHED TO MINUTES OF March 3, 1981