

Assembly

MINUTES OF MEETING - COMMITTEE ON JUDICIARY, 54th Session, February 2, 1967

Meeting was called to order at 9:10 A.M.

Present: Wooster, Kean, Lowman Dungan, Torvinen, Swackhamer, White, Hilbrecht (late)

Absent: Schouweiler

AJR 4: Proposes constitutional amendment to allow new courts to be created by law.

Mr. Wooster introduced Mr. Harold Tabor, President of the Nevada Bar Association, and Mr. Jim Guinan, representing the Board of Governors of the Bar Association, both of whom were present to speak on A.J.R. 4.

Mr. Guinan spoke first and said that he would like to make two points: First, the bar association and the governor are sponsoring a request that a study be made of our present court system. Until this can be done, they would like to postpone this legislation and any similar legislation. Second, they don't think this resolution is the right one. Totality of jurisdiction is now included in the constitution. What this resolution does, if it does anything, is to cut into the jurisdiction of the courts. With this law making it possible to create Juvenile courts, probate courts, etc., it would be possible for the legislature to take most of the jurisdiction away from the courts. They would like to ask that this bill be held until a study has been made of the court structure.

Mr. White to Mr. Guinan: This is basically your interpretation of this legislation rather than fact?

Mr. Guinan: Yes, unless as suggested by Mr. Torvinen, it does nothing. If it means that it is taking away from existing courts, then it is taking away from what the constitution says.

Mr. Guinan went on to say that the trend now is to consolidate courts, not take away from them.

Mr. Kean asked if the function of the Juvenile is now in the District Court and Mr. Guinan said that it is.

Miss Dungan observed that there is concern among the judiciary that juvenile courts are conducted in a manner to give those up for trial the same rights, privileges, and procedures as those of any other court. Mr. Guinan said that this is true.

Mr. Tabor passed to all the committeemen copies of a reprint from the July, 1966, Reader's Digest entitled: "Is This Judge Fit To Sit?"

Mr. Tabor said that we are all in basic agreement that it is time to re-apportion the court structure. This is true not only in Nevada but is also being done all over in other states. He gave as examples Colorado, Idaho, Nebraska, and California. He said, for example, that Colorado recently amended its constitution to provide for a nominating commission for the selection of judges, to attract qualified lawyers to the bench.

Assembly Committee on Judiciary

February 2, 1967

They also set up a Commission with jurisdiction to discipline and remove judges, similar to California on qualifications. They also appointed a Court Administrator to work under the Chief Justice of the Supreme Court and regulate the business of the courts. Before doing these things, Colorado completed a study of the court structure. Also, as a result of the study, they abolished all their inferior courts. They now have only two courts and they have adopted a Magistrate System. District Courts appoint magistrates with limited jurisdiction within the county. This was done, also, in Idaho. Idaho also conducted a complete study and also abolished their inferior courts, and came up with a two-court system.

Mr. Tabor says the Bar Association does not think that anything should be done until after a complete study of the court structure in this state. When this is done we may very well find that the magistrate system would be good. He said statistics show that 80% of court cases come under the so-called inferior courts. In those states 80% of the cases were being tried by people who did not understand the law.

Mr. Tabor said that Nebraska has also abolished all inferior courts. The Senior District Court has power to appoint magistrates. The District Judge would see that a qualified lawyer would preside over the Magistrate Courts, with limited authority and jurisdiction. Magistrate Courts would be responsible to District Courts.

Mr. Tabor said that right now 80% of our people are not getting the same kind of justice that the hardened criminal is getting. He said the Bar Association has endorsed a study by the legislative commission which would make recommendations as to just what Nevada needs. They have also endorsed a Nominating Commission to appoint lawyers to the bench. They are also in favor of setting up a Commission with authority to hear complaints against judges. The only way a judge can be removed now is by impeachment. This is rarely invoked. Mr. Tabor could not recall a case of this being done in Nevada. The Bar Association has also endorsed the idea of appointing a Court Administrator.

When Mr. Wooster commented that he had not seen any bills coming through on any of these things, Mr. Tabor said the bills are now being drafted. He repeated that the first thing to be done is to conduct a study of the court structure, then hold citizen's conferences, etc. The principal objection the Bar Association has to AJR 4 is that it is premature. Something has got to be done but the study should be made first.

Mr. Swackhamer: You say we should have a complete study, yet you say bills are being drafted. I'm lost.

Mr. Tabor: There is no bill being drafted now that would change the court structure. The study must come first.

Mr. Swackhamer: Who removes the judge if the California Commission of Qualifications recommends removal?

Mr. Tabor: The Supreme Court.

Miss Dungan: Your objection is that you do not want the legislature to be able to create a court at all?

Mr. Tabor: I think it should be done by constitutional amendment after the study.

Assembly Committee on Judiciary

February 2, 1967

Mr. Kean: This bill was passed by the legislature two years ago. What happened in the last two years? What have you folks been doing?

Mr. Tabor: These things take a long time. We have convinced the Governor of our program. The State Bar Association has carried on a two-year study and gathered information. We can now get expert, unusually experienced people for very little cost to help us and tell us what they have learned.

Mr. Hilbrecht: You feel that you do not have the statistical data to act on even the broadest terms? In principle you do not disagree that we need changes in court structure?

Mr. Tabor: That is right. I feel that the commission can come up with the answer after a year's study.

Miss Dungan: This passed two years ago and now is the first time we have heard these objections.

Mr. Guinan: We tried to oppose it at the last session but did not get the Board of Governors together before it had passed.

Mr. Tabor: We will be glad to provide you with literature on any of these things if it is wanted.

Mr. Torvinen said the constitution says there is to be limitation of \$300 on justice courts and this is ridiculous. This bill does not change that situation.

Mr. Swackhamer said why don't we introduce legislation to raise that to \$1,000 instead of \$300.

Mr. Torvinen said that one of his objectives in coming to the legislature was to change the make-up of justice courts. However, he now thinks there may be a better way of doing this than raising the jurisdiction to \$1,000. Senator Herr's bill does not solve the problem because a study has not yet been made. California has spent much money studying this and we are doing something before doing any study or investigation.

Mr. Wooster said that if there is a problem in the minds of the committee that this bill might change jurisdiction it would be a good idea to get our legal counsel in and find out.

Mr. Kean said that his purpose with the bill was to create Juvenile Courts, but that Russ had suggested making it a little broader.

Mr. Swackhamer said Mr. Tabor and Mr. Guinan have got a valid point.

Mr. Swackhamer moved that the committee ask Russ to come in to speak on this.
Mr. Kean seconded
Motion passed unanimously

AB 136: Specifies minimum amount of delinquent property tax necessary before district attorney may commence recovery action.

Mr. Torvinen moved Do Pass
Miss Dungan seconded
Motion passed unanimously

Assembly Committee on Judiciary

February 2, 1967

Mr. Torvinen's motion to Do Pass AB 136 included a motion to postpone AB 15 indefinitely.

AB 7: Prohibits discrimination in employment because of sex.

Mr. Wooster said this bill had been held for two weeks now and he personally had received 1 letter and 2 telegrams about it, all in support of the bill. He asked if others had received any objections. Apparently none had.

Mr. Hilbrecht said there is one area of police regulation in Clark County that he wants to explore before any action is taken on AB 7.

Mr. Wooster announced that there will be no meeting of the committee Friday, Feb. 3. The University people will be here on the eminent domain bill Tuesday morning. We will also discuss AB 7 further at that time. There will probably be meetings at 11:00 A.M. on Tuesdays and Thursdays beginning next week.

Miss Dungan asked that notification of these meetings be put on the board more in advance than it has been up to now.

Mr. Wooster appointed a sub-committee consisting of Mr. Hilbrecht as chairman, with Mr. Torvinen and Mr. Schouweiler as the other members, to study and make recommendations on the recent decision of the Nevada Supreme Court which Mr. Hilbrecht had passed out previously.

Mr. Wooster said he has three requests from judges that he would like to introduce as committee bills. Judge Bowen has two bills in regard to widows of justices of the peace retirement benefits. He would like to lower the age from 65 to 55.

Mr. Hilbrecht moved to introduce the bill
Mr. Lowman seconded
Motion passed unanimously

Mr. Wooster said he would introduce it and refer it to the Ways and Means Committee.

Judge Craven has a technical bill.

Mr. Lowman moved to introduce
Mr. Hilbrecht seconded
Motion passed unanimously

Mr. Wooster said Judge Waters' bill has to do with padlocking houses of prostitution.

Mr. Swackhamer suggested that the committee study this bill before having it printed and introducing it and it was so decided.

Meeting adjourned at 10:00 A.M.