


Approved

3-3-88 
Date

MINUTES OF THE HOUSE COMMITTEE ON LEGISLATIVE, JUDICIAL & CONGRESSIONAL
APPORTIONMENT

The meeting was called to order by Vice Chairman, Vince Snowbarger at
Chairperson

11:45 a.m./~~p.m.~~ on March 3, 1988 in room 313-S of the Capitol.

All members were present except: Reps. Bunten, Knopp, Grotewiel, Hensley, Roper - excused.

Committee staff present:

Raney Gilliland, Legislative Research
Arden Ensley, Revisors
Bob Coldsnow, Legislative Counsel
Kay, Secretary to the Committee

Conferees appearing before the committee:

Rep. Ed Bideau
Rep. Bob Wunsch

The meeting was called to order by Vice Chairman Snowbarger.

The committee proceeded to public hearing on HB 2756, concerning judicial apportionment of district magistrate judges.

Rep. Bideau was the first conferee on the bill and presented written testimony submitted to the committee, (Attachment I), in support of the bill. Rep. Bideau related the problems encountered in his district and substantial public opposition to a particular District Magistrate Judge who is assigned to the county from another county in the judicial district. This judge has been censured three times by the Supreme Court but is still on the bench and comes to Neosho County once each week handling a large volume of criminal, juvenile and limited action civil cases. On one occasion the judge was censured for appearing in court on Halloween in a Gorilla suit and permitting the county attorney in that county to appear in court costumed as Adolph Hitler. On another occasion the judge was censured for improper actions in an investigation over stolen railroad ties. Rep. Bideau indicated he has received a large volume of complaints from his constituents since they do not have the right to vote on this judge, yet are subject to his rulings on a weekly basis.

Rep. Bideau discussed the fact that current law permits a judge to have original jurisdiction outside of his county of election and that this process disenfranchises the voters of the other counties in the district. The bill as originally drawn would require Magistrate Judges to stand for election or retention (depending upon district) throughout the judicial district.

Rep. Bideau commented that he had discussed the bill with Rep. Wunsch who was in opposition to the requirement that a Magistrate run for election outside of their home county and that a possible compromise would be to limit the original jurisdiction to the home county and still permit temporary assignment outside of the home county not to exceed one year in duration of any assignment outside of the home county. Rep. Bideau indicated that he would offer an amendment on this basis to satisfy the concerns of the opponents.

Rep. Wunsch testified in opposition to the bill but stated he would be agreeable to a compromise as suggested.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON LEGISLATIVE, JUDICIAL & CONGRESSIONAL
APPORTIONMENT
room 313, Statehouse, at 11:45 a.m./~~p.m.~~ on March 3, 1988

Written testimony was submitted to the committee on behalf of the Magistrate Judges Association as opposing the bill. (Attachment II).

Hearings were closed on HB 2756. Committee discussion followed.

Rep. Bideau made a motion to amend to provide that a district judge's original jurisdiction be limited to the county the judge was elected in and to permit assignment outside the home county on a temporary basis in the same manner as District Judges are now assigned outside their districts, said assignment, not to be more than one year in duration. Seconded by Rep. Adam. Motion passed.

Rep. Bideau moved to recommend the bill favorable for passage as amended. Seconded by Rep. Blumenthal. Motion passed.

The committee adjourned at 12:20 p.m.

TESTIMONY IN SUPPORT OF H.B. 2756

H. B. 2756 would amend K.S.A. 20-336 which deals with the method of election of District Magistrate Judges. Under current law all judges of the District Court, both District Judges and Magistrate Judges, have jurisdiction over the entire judicial district in which they sit. In rural areas of the state most judicial districts cover several counties. District Judges have always been required to run for election or retention throughout the entire judicial district. Magistrate Judges are currently required to run for election or retention **only in their home county, not the entire judicial district.**

Historically, prior to judicial reorganization in the late 1970s, local county magistrate or probate judges had jurisdiction only within one county but the District Judge had jurisdiction throughout the judicial district. With judicial reorganization the magistrate judges were given broad district wide jurisdiction but were not required to run for election or retention throughout the district.

Contrary to the original recommendations when judicial reorganization was proposed, Magistrate Judges are being given more responsibility and are routinely being assigned to hear

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cases outside of their home county. Often these assignments outside of the home county will last a number of years and in effect become permanent. District Magistrate Judges now have jurisdiction over child custody, support and visitation in divorce cases which was not dreamed of at the time judicial reorganization was proposed. Instead of being phased out, District Magistrate Judges are here to stay and their power is growing. I do not propose that we eliminate District Magistrate Judges. Far from it. I have practiced with some very fine Magistrate Judges who were not lawyers yet carried out their responsibilities with dignity and decorum. Unfortunately, I have also practiced under one of the worst.

In my home district, Neosho County, two different District Magistrate Judges come to Neosho County at least once each week to hear criminal, civil and juvenile cases. This has been occurring now for a number of years. These assignments are not temporary at this point but permanent. One judge comes from Woodson County and the other judge comes from Allen County. These judges hear more juvenile and misdemeanor cases in Neosho County than the District Judge who actually resides in Neosho County.

The Judge who comes to Neosho County each week from Allen County is very controversial. He has been censured by the Supreme Court on three occasions and there is a substantial amount of public sentiment in Neosho County against this particular judge. The citizens of Neosho County have discovered that although this judge has jurisdiction over them, they do not have the right to

vote against him when he runs for retention. Only the voters of Allen county are given this right under the current law. This judge has been censured for conducting court in a halloween costume and for improper actions in an investigation concerning stolen railroad ties. Neosho County citizens who must comply with his rulings on a weekly basis should have the right to vote on an equal basis with all other voters of the judicial district.

It is my understanding that many other areas of the state the District Magistrate Judges are also given permanent assignments in other counties, outside their home county of election. Although hopefully these counties have not experienced as much controversy as we have in Neosho County, nevertheless those citizens are deprived of the right to vote on judges having jurisdiction over them. Without the right of voter oversight it is my belief that the exercise of jurisdiction is unconstitutional. Either these voting rights should be granted or assignments outside the county of election should be limited to truly temporary assignments.

I would respectfully request your support of H.B. 2756.

Supreme Court censures Iola's Judge Levans

TOPEKA (AP) — The Kansas Supreme Court publicly censured Iola Magistrate Judge George G. Levans today for violating judicial conduct in a case involving the allegedly unauthorized removal of eight new railroad ties owned by the Santa Fe Railroad.

In an almost tearful appeal before the court on Sept. 18, Levans had pleaded with the justices not to censure him.

"I'm sorry I'm emotional," Levans said at that time. "but I just want you to know I'm no thief."

However, the Supreme Court accepted a recommendation of the state Commission on Judicial Qualifications that Levans be publicly censured for violating two canons of judicial conduct.

ONE OF THOSE canons requires judges to observe the highest standards of conduct to preserve the integrity and independence of the judiciary, and the other requires them to avoid impropriety and the appearance of impropriety in order to promote public confidence in the

judiciary. "A judge, even in his private life, is held to standards higher than others," said the Supreme Court order.

"Judges should at all times conduct themselves in a manner that promotes public confidence in the integrity and impartiality of the judiciary, so that the integrity and independence of the judiciary may be preserved. Here, the respondent (Levans) has stipulated that he was in violation of those canons."

Levans, who serves as a judge in Allen, Neosho, Wilson and Woodson Counties, admitted he took the railroad ties from a Santa Fe storage area in Iola in January 1986, but claimed he had received permission from a railroad employee the previous summer. He returned the ties eight days later.

However, the Commission on Judicial Qualifications said Levans was vague about who gave him permission and was uncooperative during the railroad's investigation of the incident.

Judge pleads for Supreme mercy

TOPEKA (AP) — An Iola magistrate asked Friday for mercy from the Kansas Supreme Court, urging it not to publicly censure him in connection with an incident in which he was accused of taking eight railroad ties without permission.

The Supreme Court heard arguments on whether it should censure George Levans after the state Commission on Judicial Qualifications recommended the action in May. Levans serves as a judge in Allen, Neosho Wilson and Woodson counties.

"I'm sorry I'm emotional, but I just want you to know I'm no thief," Levans told the court, his voice choking. "I didn't have a juvenile record. I don't have an adult record. I don't have any traffic tickets."

The commission said in its recommendation that Levans had violated two canons of judicial conduct because he took eight ties from the Santa Fe Railroad Co.'s storage in Iola in January 1986.

LEVANS acknowledged he took the ties, but in a statement to the commission, he said he had obtained permission to do so from a railroad employee the previous summer. Fred Apt, an Iola attorney representing Levans, said the ties were returned eight days later.

However, Ed Collister, the commission's hearing examiner, told the

court Levans had signed a statement in March that said his conduct did not "fully comply" with the judicial canons.

Collister also said Levans also had admitted to being "at first uncooperative" during the railroad's investigation of the incident in the statement.

"No exceptions were taken to anything (in the statement)," Collister said. "He agreed that it was true."

HOWEVER, Apt said "a silly little incident" had been blown out of proportion. He said mitigating circumstances explained the judge's behavior.

"There was no criminal case filed," Apt said. "The ties were returned."

Apt said Levans was reluctant at first to give the railroad company's agent more than a vague impression of the employee who gave him permission to take the ties, fearing the employee would be fired.

"He had compassion for the man who gave him the railroad ties," Apt said.

Also, Apt and Levans said public censure would be unnecessary if it was the Supreme Court's goal.

"This gentleman's reputation has been nearly ruined," Apt said. "He has been publicly censured in his locale."

12-5-86

Levans' response denies allegations of violations

By PAUL CARTER

Neosho County District Magistrate Judge George Levans has filed a response denying allegations that he violated the canons of judicial conduct.

The Commission on Judicial Qualifications, which investigates complaints against judges, issued a notice of formal proceedings against Levans in late November.

Levans, 48, is also a magistrate judge in Allen, Woodson and Wilson counties. Levans was accused by the commission of three violations of the canons of judicial conduct, according to Ron Keefover, information officer for the commission.

A five-page notice from the commission first alleges that Levans removed eight railroad ties owned by the Santa Fe Railroad Co. from storage in Iola without consent.

THE NOTICE also alleges that Levans gave conflicting statements and statements that could not be corroborated during the railroad's investigation of the incident; indicated he was given permission to take the ties, which he said were used ties; first refused to reveal the location of the ties, then gave directions to the location where five were recovered.

The third allegation is that since 1977 Levans has conducted himself and his office in a pattern of conduct "demonstrative that he is not qualified or fit to serve as a member of the judiciary."

That conduct, according to the notice, includes two cease-and-desist orders issued against Levans by the commission.

The commission alleges that these points indicate that Levans has violated the canons of conduct that require a judge to avoid impropriety and the appearance of impropriety.

According to Keefover, Levans' response arrived on Thursday. Fred Apt, an attorney for Levans, says in a written response, that Levans did not remove the ties on the date alleged, but did remove them at a later date

with the consent and authority of the Santa Fe Railway Co., and that the ties were in good shape, but not new, when they were removed.

Levans' response also says that he fully cooperated with the Santa Fe special agent investigating the incident, advising the agent that he removed the ties and had permission to do so.

LEVANS ALSO SAYS that he did not refuse to tell the agent the location of the ties and offered to bring them back but was told the railroad company would get them on its own.

Levans said he did not know that three of the eight ties had been taken from the original location in the city of Gas and that the day after he found out, he brought the other three ties back.

Levans claims that the ties were removed from railroad possession from Jan. 6 until Jan. 13 and were returned in good shape with no loss.

In response to the allegation that he has conducted himself in a manner that demonstrates he is not fit or qualified to serve, Levans denies that he committed any theft or failed to uphold the integrity of the judiciary and further denies that he failed to avoid the appearance of impropriety.

The cease-and-desist orders issued against Levans, one on May 1, 1985, and one July 28, 1978, are not part of public record, according to Keefover.

Their content will not become public record unless introduced in a hearing, Keefover said.

However, Keefover said that Levans' response did shed some light on the nature of the orders.

Levans says in his response that the 1985 order was for the wearing of a Halloween mask in court on Oct. 31, 1984. Levans said that he wore the mask into court and then removed it on the bench, but at no time took official court action while wearing the mask. Levans' response called the incident "minor," according to Keefover.

IN REGARDS to the 1978 order, Levans' response does not mention the nature of the incident that led to the order, but said it was a result of a judge being new in his position.

The commission will conduct a hearing on the matter at the Judicial Center in Topeka. No date has been set for the hearing.

At the hearing, the commission could determine that no violation occurred. Or, if they determine that a violation or violations have occurred, they will send a recommendation for action to the Kansas Supreme Court.

The Supreme Court would then hear the matter, and decide if a violation occurred. If the court finds that a violation occurred, it has several options.

The options range from a cease-and-desist order to suspension or removal of Levans from the bench.

Levans, reached in Iola today, said he had no comment and referred questions to his attorney Apt, who helped Levans prepare his response.

"The judge has responded," Apt said. "We are not stating anything more than what was in the answer."

Apt did confirm that the 1985 order was for the wearing of a Halloween mask into the courtroom. Apt said Levans removed the mask while on the bench.

"THE COUNTY ATTORNEY and one of the defense attorneys were also in costume, it was on traffic court day," Apt said.

"He (Levans) got a letter (the cease-and-desist order) telling him not to do it anymore. Now they think it is something very serious that should be brought up on the other charge."

As for the 1978 order, Apt said he had little information because he did not work on the case.

"In 1978 he (Levans) took office as a laymen, he had not been to law school. He was assisting the sheriff in an arrest. I'm not familiar with it. I don't think I should comment on it," Apt said.

In the Matter of the Inquiry Relating to George G. Levans,
District Magistrate Judge.

ORDER OF PUBLIC CENSURE

Original Proceeding Relating to Judicial Conduct.
Opinion filed October 30, 1987. Public Censure.

Frederick G. Apt., Jr., of Iola, and *George G. Levans*, pro se, argued the cause for the respondent.

Edward G. Collister, Jr., of Lawrence, argued the cause for the Commission on Judicial Qualifications.

Per Curiam: This is an original proceeding in discipline commenced against the respondent, Magistrate Judge George G. Levans, of the Allen County District Court, 31st Judicial District, before the Commission on Judicial Qualifications. The respondent and his attorney appeared before the Commission and announced that a stipulation had been entered into by the respondent and his counsel and the examiner of the commission. The stipulation was as follows:

"STIPULATION

"COME NOW the undersigned, and hereby stipulate that the following Statement of Facts and Conclusions of Law are true and accurate in the above referenced proceeding, and agree to be bound by said stipulations in the resolution of the pending proceeding.

"STATEMENT OF FACTS

"1. On January 5, 1986, Respondent removed eight (8) railroad ties which appeared to him to be used and which belonged to the Atchison, Topeka and Santa Fe Railway Company, from stacked bundles of new ties in Iola, Kansas. Respondent contends that, earlier, in the summer of 1985, he had asked for permission to have some ties and was given permission by someone he believed to be a Santa Fe employee. He felt that the person with whom he spoke had authority to authorize removal of ties.

"Respondent removed eight (8) new ties some four months after he asserts he received permission. He had no written permission to remove the ties.

"2. Respondent was at first uncooperative in responding to an investigation of the missing ties by Larry Montgomery, Special Police Agent of Atchison, Topeka and Santa Fe Railway Company. After Mr. Montgomery identified himself as a law enforcement officer, Respondent gave a vague description of the person he alleged had granted him permission to take the ties. Agent Montgomery felt that it was not an accurate description of railroad personnel. Upon continued questioning, Respondent varied the description a little bit, but continued to be vague about details. He also was uncertain about the exact time when he was given permission to take the railroad ties saying only 'some time in the summer' of 1985. Respondent was requested to give a written statement and at first hesitated, however, a short time later he did give a written statement to Mr. Montgomery.

"It is Respondent's claim that the reason he did not provide Agent Montgomery with detailed information

when interrogated was because he was afraid the railroad was trying to find out the name of the person he alleges gave him permission to take the ties and was going to take punitive action against that person.

"Respondent, when requested, supplied the Commissioner's Examiner with additional and different details. Respondent indicated to the Examiner that he felt Mr. Montgomery was inquiring of him information which he could use to locate the railroad employee who gave Respondent permission to take the railroad ties and that the railroad employee would lose his job. Respondent indicated that some time around July 15 to August 15, in the hot summer of 1985, he had received permission from someone on the Santa Fe crew to take some ties. After inquiring about the ties along the railroad tracks in Iola, Kansas, Respondent was told to talk to a supervisor who was allegedly at a truck. Respondent indicated that there were two individuals at the truck; one in his late 20's or early 30's, and one in his early 50's, both white males. The truck was a railroad truck. One of the two alleged supervisors wore a yellow hard hat and one a white hard hat. The younger man had a blue shirt, short sleeves, a moustache, and a belt holster with a can of 'Skoal' in it. Respondent indicated that it was this person who gave him permission to take ties and that it was not necessary to pay anything for the ties.

"CONCLUSIONS OF LAW

"A. The conduct of Respondent in paragraph 1 of the Statement of Facts does not fully comply with the provisions of Canon 1 of the Canons of Judicial Conduct which provide:

"'A judge should participate in establishing,

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maintaining and enforcing, and should himself observe high standards of conduct so that the integrity and independence of the judiciary may be preserved.'

"Respondent should have verified the purported authority to give away the property of another or obtained written permission. He should have realized any permission given to take ties would reasonably not have included new railroad ties. He should have realized a delay of four (4) to six (6) months in picking up any ties authorized to be removed could easily give the appearance of being improper.

"B. Respondent's conduct as indicated in paragraph 2 of the Statement of Facts likewise does not fully comply with the provisions of Canon 1 of the Canons of Judicial Conduct to the effect that:

"'A judge should participate in establishing, maintaining and enforcing, and should himself observe high standards of conduct so that the integrity and independence of the judiciary may be preserved.'

"The sequence as outlined in the Statement of Facts indicates Respondent did not fully 'observe high standards of conduct so that the integrity . . . of the judiciary may be preserved.' A judge has the obligation to cooperate both with law enforcement personnel in the investigation of alleged crimes or the Commission in its investigation of alleged violations of the Canons. Respondent did not fully cooperate with Mr. Montgomery during the initial investigation. He gave him a vague description of a person who was an integral part of the investigation. He did not observe the high standard of conduct required of the judiciary.

"C. The manner in which Respondent conducted himself during the investigation of the incident

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referred to in paragraphs 1 and 2 of the Statement of Facts does not fully comply with the requirements of Canon 2 of the Canons of Judicial Conduct to the effect that:

"A judge should avoid impropriety and the appearance of impropriety in all his activities, and that a judge should respect and comply with the law and should conduct himself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary."

"A judicial officer has the obligation to at all times fully, openly and candidly cooperate in any legitimate investigation of possible illegal or improper acts by duly authorized investigators. Respondent's conduct was not consistent with that obligation.

"For the foregoing reasons set forth previously based on the Statement of Facts set forth in paragraphs 1 and 2, Respondent has violated the provisions of Canons 1 and 2 of the Canons of Judicial Conduct as indicated."

The Commission adopted the stipulated statement of facts and conclusions of law and recommended to the Kansas Supreme Court that the respondent be disciplined pursuant to Rule 620 (235 Kan. clxxvii) by public censure.

The respondent elected not to file exceptions to the Commission's findings of fact, conclusions of law, and recommendations.

On September 18, 1987, respondent and his counsel appeared before this court and the matter was submitted to the

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court for decision.

The Commission on Judicial Qualifications found that the respondent's conduct did not fully comply with the provisions of Canons 1 and 2 of the Rules Relating to Judicial Conduct (235 Kan. clxiii). We agree. A judge, even in his private life, is held to standards higher than others. Judges should at all times conduct themselves in a manner that promotes public confidence in the integrity and impartiality of the judiciary, so that the integrity and independence of the judiciary may be preserved. Here, the respondent has stipulated that he was in violation of those Canons.

It is therefore ordered that George G. Levans be publicly censured by this court, and that he pay the costs of this proceeding.

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30-800KAN--LEVANS CENSURED:830

SUPREME COURT CENSURES IOLA MAGISTRATE LEVANS

(TOPEKA, KAN. APP) - THE KANSAS SUPREME COURT PUBLICLY CENSURED IOLA MAGISTRATE JUDGE GEORGE G. LEVANS TODAY FOR VIOLATING JUDICIAL CONDUCT IN A CASE INVOLVING THE ALLEGEDLY UNAUTHORIZED REMOVAL OF EIGHT NEW RAILROAD TIES OWNED BY THE SANTA FE RAILROAD.

IN AN ALMOST TEARFUL APPEAL BEFORE THE COURT ON SEPT. 18, LEVANS HAD PLEADED WITH THE JUSTICES NOT TO CENSURE HIM.

"I'M SORRY I'M EMOTIONAL," LEVANS SAID AT THAT TIME. "BUT I JUST WANT YOU TO KNOW I'M NO THIEF."

HOWEVER, THE SUPREME COURT ACCEPTED A RECOMMENDATION OF THE STATE COMMISSION ON JUDICIAL QUALIFICATIONS THAT LEVANS BE PUBLICLY CENSURED FOR VIOLATING TWO CANONS OF JUDICIAL CONDUCT.

ONE OF THOSE CANONS REQUIRES JUDGES TO OBSERVE THE HIGHEST STANDARDS OF CONDUCT TO PRESERVE THE INTEGRITY AND INDEPENDENCE OF THE JUDICIARY; AND THE OTHER REQUIRES THEM TO AVOID IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY IN ORDER TO PROMOTE PUBLIC CONFIDENCE IN THE JUDICIARY.

"A JUDGE, EVEN IN HIS PRIVATE LIFE, IS HELD TO STANDARDS HIGHER THAN OTHERS," SAID THE SUPREME COURT ORDER.

"JUDGES SHOULD AT ALL TIMES CONDUCT THEMSELVES IN A MANNER THAT PROMOTES PUBLIC CONFIDENCE IN THE INTEGRITY AND IMPARTIALITY OF THE JUDICIARY; SO THAT THE INTEGRITY AND INDEPENDENCE OF THE JUDICIARY MAY BE PRESERVED. HERE, THE RESPONDENT (LEVANS) HAS STIPULATED THAT HE WAS IN VIOLATION OF THOSE CANONS."

LEVANS, WHO SERVES AS A JUDGE IN ALLEN, NEGOSH, WILSON AND WOODSON COUNTIES, ADMITTED HE TOOK THE RAILROAD TIES FROM A SANTA FE STORAGE AREA IN IOLA IN JANUARY 1986, BUT CLAIMED HE HAD RECEIVED PERMISSION FROM A RAILROAD EMPLOYEE THE PREVIOUS SUMMER. HE RETURNED THE TIES EIGHT DAYS LATER.

HOWEVER, THE COMMISSION ON JUDICIAL QUALIFICATIONS SAID LEVANS WAS VAGUE ABOUT WHO GAVE HIM PERMISSION AND WAS UNCOOPERATIVE DURING THE RAILROAD'S INVESTIGATION OF THE INCIDENT.

LEVANS' ATTORNEY, FRED APT OF IOLA, TOLD THE SUPREME COURT LAST MONTH THAT PUBLIC CENSURE WAS UNNECESSARY IN THE CASE BECAUSE: "THIS GENTLEMAN'S REPUTATION HAS BEEN NEARLY RUINED. HE HAS BEEN PUBLICLY CENSURED IN HIS LOCALE."

AP-KX-10-30-87 1026CST

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IOLA MAGISTRATE; 390

IOLA MAGISTRATE ASKS SUPREME COURT NOT TO CENSURE HIM
BY JOHN HANNA

ASSOCIATED PRESS WRITER

TOPEKA, Kan. (AP) - AN IOLA MAGISTRATE ASKED TODAY FOR MERCY FROM THE KANSAS SUPREME COURT; URGING IT NOT TO PUBLICLY CENSURE HIM IN CONNECTION WITH AN INCIDENT IN WHICH HE WAS ACCUSED OF TAKING EIGHT RAILROAD TIES WITHOUT PERMISSION.

THE SUPREME COURT HEARD ARGUMENTS ON WHETHER IT SHOULD CENSURE GEORGE LEVANS AFTER THE STATE COMMISSION ON JUDICIAL QUALIFICATIONS RECOMMENDED THE ACTION IN MAY. LEVANS SERVES AS A JUDGE IN ALLEN, NEOSHO WILSON AND WOODSON COUNTIES.

"I'M SORRY I'M EMOTIONAL; BUT I JUST WANT YOU TO KNOW I'M NO THIEF;" LEVANS TOLD THE COURT; HIS VOICE CHOKING. "I DIDN'T HAVE A JUVENILE RECORD. I DON'T HAVE AN ADULT RECORD. I DON'T HAVE ANY TRAFFIC TICKETS."

THE COMMISSION SAID IN ITS RECOMMENDATION THAT LEVANS HAD VIOLATED TWO CANNONS OF JUDICIAL CONDUCT BECAUSE HE TOOK EIGHT TIES FROM THE SANTA FE RAILROAD CO.'S STORAGE IN IOLA IN JANUARY 1986.

LEVANS ACKNOWLEDGED HE TOOK THE TIES; BUT IN A STATEMENT TO THE COMMISSION; HE SAID HE HAD OBTAINED PERMISSION TO DO SO FROM A RAILROAD EMPLOYEE THE PREVIOUS SUMMER. FRED APT; AN IOLA ATTORNEY REPRESENTING LEVANS; SAID THE TIES WERE RETURNED EIGHT DAYS LATER.

HOWEVER; ED COLLISTER; THE COMMISSION'S HEARING EXAMINER; TOLD THE COURT LEVANS HAD SIGNED A STATEMENT IN MARCH THAT SAID HIS CONDUCT DID NOT "FULLY COMPLY" WITH THE JUDICIAL CANNONS.

COLLISTER ALSO SAID LEVANS ALSO HAD ADMITTED TO BEING "AT FIRST UNCOOPERATIVE" DURING THE RAILROAD'S INVESTIGATION OF THE INCIDENT IN THE STATEMENT.

"NO EXCEPTIONS WERE TAKEN TO ANYTHING (IN THE STATEMENT);" COLLISTER SAID. "HE AGREED THAT IT WAS TRUE."

HOWEVER; APT SAID "A SILLY LITTLE INCIDENT" HAD BEEN BLOWN OUT OF PROPORTION. HE SAID MITIGATING CIRCUMSTANCES EXPLAINED THE JUDGE'S BEHAVIOR.

"THERE WAS NO CRIMINAL CASE FILED;" APT SAID. "THE TIES WERE RETURNED."

APT SAID LEVANS WAS RELUCTANT AT FIRST TO GIVE THE RAILROAD COMPANY'S AGENT MORE THAN A VAGUE PERMISSION OF THE EMPLOYEE WHO GAVE HIM PERMISSION TO TAKE THE TIES; FEARING THE EMPLOYEE WOULD BE FIRED.

"HE HAD COMPASSION FOR THE MAN WHO GAVE HIM THE RAILROAD TIES;" APT SAID.

ALSO; APT AND LEVANS SAID PUBLIC CENSURE WOULD BE UNNECESSARY IF IT WAS THE SUPREME COURT'S GOAL.

"THIS GENTLEMAN'S REPUTATION HAS BEEN NEARLY RUINED;" APT SAID.

"HE HAS BEEN PUBLICLY CENSURED IN HIS LOCALE."

AP-KX-09-18-87 1239CBT

R N ZVTRYVHYF

BC-MAGISTRATE HEARING: 340

BOARD RECOMMENDS PUBLIC CENSURE OF IOLA MAGISTRATE

TOPEKA: KAN. (AP) - THE KANSAS SUPREME COURT SHOULD PUBLICLY CENSURE AN IOLA MAGISTRATE FOR TWO VIOLATIONS OF THE CANONS OF JUDICIAL CONDUCT: THE STATE COMMISSION ON JUDICIAL QUALIFICATIONS RECOMMENDED TODAY.

THE COMMISSION RECOMMENDED CENSURE FOR GEORGE LEVANS, 48. LEVANS ALSO SERVES AS A MAGISTRATE IN WESHO, WILSON AND WOODSON COUNTIES. THE ACTION IS RECOMMENDED IN CONNECTION WITH AN INCIDENT IN WHICH LEVANS TOOK RAILROAD TIES FROM SANTA FE RAILROAD CO. STORAGE IN IOLA. LEVANS, WHO ATTENDED THE COMMISSION'S MEETING, WILL BE FORMALLY NOTIFIED OF THE DECISION AND THEN WILL HAVE 20 DAYS TO RESPOND. IF HE AGREES WITH IT, THE COURT WILL TAKE IMMEDIATE ACTION. IF HE DOES NOT, THE CASE WILL GO ON THE COURT'S DOCKET FOR A HEARING.

IN MARCH, LEVANS AND THE COMMISSION'S EXAMINER, ED COLLISTER, SIGNED A WRITTEN STATEMENT OUTLINING THE FACTS OF THE CASE. IN IT, LEVANS ACKNOWLEDGED HIS BEHAVIOR DID NOT FULLY COMPLY WITH THE JUDICIAL CANONS.

THE COMMISSION HAD MAINTAINED LEVANS STOLE EIGHT RAILROAD TIES IN JANUARY 1986, BUT THE SIGNED STATEMENT SAID HE HAD OBTAINED PERMISSION THE PREVIOUS SUMMER FROM A RAILROAD EMPLOYEE TO TAKE THE TIES. THE TIES WERE RETURNED EIGHT DAYS AFTER LEVANS PICKED THEM UP, SAID FRED APT, LEVANS' ATTORNEY.

IN ADDITION, COLLISTER MAINTAINED LEVANS HAD BEEN "UNCOOPERATIVE" WITH A RAILROAD AGENT INVESTIGATING THE SITUATION. IN THE STATEMENT, LEVANS ACKNOWLEDGED HE HAD BEEN "EVASIVE" AT FIRST WHEN ANSWERING THE AGENT'S QUESTION.

THE COMMISSION'S DECISION CAME AFTER A BRIEF HEARING AND NO DISCUSSION.

"THERE'S NOTHING NEW THAT CAME OUT TODAY," SAID O. O. CLAPLIN, THE CHAIRMAN OF THE COMMISSION.

APT DEFENDED LEVANS' BEHAVIOR, SAYING IT WAS INCONSISTENT WITH SOMEONE TRYING TO STEAL SOMETHING. HE ALSO SAID LEVANS WAS RELUCTANT TO ANSWER SOME OF THE RAILROAD AGENT'S QUESTIONS BECAUSE HE FEARED THE EMPLOYEE WOULD LOSE HIS JOB.

HE ALSO SAID RAILROADS FREQUENTLY GIVE TIES AWAY OR SELL THEM FOR 1 CENT OR 2 CENTS EACH.

"THERE WAS NO CRIMINAL CASE EVER FILED," APT SAID. "NO ONE SUFFERED ANYTHING EXCEPT JUDGE LEVANS."

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JUDGE DENIES COMPLAINT, 400

IOLA JUDGE DENIES ALLEGATIONS OF JUDICIAL COMMISSION

TOPEKA, KAN. (AP) - MAGISTRATE JUDGE GEORGE G. LEVANS OF IOLA HAS FILED A FORMAL RESPONSE WITH THE KANSAS SUPREME COURT, DENYING ALLEGATIONS CONTAINED IN A COMPLAINT BROUGHT AGAINST HIM BY THE STATE COMMISSION ON JUDICIAL QUALIFICATIONS.

IN THE COMPLAINT, FILED NOV. 17, THE COMMISSION ALLEGED LEVANS HAD VIOLATED THE CANONS OF JUDICIAL CONDUCT AS ESTABLISHED FOR KANSAS BY THE STATE SUPREME COURT.

THE ALLEGED VIOLATIONS INVOLVED A DISPUTE OVER WHETHER LEVANS HAD AUTHORIZATION TO TAKE RAILROAD TIES OWNED BY THE SANTA FE RAILROAD; WHETHER LEVANS WAS COOPERATIVE IN THE INVESTIGATION OF THE MATTER AND PREVIOUS ORDERS ISSUED AGAINST HIM BY THE COURT IN 1978 AND 1985.

THE COMMISSION HAS SCHEDULED A HEARING FOR 9:30 A.M. ON JAN. 16 AT THE KANSAS JUDICIAL CENTER HERE TO LISTEN TO THE COMPLAINT AND LEVANS' DEFENSE.

IF THE COMMISSION PROCEEDS WITH THE CASE, IT WOULD BE SET FOR HEARING BEFORE THE SUPREME COURT, WHICH WOULD DECIDE WHETHER DISCIPLINE SHOULD BE IMPOSED.

THE COMPLAINT ALLEGES LEVANS TOOK EIGHT RAILROAD TIES BELONGING TO THE SANTA FE WITHOUT OBTAINING PERMISSION FROM THE OWNER; THAT HE TOLD CONFLICTING STORIES ABOUT WHO GAVE HIM PERMISSION; THAT HE WAS ISSUED A CEASE AND DESIST ORDER IN JULY 1978 SIX MONTHS AFTER HE BECAME A LAY MAGISTRATE; AND THAT HE WAS ISSUED ANOTHER ORDER IN MAY 1985 FOR WEARING A HALLOWEEN MASK IN COURT.

IN HIS RESPONSE, LEVANS SAID THERE WAS NO THEFT OF THE RAILROAD TIES; NOR ANY INTENT ON HIS PART TO COMMIT A THEFT IN REMOVING THE TIES BECAUSE HE FULLY BELIEVED HE HAD PERMISSION FROM A SANTA FE EMPLOYEE.

EXPLAINING HIS ACTIONS IN REGARD TO SEEKING PERMISSION, LEVANS' RESPONSE SAID: "ALL OF THIS CONDUCT BY THE JUDGE DOES NOT INDICATE ANY INTENT TO COMMIT A THEFT OR SHOW ANY CRIMINAL INTENT WHATSOEVER IN THE REMOVAL OF SAID TIES."

THE MAGISTRATE ALSO CLAIMED IN HIS RESPONSE THAT HE COOPERATED FULLY WITH A SPECIAL AGENT OF THE SANTA FE WHO INVESTIGATED THE MATTER; AND DENIED GIVING CONFLICTING DESCRIPTIONS OF PEOPLE WHO HE SAID GAVE HIM PERMISSION TO TAKE THE TIES.

AS TO WEARING A HALLOWEEN MASK IN COURT, LEVANS SAID THE COUNTY ATTORNEY AND A DEFENSE ATTORNEY ALSO APPEARED IN MASKS; AND SAID NO LEGAL MATTERS TRANSPIRED WHILE HE WAS MASKED.

HE ALSO SAID HE WAS A NEW LAYMAN ON THE BENCH WITHOUT ANY LEGAL TRAINING WHEN THE FIRST ORDER WAS ISSUED AGAINST HIM.

AP-KX-12-09-86 1420CST

March 3, 1988

Hon. Edwin Bideau
House Legislative, Judicial and
Congressional Apportionment Committee
Statehouse, Room 446-N
Topeka, KS 66612

Dear Mr. Bideau:

This letter is written on behalf of the District Magistrate Judges Association which wishes to go on record as opposing H.B. 2756. House Bill 2756, as introduced, would require district magistrate judges to stand for election in their respective judicial districts instead of being elected by the voters of their home county.

The reasons for our position are as follows:

1. The administrative judge of the judicial district is responsible by Supreme Court Rule 107 for assigning a district magistrate judge into another county of the judicial district.
2. The district magistrate judge does not regularly go into other counties of the judicial districts unless he or she is assigned.

For example, the district judges are regularly assigned into each county of their judicial district and the magistrates are not.

3. In a multiple county judicial district, a magistrate may be assigned regularly into one county and not the remaining counties.

For example, in the 20th judicial district the magistrates are only assigned to preside in Barton County and not the four remaining counties.

4. The cost of an election campaign to run in four or five counties can be prohibitive as compared to running only in a single county.

For example, the magistrate's salary is \$26,000 per year as compared to \$56,000 per year a district judge makes, however, the cost of a campaign would be the same for a magistrate as the district judge.

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5. In a rural judicial district, the county with the largest block of voters could conceivably control who the judges were in the other counties and this would not be fair to the voters of the smaller counties.

For example, it would be very confusing for voters in one county to be voting for a magistrate in another county when that magistrate does not preside in their home county on a regular basis.

So for, the above reasons, our association strongly opposes the passage of H.B. 2756 in any form.

Sincerely,

Leonard O. Mastroni
MUB

Leonard O. Mastroni, President
District Magistrate Judges Association

cc: Members House Legislative, Judicial &
Congressional Apportionment Committee

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