

March 4, 1980

LB 82

LB 82 provides the additional ground for disciplinary action of conduct prejudicial to the administration of justice that brings the judicial office into disrepute. Now this ground is recommended by the ABA and is used in several states and it differs from the grounds of willful misconduct in office in that no bad faith showing is required. The present constitutional scheme provides that the commission has discretionary authority to order a hearing before it or a master concerning charges filed against a judge. LB 82 in conformity with standards recommended by the Bar Association will require the commission to find from its investigation that the charges are supported by probable cause before ordering a hearing. The Constitution now provides and now authorizes the commission to recommend to the Supreme Court that disciplinary action be taken against a judge upon finding of good cause. LB 82 requires that the finding, requires a finding that charges are supported by clear and convincing evidence. LB 82 provides that as an alternative to ordering a formal hearing the commission may issue a private reprimand to a judge and this provision merely recognizes an existing practice by the commission in cases which it determines from its investigation that a hearing is unwarranted but that the counselling of the judge may be helpful. At the present time all proceedings prior to the time the disciplinary matter is referred to the Supreme Court are confidential. LB 82 will limit the confidentiality to the investigatory stage. So any formal hearing conducted by the commission or its masters appointed by the Supreme Court will be open to the public and the commission's disposition of the case will be a matter of public record. Such a rule of limited confidentiality will protect the judge's reputation from unfounded charges and also recognizes the public's right to know once a probable cause finding has been made. I think that probably covers the major points between LB 82 and the present constitutional provisions, so at this time I would move the advancement of the bill and try to answer any questions that you might have.

PRESIDENT: The Chair recognizes Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I have talked to a representative of the Bar Association about this bill. I have talked to Senator Reutzel about it and on some matters we just don't see eye to eye. First of all, I don't think that it is a good idea to put into the Constitution procedures relative to the disciplining of judges. The procedures should be established by law, not by the Constitution.

7670