

Hearing on AB 70 was held in the Senate Chambers because of the many people who wanted to be heard on the bill.

The hearing was called to order at 2:25 P.M. by Chairman Torvinen.

Committee Members Present: Torvinen, Schouweiler, Lowman, Reid,
Swackhamer, Kean, Prince, Bryan, Fry

MR. TORVINEN: It is our custom to hear proponents for the bill first.

ATTORNEY GENERAL HARVEY DICKERSON: This bill was drafted by the Attorney General's office and when Assemblyman Lowman came in to talk about such a bill, we asked him to introduce this one. It is based on the New York Statute 4848. It was approved by the U.S. Supreme Court in the appeal of Ginsberg versus the State of New York, when they approved or upheld the conviction of Ginsberg in the District Court for violating this law. They also made clear in their decision that the State has more authority over its children than it does over its adults.

This act will not repeal the act on pornography which is presently on the books and which applies to adults as well as children. AB 70 will give the enforcement officers another foot in the door. I would like you to amend the act to add the definition of "person". "Person includes any individual, firm, partnership, association or corporation.

I have here some material sent to a man in my office which I will leave for your examination. These same things are on sale in the magazine stores in Las Vegas. Some of these which I will give you were bought in a store just across the street from my office in Las Vegas.

The law enforcement officers would like very much to have this bill to help them in their work. Mr. Raggio was not able to come down today but he asked me to tell you he is in favor of this bill and I have the same message from Sydney Whitmore of Clark County.

MR. REID: Is the Washoe County ordinance the same as this one?

MR. DICKERSON: Exactly the same.

MR. SCHOUWEILER: The City of Reno has it, too.

MR. DICKERSON: Yes, and Las Vegas, also. It is based upon the New York law.

CHIEF OF POLICE ROBERT GALLY: The City of Sparks has an ordinance on this which is nearly word for word with AB 70. It has been in effect for six months. We are going to trial this month with our first two cases. One is for "exhibiting" and the other is for "selling to a minor". Here is a magazine which came to Reno via a distributing firm there. These wholesale people just go into the stores and place the magazines and many times the owner is not aware of just what is there. We went around to the stores and made an inspection and found much questionable material and a lot that was just plain filthy.

Our law does not give us the power to prevent the distribution. There is only one technique we have been able to find to actually enforce this law, and that is to use undercover people to go in and make a purchase. Some places are now putting signs up in the magazine area which say "no minors allowed in this area". Some operators are putting these things under the counter. Some books have signs saying "for adults only".

There is really room for an honest mistake. The law is difficult to interpret and enforce. In our city we have found one particular high school, a Junior High School, where at lunchtime it appeared that nearly half of the student body would transfer itself over to this one establishment.

Control is most difficult. We do not desire to set ourselves up as censors. The definition of "nudity" in the law has some question to it, in my opinion. Some of the great art treasures of the world would be in violation of the act according to some interpretations of the word "nudity". We need a clear definition in dealing with juveniles.

MR. DICKERSON: I hope the Committee will pass this act as it is offered, because in all areas it has passed the courts, even the Supreme Court of the United States. I hope you will not add too many amendments that might harm the bill.

MR. TORVINEN: The definition of "nudity" is the same in the Sparks ordinance as it is in this bill.

CHIEF GALLY: Yes. In all fairness, I have some material here which would, by our definition, be considered nudity, but it is practiced and believed in by many people who are nudists. TRUE and other magazines depicts this nudism. I don't believe the New York law has ruled specifically on "nudism". In the field, we have a hard time determining "nudism".

MRS. WEDO, PTA REPRESENTATIVE: I am representing over 28,000 members in the state. I have been making visits to the Legislature over the last six or seven sessions in the attempt to get this kind of law passed.

We are really not hysterical reformers, but are trying to protect our children from the smut that is being foisted on them today from the book stands.

There is much comment that parents must assume the responsibility for their children. We accept this. If we are going to have the right kind of homes, we will need support from the Legislature. You are charged with the responsibility of passing laws for the State of Nevada.

It takes eternal vigilance on our part to check the people who sell these things. We ask you to support this law and we will appreciate it very much if you do.

May I introduce, from Reno, Mr. Richard Rowley.

MR. ROWLEY: My original interest in this pornography thing began in September of 1967 and it began because of a movie. Not knowing who to talk to about it I approached the PTA. (At this time Mr. Rowley exhibited on page of newspaper ads for movies) I feel it is time something should be done to curb some of the smutty movies that are being shown. I respectfully ask for your support of AB 70.

MR. REID: Are you complaining about the ads or the movies? Don't you think saying "for adults only" is a step in the right direction.

MR. ROWLEY: I feel that those words only add to the box office appeal. They do have a new rating system which we certainly feel is a step in the right direction. We have met with a group of theater owners in Reno and asked them what we could do to help. We feel that billing a G picture and then putting with it an M or an R is very poor policy. It doesn't help our problem much.

MR. REID: Are the ads too suggestive? Do movies live up to the advance billing? It may not contain anywhere near what it looks like it would from the ads. Are you suggesting we control the ads or the films?

MR. ROWLEY: We would like both. The new rating system of G,M,R and X should help. It would help very much if we could have G pictures without the others being shown with them. The movie industry may be trying to correct this.

MR. FRY: One movie that is here on this page of ads has been shown on TV. This particular bill does not get involved in that area, does it?

MR. ROWLEY: No, it pertains mostly to literature. However, movies are a prime source of entertainment for young people and when most pictures being shown are directed at adult audiences, maybe you should try to do something.

MRS. WEDO: We went in some of the bookstands in Reno and Carson City and bought some magazines which we brought for your inspection, so you will know just what we are talking about. (These were given to Mr. Torvinen)

CHIEF GALLY: Most of these magazines have been depicting females, but now we are getting publications featuring males to interest the girls.

MR. TORVINEN: We will now hear from opponents of the bill.

MR. LLOYD KATZ: I am president of the Nevada Theatre Corporation. We have three theaters in Las Vegas and have had for 17 years. I have been in the theater business for 26 years.

I would like to introduce some gentlemen who are here with me.

R. Smith, National General Corporation
Bill Brown, National General Corporation
Ken Workman, United Artists
Leon Herrin, Syufy Entertainment

Fred Curtis, Syufy Entertainment
Jack Rubins, Syufy Entertainment

MR. KATZ: I am here to speak for myself as a businessman, citizen, and parent and as a representative for major exhibitors throughout the state.

As responsible citizens and parents, we, like you, have been deeply concerned with the influences to which our children are being exposed. It has been our understanding that that is our responsibility as parents. We enjoy an advantage over most parents, since they are not as familiar with the content and subject matter situation of each picture as we are. That situation is being substantially changed.

Historically, obscenity legislation has had rough sledding. The Supreme Court has never established guide lines or standards. It has been an area in which it was virtually impossible to secure convictions, even though it applies mostly to minors. But this law will only invite confusion and frustration. It is obviously unenforceable legislation.

This does not mean that we should do nothing. I refer you to the January Reader's Digest. There is a very definitive article written by James Michener. (Read part of the article)

It is unrealistic to completely absolve parents from their responsibilities. I want to show you the guides which will be permanently displayed in all theaters showing pictures commenced after November 1, 1968. For prior releases the theater exhibitors have access to two fine sources of classifications. There is also the BOX OFFICE MAGAZINE which will classify these releases (prior) for parents and children.

My seven guests have to do with movie distribution. We have rules for those who can be admitted to our theaters. Every customer has to pass the box office.

It will be very difficult to interpret this law, even though the Supreme Court says it is legal. The dilemma you will put people in! Take, for instance, the clause in here, section 6, concerning "nudity". Recently we showed a film which schoolteachers sent all their pupils to see, called "African Safari". Based on this proposed law we would not even have been able to show that film. It shows native Africans with bare breasts and buttocks.

This bill has nothing in it about language, but our movie code does include the use of profanity and offensive language.

We respectfully suggest the following: First, separate movies from literature; second, let the theaters have a period of at least one year to prove themselves. By that time, all of the films will have been classified.

The question has been raised about how diligently will the theater owners work with this classification. We will do all in our power. We feel our self-policing will do the job. This must be done by theater owners and parents.

The City of Las Vegas agreed to separate pornography in movies from pornography in literature and they also agreed to give us a reasonable time to see what we could do.

MR. REID: I am concerned about the third category of classification. How is this enforced? At your box office?

MR. KATZ: We turn them away at the box office if they are not supposed to come in. Also, we will display prominently what the rating is.

MR. REID: Have you ever turned anyone away?

MR. KATZ: I wish I had a dollar for every one. Yes, I have most frequently turned them away. There is absolutely no point in titillating interest if we can't let the young folks in.

MR. SCHOUWEILER: Are you or any of your guests associated in any way with the State of New York? Would you have any information in regard to how they handle this?

MR. KEN WORKMAN: The City of New York has an ordinance which requires that if a minor attends a movie in the afternoon even he must be accompanied by an adult. The theaters are very very careful about letting the children in. Basically, this law does not affect New York because they do not allow children under 16 to attend movies unaccompanied. They must be with an adult.

MR. KATZ: One very salient factor is the classification system of November 1, 1968, follows on the heels of all of this legislation, so obviously there is a conflict about which is the motivation for the classification. The big problem is the interpretation of any of these laws. There is a part of this bill under section 8, something about "not touching" that will cause some eager beaver to complain about a football scene.

These pitfalls can be avoided and they will be if you will let us police own own business. The industry really wants to avoid any kind of censorship.

MR. SCHOUWEILER: What about this double feature bit?

MR. KATZ: It is really much simpler than it appears. If two movies are shown together, the one with the lowest rating prevails. If a G film and an X film are shown together, the X film will prevail.

Another point: Relates to trailers on coming attractions: We have a cautionary note in our instructions not to show a trailer on an R or an X picture when we are showing a G. We either have to edit or not run it. In my case, we just don't run it.

MR. LOWMAN: Do you know whether or not "African Safari" could be shown in New York under this bill?

MR. KATZ: No one should rate this other than a G.

MR. LOWMAN: Would it be prohibited?

MR. KATZ: I don't know.

MR. WORKMAN: It is family picture. In New York you will find pictures played that never play any other place, but they do not allow just anyone to attend.

MR. LOWMAN: You have answered my question. I was just asking because of your statement that under this law it could not have been shown.

MR. KATZ: It would be taking a chance under this law.

MR. WORKMAN: This law has not been enforced in New York. It is not effective there. If it is now, it became so after May 1.

MR. KATZ: We would have trouble with this law showing "Planet of the Apes" and many other fine shows.

CHIEF GALLY: From an enforcement standpoint, I think you have taken care of this particular thing. Sections 3 and 10 are the things I was really concerned with. The law says "abuse and is harmful to minors".

MR. KATZ: Who would make the determination of what was harmful?

CHIEF GALLY: We would not go in and arrest you for the films you have been talking about, but if you were showing films with scenes of sexual intercourse and so on, we would come in and arrest you. "And is harmful" would preclude our coming in when you were showing films such as you have mentioned.

SENATOR DODGE: If there are rules under way in some of the urban areas in Nevada, what is the rationale for enacting a state statute?

MR. LOWMAN: Senator, this is my bill and my response is that I feel that the state legislature has a responsibility for enacting laws to be used throughout the state. Suppose Reno and Las Vegas enact adequate laws but Elko doesn't? If the first two needed it, so does Elko.

CHIEF GALLY: In Sparks we have the law, but if we go up to a child who has a pornographic magazine and he tells us he got it in Carson City or Reno, we can do nothing about it. This is why we need a total state law.

MR. REID: Do you have trouble with kids driving down to Carson City to buy these magazines?

CHIEF GALLY: My son is an athlete and he travels a lot. It only takes 30 minutes for the kids to come over here. We have quite a drive going on in our area against narcotics, but they may go get it from another area.

MR. LOWMAN: I have five letters to date asking for this bill to be passed.

MR. BRYAN: We have overlooked one item. Line 10, section 3, defines what is harmful to children. It says to use "the prevailing standards throughout the community."

Maybe we should leave it up to the communities. Was that considered at the time the bill was drafted?

MR. LOWMAN: No. I was looking for a way to handle this and when I found the Attorney General had already prepared a bill I adopted it as my own.

MR. TORVINEN: Question: Among the various movie ads some use age 16 and some use age 18. It appears that in the Reno area they are using age 18. Where did age 16 come from?

MR. KATZ: There are a number of reasons why 16 is the best to use. Chronological age is only one of various numbers of ways to measure maturity. Tests show that young people of 16 now have reached a great degree of maturity. Most states grant work permits and drivers' licenses at age 16. Many factors were considered in making this decision. Interestingly enough, Mr. Lowman mentioned age 16 as relating to juveniles.

MR. LOWMAN: True. If this bill passes, it will affect the other bill, too. I do agree that 16 is a responsible age.

MR. TORVINEN: Why did we use age 16 in Reno?

MR. KATZ: I don't know.

CHIEF GALLY: Under our Code, anyone under 18 is considered juvenile.

MR. LOWMAN: Since we all share the same goal, to try to protect those who are not in a position to protect themselves, why would this bill hurt you?

MR. KATZ: A theater owner will not have a positive guide. If we have not proved in one year that we can accomplish what this is trying to accomplish, then there will be some reason for this bill as it relates to movies. We are trying to avoid having different situations in every state and municipality.

MR. LOWMAN: It is hard to pinpoint just when this trend began in the movies but it has been getting continually worse. It seems to me that if the industry was going to police itself, the time is long since past. If we can put this into effect and be constitutional, we ought to do it, it seems to me.

MR. KATZ: The Supreme Court Ruling seemed to establish that municipalities can pass laws to protect minors. Your point is well taken. We have been backed into a corner. Values change. Most of the movies I showed in previous years are now being shown on TV. Now, the most popular show on TV is "Laugh In", which is pretty sophisticated. Foreign films changed the whole pattern of motion pictures. The machinery of motion pictures takes a while to go full circle, but it has now and in my view this classification is graphic evidence that they are prepared to assume their responsibilities.

MRS. NAPHAN: About 15 years ago we went to the theaters with this same problem. We put a lot of work and enthusiasm into our efforts and we did get some results but they lasted only about one year.

MRS. NAPHAN: As soon as we let down they were right back down. I am talking about quality of films and who is to be admitted.

MR. KATZ: You have a very definite right to be concerned about the quality of films. The best way to discourage the making of these bad movies is not to patronize them. It is as simple as that. However, a very concerted honest effort is being made to protect the children.

MR. TORVINEN: Apparently Reno, Sparks and Washoe County and Las Vegas have been operating for the last six to eight months with ordinances similar to this and have been operating without any apparent problem. How can that fit in with your comments?

CHIEF GALLY: We have only requested one movie to be removed in Reno. The police went to the management and found they had not previewed the movie and they were even shocked at what they were showing. We do not make any specific effort to go look at all the movies. If we have a complaint from parents we will go down and look at the show.

MR. BRYAN: Chief, you said you had asked them to remove the movie in one instance. Under what authority did they do that? I find no authority given.

CHIEF GALLY: We gave them the choice of removing it or going to jail and they cooperated.

MR. BRYAN: I don't see anything that gives them the authority to say the theater owner could not show a particular picture. Did the police take unto themselves this power?

CHIEF GALLY: They attended the movie and found the movie to be, in their judgment, unfit for children.

MR. TORVINEN: Was it at a drive-in movie where children could stand at the fence and watch it?

CHIEF GALLY: Yes, and youngsters were also being admitted to see it.

MR. SCHOUWEILER: Mr. Katz, what would be your position if the rating system were built into the legislation?

MR. KATZ: Fine, that is what we are trying to accomplish.

MR. TORVINEN: I now declare the hearing on AB 70 is closed.

Time: 3:40 P.M.