

MINUTES OF MEETING - ASSEMBLY COMMITTEE ON JUDICIARY, 55th Session
February 5, 1969

Meeting was called to order by Chairman Roy Torvinen at 3:45 P.M.

PRESENT: Torvinen, Schouweiler, Lowman, Kean, Swackhamer, Fry, Bryan
Prince, Reid

MR. TORVINEN: Does the Committee want to make further consideration of Ab 70 at this time or hold it?

MR. SWACKHAMER: I am not familiar with the movie section, but I am familiar with the magazines. It seems we are going to try to set up a censorship and then separate things for adults and for children. Who is going to be the censor?

MR. LOWMAN: Doesn't this give you something for the law to enforce?

MR. SWACKHAMER: If we have to pass a law like this, I would like to take the word "minors" out and make it apply to everybody.

It is not applicable for retailers to take the responsibility at our level.

MR. LOWMAN: I feel that this literature is not fit to be anywhere and if I thought it could pass the test, I would be happy to do it that way.

MR. SWACKHAMER: We have no way to police it in my place of business.

MR. PRINCE: I agree. We have had the same problem at our place.

MR. TORVINEN: If you are going to deal with minors only, and apparently that is all the Supreme Court will allow-----

MR. SWACKHAMER: That is exactly the problem.

MR. BRYAN: How about leaving it up to the municipalities?

MR. LOWMAN: You don't really think it is very much of a problem? You may feel differently when your youngsters are a little older.

MR. REID: We know now that Las Vegas has agreed to go along with the theater people. Sparks, apparently, has not. Apparently their problems are different.

MR. BRYAN: Maybe their movie people are different.

MR. TORVINEN: We can correlate the thing with Sparks and Las Vegas any way you want to. Using words "harmful to minors".

I only see about two movies a year and last year I saw "Hawaiiia". It showed native girls topless. If the people in any certain community saw this they would object to it, others would not.

MR. REID: We are always being criticized for passing too many laws. Here we have a group of people who were forced into policing their own work, the movies. I believe they are going to try much harder now with their own way than they would if they were trying to push this law to the very limit.

MR. TORVINEN: I think that we might do well to leave the subject and go on to other subjects and come back to this later.

MR. KEAN: There was a comment made about an industry policing itself. We have had an experience with that. The Chlorine Industry is a very dangerous one and we have certain regulations from them about what we can do. We know that if we make one mistake we may be legislated right out of business. So we do more than 100% to avoid this. I believe the movie industry may react the same way.

I want to suggest something. You notice this magazine? It was made in Scandinavia. This kind of thing had gotten clear out of hand over there, so they just took the lid off. The interest in pornography soon died and now they can't even sell these over there. They have to send them over here to sell them. We probably couldn't sell this idea to the PTA but I believe it has merit.

MR. LOWMAN: The movie industry has had twenty years to police themselves and they did not begin until after the New York law was in. What does that mean to you?

MR. KEAN: That they are going to do it.

MR. LOWMAN: I don't believe we can rely on the New York law to police us.

MR. TORVINEN: I have here a bill that was given to me which provides for an increase of judicial salaries in the State of Nevada. Did everyone get a copy of this? This is going to be strictly a money bill. I suggest we introduce it and refer it to the Ways and Means.

Mr. Lowman: I so move

Mr. Schouweiler: I second

On the vote the motion passed, receiving 6 Ayes and 1 No. The No vote was cast by Mr. Swackhamer.

MR. SWACKHAMER: Every time we give the judges a raise it triggers off a general increase and costs a bundle of money. This bill would give a judge \$10,000 more than the Governor gets and he won't like that for too long.

MR. BRYAN: The real problem is that we are in danger of losing some very qualified judges from Nevada. Some talk I have heard is that many of them may be forced to resign.

MR. REID: One of our District Court Judges had to pull two of his children out of school.

MR. TORVINEN: We have some other bills we can discuss.

MR. REID: I would like to vote on some of the bills we discussed yesterday.

AB 53: Bases allowance of attorney's fees to plaintiff in civil action upon amount recovered. 72

MR. REID: I move that we amend 2-a as indicated by proponents that they would accept. Two provisions on line 15 "claimant or counter claimant as prevailing party" when they have recovered less than \$10,000.

Strike b. Shall read that defendant or counter defendant may, as prevailing party, be awarded attorney's fees.

MR. TORVINEN: Will you mark this and give it to me. (c) is deleted.

MR. BRYAN: I second Mr. Reid's motion on AB 53.

Motion carried unanimously.

MR. REID: The problem is that some one may have a lousy case and he drives the party to a great deal of expense. The party may wind up winning but all he gets is the expenses of the lawsuit. I think the person who brings this kind of a lawsuit against another person should have to pay attorney's fees. McKissick agreed to this.

We are not speaking of only one kind of case. This applies also in real estate cases for serious law suits. This leaves it up to the court.

MR. SWACKHAMER: If someone files a no-good suit against me and loses, can't I file against him then?

MR. BRYAN: Harassment is a hard charge to prove. I would say no.

MR. TORVINEN: To maintain action for malicious prosecution you have to have a tape recorder of the man saying he was going to get you or something like that.

MR. SCHOUWEILER Moved Do Pass AB 53 with these amendments.
Mr. Bryan seconded.
Motion carried unanimously.

AB 99: Limits application of automobile and aircraft "guest statutes".

MR. REID: I am wondering about this "spouse" thing. What would the proper language be there?

MR. TORVINEN: "and who is a spouse or is related to the owner", etc. 41.180 continues to apply to the brother-in-law.

MR. SWACKHAMER: The whole bill is no good. Why bother to try to amend it? If I receive a free ride with someone I have got to assume a little responsibility. It is difficult to prove "gross negligence". A guest has got to assume a little responsibility.

MR. BRYAN: Don't you get in the car with the idea that he will drive prudently and reasonably?

MR. SWACKHAMER: I should not have got in there at all if he was a kook.

MR. BRYAN: This is somewhat impractical in a highly mobile society. Is it practical to tell the driver halfway between here and Reno that you want to get out?

MR. SWACKHAMER: It is highly practical if I think he is going to kill me. What I am worrying about is that case where the person has not been negligent for 40 years and then there is this one little thing comes up.

MR. BRYAN: Isn't it public policy to try to even these things? The driver is likely insured to take care of himself.

MR. TORVINEN: These bills still seem to be somewhat controversial so I am going to hold AB 53 and AB 99 for a while.

MR. SWACKHAMER: Whenever you feel it is right to do so, go ahead and vote. I can always file a minority report.

MR. REID: I would just as soon vote now. We are just putting off what has to be done.

MR. SCHOUWEILER: I would like to talk to Mr. McKissick briefly before voting. I would like to clear up some language.

AB 58: Requires registration of corporation doing business under assumed or fictitious name.

MR. REID: I move Do Pass.

MR. BRYAN: I second.

Motion carried unanimously.

SB 12: Clarifies simplified acknowledgments for instruments of conveyance.

MR. REID: The problem I have with this is that even after reading all the stuff I still don't understand it. If we can't understand it now, we might as well leave it this way as to amend it and gather more confusion.

MR. TORVINEN: This section retained the words "person making the same was personally known to the officer granting", etc. This caused confusion among title companies and elsewhere. It was suggested that this language be removed.

MR. REID: I don't think we should report a bill out of here unless we understand it and I don't understand it. Roy, seriously, do you understand it?

MR. TORVINEN: I understand it to be the deletion of those words which I quoted.

MR. BRYAN: That "if applicable" is what bothers me. If we have had this much trouble, how would other lawyers around the state make out?

AB 34: Repeals requirement that actions against State of Nevada be brought in Ormsby County.

MR. BRYAN: I move Do Pass AB 34.

MR. LOWMAN: I move to Deep Six AB 34.

MR. BRYAN: Rather than discourage meritorious legislation, we should pass this bill. If there is a cost factor involved the State is better able to pay those costs than the small litigant. Witnesses are often right there in the county where the accident occurred.

There is a provision in our law which says that if one of the litigants can show undue hardship, he will not have to go anywhere.

MR. SWACKHAMER: Have any of the introducers been in to talk to us about the bill?

MR. TORVINEN: My name is on this because of my case with the NIC. After hearing testimony about this I see no reason why a lawsuit against the state should not be filed in Las Vegas.

MR. SWACKHAMER: The NIC cases would be the small litigants.

MR. BRYAN: I move a Do Pass for AB 34

MR. REID: I second the motion.

On the vote, the motion carried with Mr. Swackhamer voting No.

Meeting was adjourned at 4:35 P.M.