

JUDICIARY COMMITTEE
57th NEVADA ASSEMBLY SESSION

MINUTES

APRIL 18, 1973

The meeting was called to order at 1:15 PM by Mr. Keith Hayes, Chairman.

MEMBERS PRESENT: MESSRS: HAYES, BARENGO, GLOVER, TORVINEN, HUFF,
HICKEY,

MEMBERS ABSENT: MR. FRY AND MR. LOWMAN

Mr. Clark Guild representing Union Pacific Railroad spoke in opposition to the concept presented in S.B. 524. He said that he would suggest either conforming this bill to S.B. 611 or using the Wisconsin standard of comparative negligence. Wisconsin is the primary state in this field since they have a wealth of judicial interpretation about what comparative negligence really is. In 1949 Wisconsin deleted the words "by the jury" from their statute. The effect of this is that the jury determines the total apportionment of fault in percentages, it fixes the total amount of damages, and the court does the mathematics and renders the judgement. Under S.B. 524 this is the jury's function and it is Mr. Guild's feeling that this will create nothing but confusion. He called attention to the fact that two states, Utah and Idaho have adopted the same type of language as is set forth in Section 31 of S.B. 611 and that is acceptable. S.B. 524 would change the whole theory of comparative negligence and is inconsistent with the concept of S.B. 611 which has already received approval.

Mr. J. L'Origan representing Farmers Insurance also spoke in opposition to S.B. 524. Mr. L'Origan said that if intent exists to speed up the judicial process he would suggest that this bill would do nothing but complicate it. Comparative negligence is used in settlement, but there has always been the defense of contributory negligence. It has been suggested that this bill might promote more litigation and Mr. L'Origan said that he is of this opinion. One of the purposes of S.B. 611 is to reduce insurance premiums, but if the only defense an insurance company has is eroded it will mean more money spent and therefore increase premiums. Mr. L'Origan pointed out that in the original framing of this bill there was an assumption of risk which has been deleted in the amended version.

Mr. Les Kofoed from the gaming industry explained S.B. 560 for the benefit of the Committee. There is no attempt in this bill to change the terms of office. The dates of appointment should not be changed. The way it is presently allows for stability and continuity. It gives the incoming governor time to get his feet on the ground before making appointments. "If this bill is amended and the Senate does not concur then it would seem that there is a move to kill the bill and that would put us right back where we are now." Everything that this bill says and does, we feel is what is best for the state and best for the industry."

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Mr. Phil Hannifin told the Committee that the control board did not draft this bill or arrange for it's introduction. It is felt however, that it makes good sense and is good political science. There has been an attempt since 1959 to remove the gaming control board as far as possible from the political arena. Mr. Hanifin concurred in Mr. Kofoed's remarks feeling that the appointment date should not be changed.

ACTION:

S.B. 524 SUMMARY=Provides system of comparative negligence in lieu of defenses of contributory negligence and assumption of risk.

Miss Foote moved INDEFINITE POSTPONMENT, Mr. Glover seconded. Mr. Barengo said he would have to vote against this motion because in instances where there is even only 1% negligence you cannot recover. Mr. Hayes said "to me the complete defense of contributory negligence is one of the most unfair, vicious doctrines that has ever come into the law". Contributory negligence, however slight, is a complete defense to negligence.

Voting against the motion: MESSRS: Hayes, Barengo, Fry, and Torvinen.

S.B. No. 560 SUMMARY-Provides for removal or suspension of members of state gaming control board and revises investigative hearing procedure.

Miss Foote moved to recommend DO PASS, Mr. Hickey seconded.
MOTION CARRIED UNANIMOUSLY DO PASS S.B. 560

S.B. No. 599 SUMMARY-Permits cities to determine whether ordinance violation imposes civil liability.

Mr. Huff moved to recommend DO PASS
Mr. Torvinen questioned whether this could be self enacting. Mr. Torvinen said this bill needs re-drafting it should say that the cities liability run to the benefit of the city. Mr. Torvinen agreed to work on the bill.

S.B. No. 603 SUMMARY-Provides new method for selecting and impaneling grand jurors and places conditions on issuance of certain reports.

Miss Foote moved to recommend DO PASS, Mr. Huff seconded. Mr. Glover expressed concern about the smaller counties. Mr. Torvinen voted against the motion, he said, "if you can't trust the judges who can you trust". He felt the judges should do the selecting.
MOTION CARRIED DO PASS S.B. 603

Mr. Huff presented the amendments to A.B. 538 and after reviewing them said that another amendment was needed to delete completely from the bill that section pertaining to sealed records. Mr. Glover moved to recommend DO PASS AS AMENDED, Huff seconded.
MOTION CARRIED AMEND AND DO PASS A.B. 588

In light of Senator Close's testimony with reference to S.B. 557, Mr. Barengo moved re-consideration of S.B. 557, Mr. Huff seconded.
MOTION CARRIED

Mr. Barengo moved to recommend DO PASS, Mr. Glover seconded.
MOTION CARRIED DO PASS S.B. 557

S.B. No. 422 SUMMARY-Removes disabilities resulting from conviction under certain circumstances.

Mr. Glover moved to recommend AMEND AND DO PASS, Mr. Barengo seconded. This should be amended to delete reference to any district court.

Mr. Huff abstained from voting.
Mr. Lowman and Mr. Fry absent for the vote.
MOTION CARRIED. AMEND AND DO PASS S.B. 422

Meeting Adjourned

In the midst of Committee members departure Senator Close appeared to discuss some bills which his Committee presently has under consideration.

In the matter of A.B. 34 and S.B. 64 it was agreed that the Senate would go with A.B. 34.

A.B. 254 does not include all of the data that S.B. 57 does, so the Senate will dispose of A.B. 254.

A.B. 699 would need amending to be as effective as S.B. 544 which is set, so we agreed that we would re-consider S.B. 544.

Senator Close said that Mr. Lowman and Senator Wilson were settling the debt adjustor's legislation.

Concerning S.B. 204 and A.B. 567, the senate bill makes it mandatory on the second offense, and the assembly bill is stricter in that it is a mandatory sentence on the first offense.

Mr. Barengo said he would like to have it recorded that the "Senate is soft on crime".

Senator Close said that they would pass A.B. 871 and probably advance Methaqualone to a schedule II or III since our Committee had killed S.B. 602. Senator Close told those members present that the pharmacy board had not received any appropriations to hold hearings etc. although the money had been requested. He said there was no sense adding Librium, Valium or Darvon if we wouldn't concur, although he seemed to feel that they should be included.