

ASSEMBLY ELECTIONS COMMITTEE MINUTES  
FEBRUARY 23, 1977  
5:00 p.m.

MEMBERS PRESENT: Chairman Mann  
Mr. Sena  
Mr. Chaney  
Mr. Goodman  
Mr. Horn  
Mr. Kosinski  
Mrs. Wagner

MEMBERS ABSENT: None

GUESTS: Assemblyman Brookman  
Assemblyman Dreyer  
Assemblyman Mello  
Judi Watts  
Steven Stucker, City of North Las Vegas  
Gayle Smookler  
Joyce Woodhouse, NSEA  
Dennis Meyers, Reno Commission on Status of Women  
Geno Menchetti, Nevada Attorney General's Office  
Kate Butler, Nevadans for ERA  
Daisy J. Talvitie, League of Women Voters

Chairman Mann called the meeting to order for the purpose of hearing testimony on AB 244 and AB 301.

AB 244, provides for additional penalties and enforcement of election campaign practices law.

Assemblyman Dreyer, sponsor of the bill, spoke on behalf of the bill. Mr. Dreyer stated that he did have two minor changes to suggest. He suggested that on page 2, line 7 the words "and to the attorney general" be struck out and on page 2, lines 14-15, the words "the attorney general shall institute the proceedings " be removed and the following words inserted: "he shall be subject to prosecution under NRS 252.190. Thus the lines would read: "30 days after receiving it, he shall be subject to prosecution under NRS 252.190.

Geno Menchetti of the Nevada Attorney General's Office spoke on behalf of the bill. Mr. Menchetti stated that he was representing Don Klasic who was unable to attend the meeting. He went on to say that in Section 1, Subsection 4, it would be possible that you could have two people for one office. One elected and one appointed, should a prevailing candidate fail to file per this provision.

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Mr. Menchetti then stated that on page 2, line 12 they felt this was a red flag for the local District Attorney to let the matter go beyond 30 days so that Attorney General would have to institute proceedings per NRS 252.110/252.190 Duties of the District Attorney.

In closing Mr. Menchetti stated that they would like to offer an amendment to this bill where by page 1, section 1, line 5 would be amended. He asked that the words "secretary of state" be replaced with "same office he filed his declaration of candidacy".

Mr. Mann asked if this bill would not completely exclude a person from the office, only until the required reports would be file. Mr. Goodman stated that he had talked to Mr. Howard of the Secretary of State's Office. He stated that after Jan. 1 the county commission could appoint someone to the office should it still be vacant and there was the possibility of having two people in an office.

Mrs. Wagner stated that the filing requirement occurs so early in relationship to taking office that she was not sure about the penalty. Mrs. Brookman stated that several candidates did not fail at all and nothing was ever done about it. They are not holding office however, there is nothing in the law that would have prevented them from holding the office if they had been elected.

Mr. Mann stated that he felt that there was a real problem in legislating that a person could not hold office. He questioned the constitutionality of this. Mr. Sena asked if Mr. Daykin could give a ruling on this subsection 4.

Mrs. Wagner stated that on page 2 the penalty was with the District Attorney if he does not prosecute. She wondered whether the penalty should be with the candidate. Mr. Mann stated that there was legislation being drafted that would have a civil penalty rather than a criminal penalty. Mrs. Brookman presented a letter from Clark County District Attorney on this. This letter is attached as Exhibit A and herewith made a part of this record.

Daisy Talvitie, President of the League of Women Voters of Nevada, then spoke in support of the bill. Her statement is attached to these minutes as Exhibit B and herewith made a part of this record.

AB 301, Provides advisory referendum on equal rights amendment.

Assemblyman Mello, sponsor of the bill, spoke on behalf of the bill. Mr. Mello stated that he believed this to be a very simple piece of legislation. The bill merely allows electorate of this state to go to the polls on November 1978 to express their opinion of how they feel about ERA. He went on to say that they have seen lots of polls and he could not see what was wrong with allowing the people to express their feelings at the polls about something that affects everyone. It has been said that if this is passed lots of money that would go into someone's campaign would be going in there but instead would go into fighting pro or con on ERA. It has also been said that if this is allowed to go to a vote of the people only the bad sides of the issue will be heard and the people will vote against it. Mr. MELLO stated that he did not believe this and that if the people do not yet really understand the ERA they never will.

Frank Daykin, Legislative Counsel, then spoke on the constitutionality of this bill. Mr. Kosinski asked Mr. Daykin to address himself to the issue of whether or not a legislature may mandate a "straw vote" on an issue. Mr. Daykin stated that he believed that the legislature may submit a question to a "straw vote", using "straw" in the sense of a vote whose outcome is not in any way binding upon the legislature and whose outcome does not in any way make law. He stated that his reason for that conclusion is that a state constitution is, as far as the legislature is concerned, a limitation, not a grant of power. There is no provision in the Nevada Constitution which limits the power of the legislature to submit a question to a nonbinding vote, therefore the legislature may do it. Federal constitution has been authoratatively interpreted to say that one cannot submit any federal constitution amendment to a binding vote of the people. That is why AB 301 emphasizes in such big black print that this vote does not bind the legislature in any way, but upon placing of the abstract question, the power of the legislature not being limited by the constitution, it exists.

Mr. Kosinski asked if there had been any cases out of our Supreme Court dealing with this issue. Mr. Daykin stated that with this specific issue there had been none. Mr. Kosinski went to ask if he had looked into any cases that exist in other states, that hold that it is not permissible. Mr. Daykin replied that he had not because he does believe that they would be relevant under our constitution. He stated that he would look at them before he renders a formal opinion as requested by Mr. Kosinski. He stated that he feels that

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he feels the issue is pretty clearly addressed in the old case of Rider vs Douglas, which did deal with an election question. The then novel question of whether a legislature could provide for a primary election, which is not mentioned in the constitution.

Mr. Mann then asked Mr. Daykin if it was his best legal opinion that there is no problems in terms of constitutionality with AB 301. Mr. Daykin stated that that was correct.

Mrs. Wagner stated that she had gotten an opinion on this very question from Arizona. There were three reasons why the Arizona Attorney General found this was not constitutional. She read from the letter which is attached as Exhibit C and herewith made a part of the record.

In answer to the points raised in the letter, Mr. Daykin replied that the Arizona Attorney General was correct in that Hawke vs Smith forbade the placing of it on the ballot. He does however not quite read or quote the case correctly. What it did hold is that the people of the State of Ohio could not by the exercise of the referendum provisions of the Ohio Constitution require the act of the legislature in ratification of the 18th amendment to be submitted to them for approval or rejection.

Other state cases have held, following Hawke vs. Smith, that legislature could not voluntarily submit to a referendum, but the point is that a "straw vote" is not a binding referendum and that is the distinction between this situation and the one dealt with in Hawke vs Smith and other cases. It is also true that the legislature, in ratifying the constitution amendments, acts pursuant to the federal and not the state constitution, but it is equally true with respect to the federal constitution as it is in respect to the state, that as to state legislature it is a limitation not a grant of power and it imposes no limitation which would prevent a nonbinding vote. No authority from the state constitution is required to submit this "straw vote" only the absence of a prohibition. The prohibition is lacking in the Nevada constitution and it is equally lacking in the federal constitution.

Mr. Goodman asked if this was a formal statement. Mr. Daykin stated that this was a statement of his opinion which he would give in writing. He stated that it does not have to be in writing and that for the record the Counsel for the Legislature has indicated formally that in his opinion AB 301 is constitutional.

Assemblyman Brookman then spoke against the bill. Her statement is attached as Exhibit D and herewith made a part of this record. Mrs. Brookman also presented the committee with a copy of an editorial from the Elko Daily Free Press, dated Tuesday, February 22, 1977. This is attached to these minutes as Exhibit E and herewith made a part of this record.

Mr. Mann asked if Mrs. Brookman did not feel that a vote that would come out, say massively in support of the ratification would have any effect of the members of legislative body. Mrs. Brookman stated that she did not. She said that she felt it was a "copout".

Mr. Mann stated that he would go on record right now that if this state passed the ERA referendum he would abide by the decision of the people. Mrs. Brookman stated that you were still putting on the backs of the people and that was not what a referendum does. The legislators should vote for what they feel is right or wrong.

Mrs. Wagner stated that as she read the bill she did not see that the Equal Rights Amendment in its entirety would appear on the ballot. Mr. Daykin stated that as the bill is drawn the ERA will appear on the proclamation but not in full on the ballot or ballot page assembly. However this could be amended.

Dennis Myers, State Chairman, Young Democrats of Nevada and Member of the Reno Commission on the Status of Women spoke on behalf of the Commission in opposition of the bill. His statement is attached to these minutes as Exhibit F and herewith made a part of this record.

Mr. Horn stated that John F. Kennedy also said that "civility is not a sign of weakness and sincerity is always subject to proof" and would direct Mr. Myers to the purest form of representative government and pure sincerity of AB 301 in its intention.

Kate Butler, State Coordinator for Nevadans for ERA, spoke in opposition to the bill. She stated the Nevadans for ERA believe that Article 5 of the U.S. Constitution leaves the Congress with choice of means of ratification and that the Congress requires that proposed amendment 27 be ratified by State Legislatures and no other provision was allowed. They believe the people of Nevada expect their elected representative to act upon important matters brought before them and to stand accountable for these decisions. To submit a nonbinding referendum is merely asking for yet one more opinion poll and this one at the expense of the taxpayer. There is no guarantee to the citizens that advisory referendum would be reflected by the vote of the next legislature on this issue.

She went on to say that Nevadans for ERA remains committed to ratifying the ERA as the only sure means of giving equality to all American under the law.

Mr. Mann stated that one of the questions that each individual member of the legislature has to address himself to is where his obligations lie. Whether to the State first as a whole or to his district. It is Mr. Mann's opinion that you have an obligation to the State first and then to your district. He further stated that he would have no problems with voting for the ERA if the voters of this State went on record by their vote of wanting it. This would be rather or not his district was for or against it.

Mr. Kosinski stated that Kate Butler's point was well taken in that you could have an overwhelming yes or no vote in some districts that control the state and yet a majority of your legislators could have opposite results in their districts.

Daisy Talvitie, President, League of Women Voters, presented a brief statement in opposition to AB 301. A copy of her statement is attached to these minutes as Exhibit G and herewith made a part of this record

Mr. Mann then concluded the hearing on AB 301 and stated the Committee would take action on the bill.

Mrs. Wagner moved the committee adopt amendment 158A to AB 301. Mr. Goodman seconded the motion. This amendment would amend Section 4, page 2, line to read:

"the United States Constitution, the following proposed amendment to the constitution, commonly known as the equal rights"

Then the bill would be amended to include the Equal Rights Amendment in full, between lines 10 and 11.

Mr. Horn inquired whether it would then appear that the people would be voting on the U.S. Constitution. Mrs. Wagner replied that this is not true because you have the large, bold print explaining that it is nonbinding and advisory in nature. She added that she felt if this is going to be placed on the ballot the people should have the opportunity to see what the ERA really is.

The committee voted unanimously to adopt amendment 158A to AB 301.

Mr. Sena then moved for "do pass as amended" on AB 301. Mr. Horn seconded the motion.

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Mr. Kosinski then stated that he ran a campaign where he ran against a man in the primary who opposed the ERA and in the general against a man who had trouble making up his mind. The results of that vote show a clear mandate from the electorate for support of the ERA. He stated that he had no difficulty supporting the ERA and has always supported it. He feels that the people of his district have already had their poll. However, the issue is not that clear in some of the other districts and because of this reason he is willing to support this bill in order to give those other legislators the opportunity to more clearly determine how their voters feel.

Mr. Goodman stated that he felt that he had a clear mandate from his district to vote for the ERA and he would vote against AB 301.

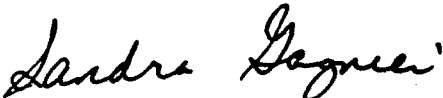
Mrs. Wagner stated that this is a difficult question for her to vote on. She stated that she felt there was no question in her district as far as where she stood on this issue. She added that she would like to go on record that she will vote to pass AB 301 out of committee for several reasons. She added that she felt that Senate Judiciary did allow it to reach the floor, even though they had the votes to kill it and she felt some committment to allow this to appear on the floor of the Assembly.

Mr. Mann stated that he would like to thank Mr. Kosinski and Mrs. Wagner for granting that courtesy because he feels it is an issue that should be decided on the floor.

The motion of "do pass as amended" on AB 301 passed on a vote of 6-1 with Mr. Goodman voting no. A record of this vote is attached to these minutes.

As there was no further business to conduct, Chairman Mann adjourned the meeting.

Respectfully submitted



Sandra Gagnier  
Assembly Attache

Also attached to these minutes as Exhibit H is the proposed amendment to AB 244 as submitted by Assemblyman Dreyer.

59TH NEVADA LEGISLATURE

ELECTIONS COMMITTEE  
LEGISLATIVE ACTION

DATE February 23, 1977

SUBJECT AB 301, Provides advisory referendum on equal rights amendment

MOTION: \_\_\_\_\_

Do Pass XX Amend XX Indefinitely Postpone \_\_\_ Reconsider \_\_\_

Moved by Mr. Sena Seconded By Mr. Horn

AMENDMENT To include the wording of the ERA on the ballot the exact wording included in the minutes.

Moved By Mrs. Wagner Seconded By Mr. Goodman

AMENDMENT \_\_\_\_\_

Moved By \_\_\_\_\_ Seconded By \_\_\_\_\_

VOTE:	MOTION		AMEND		AMEND	
	Yes	No	Yes	No	Yes	No
MANN	X	—	X	—	—	—
SENA	X	—	X	—	—	—
CHANEY	X	—	X	—	—	—
GOODMAN	—	X	X	—	—	—
HORN	X	—	X	—	—	—
KOSINSKI	X	—	X	—	—	—
WAGNER	X	—	X	—	—	—

TALLY:            6            1            7            0

Original Motion: Passed XX Defeated \_\_\_ Withdrawn \_\_\_

Amended & Passed XXXX Amended & Defeated \_\_\_\_\_

Amended & Passed \_\_\_\_\_ Amended & Defeated \_\_\_\_\_

Attach to Minutes February 23, 1977  
Date



GUEST LIST  
ELECTIONS COMMITTEE

NAME (PLEASE PRINT)	REPRESENTING	WISH TO SPEAK	
		YES	NO
BROOKMAN NORTH LAS VEGAS		X	✓
STEVE STUCKER	CITY OF NORTH LAS VEGAS		✓
Kaylene Smockler			✓
Jane Woodhouse	NSEA		X
Jennie Myers	Revo Commission on Status of Women	✓	
Jane M. Smith	Leg Attorney Gen	✓	
Kate Butler	Newspapers for ERA	✓	
Daisy J. Salvitti	League of Women Voters	✓	

January 13, 1977

Assemblywoman Eileen Brookman  
Legislative Building  
401 South Carson Street  
Carson City, Nevada 89701

Re: Campaign Expense and Contribution Reporting

Dear Eileen:

As you recall, on the occasion of your "ambush" of me in MacDonald's this summer I said that this office would have a number of suggestions to clarify and make better the present campaign expenditure and reporting laws.

Enclosed is a draft of a bill to do just that. I hope you will support such changes so that the goal of the law will be achieved and prosecutors will have firm enough statutes to proceed when necessary.

Some of the phraseology is owed to Larry Hicks, Washoe County District Attorney, for we've discussed the problem at meetings of the Nevada District Attorneys' Association.

Incidentally, Sue Wagner from Reno has asked to receive a copy of my thoughts on the present law so I am sending her the draft also.

Sincerely,

Thomas D. Beatty  
Assistant District Attorney

ik  
encl.

cc: Assemblywoman Sue Wagner w/encl.

NRS Chapter 294A, election campaign practices requiring reports of campaign contributions and campaign expenses does not define candidate; requires reports to be filed with an agency far beyond the reach of the local public so that in one sense the report doesn't become a public document; provides penalties only for "willful violations" of the statute and applies only to general and primary elections.

PROPOSED SOLUTION:

Amend Chapter 294A by adding new Sections and amending present Sections to read as follows:

Section 1. - Add ~~to~~<sup>e</sup> new Section to read: "'Candidate' as used in NRS 294A includes every person who files the Declaration of Candidacy provided for in NRS 293.177; every person who files an acceptance of candidacy under NRS 293.180; every person whose name appears on the official ballot or ballot label used at a primary, general, recall or special election; includes persons who, having once filed a Declaration or acceptance of Candidacy for public office, thereafter withdrew from such election; and includes persons whether or not they actually received campaign contributions or actually made campaign expenses.

Section 2 - NRS 294A.010 is hereby amended to read as follows:

1. Every candidate for State, District, County, City or Township office at a primary, [or] general, recall or special election, report the total amount of all of his campaign contributions [to the Secretary of State] on

affidavit forms to be designed and provided by the Secretary of State.

2. Such report shall be filed: (a) in the case of a candidate for office which serves territory in more than one county, with the Secretary of State; and (b) in the case of a candidate for an office which serves territory in only one County, with the Clerk of that County.

[2].....3. Each contribution, whether from an individual, association or corporation in excess of \$500, shall be separately identified with the name and address of the contributor and the date of the contribution, tabulated and reported to the secretary of state on the affidavit report form provided therefor [3] 4. As used in this section, "contribution" means a gift, subscription, pledge, loan, conveyance, deposit, payment, transfer or distribution of money, and includes the payment by any person other than a candidate, of compensation for the personal services of another person which are rendered to a candidate without charge to the candidate.

[4] 5. Any candidate who willfully violates any of the provisions of this section is guilty of a gross misdemeanor.

NRS 294A.020 is hereby amended to read as follows:

1. Every candidate for state, district, county, city, or township office at a primary [or] general, recall or special election shall, within 15 days after the primary election and 30 days after the general, recall or special election, report his campaign expenses [to

the secretary of state] on affidavit forms to be designed and provided by the secretary of state.

2. Such report shall be filed: (a) in the case of a candidate for an office which serves territory in more than one county, with the secretary of state; and (b) In the case of a candidate for an office which serves territory in only one county, with the clerk of that county.

[2] 3. Any candidate who willfully violates any of the provisions of this section is guilty of a gross misdemeanor.

Section 4. A new section is hereby added to NRS 294A to read as follows: County clerks who have received for filing the contribution and expenditure reports required by NRS 294A.010 and NRS 294A.020 shall, after receipt thereof, forthwith transmit one copy of each such report to the secretary of state.

5. A new section is hereby added to NRS 294A to read as follows: Every person who delays in filing any report required by NRS 294A.010 or NRS 294A.020, shall forfeit to the county or state a civil penalty of \$100 for each day of delay. Such civil penalties shall be recovered by the appropriate district attorney or the attorney general in a civil action in a court of competent jurisdiction.

6. NRS 294A.080 is hereby amended to read as follows: If it appears to the secretary of state that the provisions of NRS 218.032, [or] NRS 294A.010 to 294A.030, inclusive, or section 5 above have been violated he shall report the alleged violation: 1. To the

attorney general in the case of a candidate for an office which serves territory in more than one county; and 2. To the appropriate district attorney in the case of a candidate for an office which serves territory in only one county, and the attorney general or district attorney to whom such report is made shall cause appropriate proceedings to be instituted and prosecuted in the court of proper jurisdiction without delay.

A.B. 244 STATEMENT OF THE LEAGUE OF WOMEN VOTERS OF NEVADA

by  
Daisy J. Talvitie, President

The League of Women Voters of the U.S. is supported by the Nevada League in its statement of position on campaign finance. We believe that there must be statutory requirements over the financing of political campaigns in order to make our government more accountable, more representative, and more responsive to all of our citizens. The goals of such regulation must be to ensure the public's right to know, to combat corruption and undue influence, and to enable candidates to compete more equitably for public office. We support full and timely disclosure of all campaign contributions and expenditures. Full and timely disclosure means full disclosure of contributions before elections and full disclosure of expenditures and other financial transactions by a stated deadline. We also believe that there must be adequate enforcement of the regulations and statutes adopted.

In line with the statement of position, the League supports A.B. 244 with the following amendments:

Page 1, lines 3 and 4 are inadequate to serve the purpose of the public's right to know as the information comes too late to be of benefit to the voter. If the filing of information is to be made after the primary or general election is over, the purpose of making government more responsive and more accountable to the general public is largely defeated. We, therefore, recommend the inclusion in A.B. 244 the following language from A.B. 259:

Every candidate for state, district, county, city or township office at a primary or general election shall, not later than:

- (a) Fifteen days before a primary election, for the period up to 20 days before the primary election
  - (b) Fifteen days after a primary election, for the remaining period up to the primary election
  - (c) Fifteen days before a general election for the period after the primary election and up to 20 days before the general election, and
  - (d) Thirty days after a general election, for the remaining period up to the general election
- ~~report his campaign~~  
report the total amount of all of his campaign contributions, etc.

The League also urges adoption of requirements to report campaign expenditures in the same manner.

March 18, 1974

The Honorable John (C.) Scott Ulm  
Arizona State Senator  
Senate Wing, State Capitol  
Phoenix, Arizona 85007

Dear Senator Ulm:

In your letter of February 21, 1974, you asked whether the Arizona State Legislature can refer to the people of the State by way of referendum an "advisory question" relating to ratification of the "Equal Rights Amendment" to the United States Constitution. The answer is no.

S.C.R. 1013 introduced February 12, 1974 (31st Arizona Legislature, Second Regular Session) states in pertinent part:

ADVISORY QUESTION. DO YOU RECOMMEND THAT THE ARIZONA LEGISLATURE SHOULD RATIFY THE FOLLOWING PROPOSED AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES WHICH PROVIDES THAT EQUALITY OF RIGHTS UNDER THE LAW SHALL NOT BE DENIED OR ABRIDGED BY THE UNITED STATES OR BY ANY STATE ON ACCOUNT OF SEX?

There are three basic grounds as to why the State Legislature may not place such an "advisory question" on the election ballot.

First, the referendum provisions of our State Constitution do not grant such authority to the Legislature. The referendum provisions of our Constitution (Article 4, Part 1, § 1) apply only to "laws" and "constitutional amendments" to our own State Constitution. They do not apply to "advisory questions", as advisory questions have no binding effect. See Opinion of the Justices Relative to the Eighteenth Amendment of the Constitution of the United States, 160 N.E. 429 (1928), dealing with a similar "advisory question" raised by way of initiative petition.



The Honorable John (C.) Scott Ulm  
March 18, 1974  
Page Two

Secondly, Article 5 of the United States Constitution grants no such authority to the State Legislature. Whenever a state legislature performs any act looking to the ratification or rejection of an amendment to the Constitution, it is not acting in accordance with any power granted to it by way of the state Constitution. The Legislature is exercising a power conferred upon it solely by the United States Constitution. Hawke v. Smith, 253 U.S. 221, 40 S.Ct. 495, 64 L.Ed. 871 (1920); State v. Sevier, 62 S.W.2d 895 (1933). As such, it is expected that the State Legislature shall ratify or reject the proposed amendment by way of its traditional, time honored methods--committee meetings, public hearings, floor debates, etc. In Re Opinions of the Justices, 148 So. 107 (1933).

If a direct advisory vote of the people were to be desired, the burden would be upon Congress to provide for ratification of the proposed amendment by way of state constitutional conventions, rather than by the state legislatures. In Re Opinions of the Justices, supra.

Lastly, it has long been a principal of constitutional law that a legislature may not do indirectly what it has been prohibited from doing directly. Caldwell v. Board of Regents, 54 Ariz. 404, 96 P.2d 401 (1939). The United States Supreme Court in the case of Hawke v. Smith, supra, has specifically held that a state legislature may not refer the act of ratifying a proposed amendment to the United States Constitution to the people of the state when Congress, pursuant to Article 5 of the United States Constitution, specifies that the state legislatures shall perform the ratification process. See Attorney General Opinion No. 73-12-L (R-21), April 26, 1973. The placing of S.C.R. 1013 upon the election ballot would be an attempted "end run" to do indirectly what the Supreme Court's mandate in Hawke, supra, prevents the Legislature from doing directly.

Sincerely,

GARY K. NELSON  
The Attorney General

JOHN M. MCGOWAN, II  
Special Assistant Attorney General

I ORIGINALLY SIGNED ON AS A CO-SPONSOR OF AB 301 WITH SOME HESITATION. I HAVE SINCE GIVEN THIS BILL MUCH RECONSIDERATION. I HAVE THOUGHT AND THOUGHT ABOUT IT...AND I HAVE HAD A "REVELATION."

ACCORDINGLY, I COME TODAY NOT TO PRAISE AB 301, BUT TO BURY IT.

LET ME QUOTE A PORTION OF AB 301 DIRECTLY: "...A QUESTION WILL APPEAR ON THE BALLOT FOR THE ADVICE AND OPINION OF THE REGISTERED VOTERS OF THE STATE RELATING TO THE RATIFICATION OF THE FOLLOWING PROPOSED AMENDMENT TO THE UNITED STATES CONSTITUTION..."

AND THEN THE EQUAL RIGHTS AMENDMENT IS QUOTED IN ITS ENTIRETY, ALL FIFTY-TWO WORDS.

QUOTING AGAIN FROM AB 301--AND THIS DISCLAIMER APPEARS TWICE, IN BOLD CAPITAL LETTERS BOTH TIMES--QUOTE:

"THE RESULT OF THE VOTING ON THIS QUESTION DOES NOT PLACE ANY LEGAL REQUIREMENT ON THE LEGISLATURE OR ANY OF ITS MEMBERS."

PAGE TWO

WHAT, THEN, DOES AB 301 REPRESENT?

A FARCE?

AN EXERCISE IN FUTILITY?

A MOVE TO GET ERA OFF THE BACKS OF THE LEGISLATURE AND LET THE PEOPLE FIGHT IT OUT?

A POLL OF SOME SORT?

IN THIS INSTANCE, THE DESCRIPTION OF AB 301 AS A "POLL" OR "ADVISORY MEASURE" IS A REFERENDUM BY ANY OTHER NAME. NO MATTER HOW CAREFUL THE PHRASING, AB 301 REPRESENTS AN INDIRECT SUBVERSION...OF THE PROCESS EMBODIED IN THE UNITED STATES CONSTITUTION...FOR THE RATIFICATION OF CONSTITUTIONAL AMENDMENTS.

THAT PROCESS PROVIDES NOT THAT THE PEOPLE, BUT THAT THE LEGISLATURES HAVE THE DUTY AND SOLE RESPONSIBILITY TO ACT ON THE RATIFICATION OF PROPOSED AMENDMENTS TO THE UNITED STATES CONSTITUTION.

I ACCEPT MY RESPONSIBILITY. OTHERWISE, I WOULD NOT SEEK, NOR DESERVE, THE VOTERS' SUPPORT THAT BROUGHT ME HERE AS A LEGISLATOR.

CLEARLY, AB 301 IS A CRUEL AND COWARDLY DODGE OF THE RESPONSIBILITY WE BEAR AS LEGISLATORS. THE BILL CYNICALLY DISREGARDS THE TERRIBLE POLARIZATION THAT A BALLOT QUESTION OF THIS KIND WILL CAUSE IN NEVADA.

PAGE THREE

MARK MY WORDS: A GENERAL ELECTION ON THIS MEASURE WILL CAUSE DEEP AND LASTING WOUNDS BETWEEN NEIGHBORS, COUNTIES, NORTHERN AND SOUTHERN NEVADANS, MEN AND WOMEN, AND NEVADANS OF ALL FAITHS.

AND FOR WHAT? FOR "THE ADVICE AND OPINION OF REGISTERED VOTERS," WHICH AT THE SAME TIME WILL NOT "PLACE ANY LEGAL REQUIREMENT ON THE LEGISLATURE OR ANY OF ITS MEMBERS."

IN OTHER WORDS, FOR AN EXERCISE IN FUTILITY AT BEST, AND A SADISTIC EXERCISE IN IRRESPONSIBILITY AT WORST.

PASSAGE OF THE BILL AND THE SUBSEQUENT CAMPAIGN FOR AND AGAINST THE BALLOT QUESTION WILL FURTHER TEAR THIS STATE APART IN THE MONTHS UNTIL NOVEMBER, 1978. AND FAR BEYOND THAT DATE, THE WOUNDS WILL CONTINUE, DEEP AND LASTING.

THIS LEGISLATURE HAS SUFFERED SOME STRONG CRITICISM FOR ACTIONS CONNECTED WITH THE VOTE ON THE EQUAL RIGHTS AMENDMENT. SOME MEMBERS SEEM DETERMINED TO ENGRAVE IN STONE THE GENERALLY TATTERED PUBLIC IMAGE OF POLITICIANS. HOWEVER, LET ME QUOTE THE IMMORTAL PHRASE OF ANOTHER POLITICIAN AND SAY THAT I'D LIKE TO "MAKE SOMETHING PERFECTLY CLEAR."

I'D LIKE TO MAKE PERFECTLY CLEAR THAT, CONTRARY TO THE ENGINEERS OF AB 301, I SUSPECT THAT IF THIS PROPOSAL REACHES THE BALLOT, A MAJORITY OF NEVADA VOTERS IN THE PRIVACY OF THE VOTING BOOTH WILL ADVISE THE 1979 LEGISLATURE TO TAKE ACTION TO RATIFY ERA.

BUT THAT NEVERTHELESS IS BESIDE THE POINT. THE POINT IS THAT PASSAGE OF AB 301 WILL LEAD TO FORCING THE PEOPLE TO ASSUME THE RESPONSIBILITY ABANDONED BY THE LEGISLATURE. AND THE FINAL POINT IS THAT IT'S ALL ACADEMIC. THE PEOPLE'S ACTION WILL NOT BE BINDING ON THE 1979 LEGISLATURE.

THE ENGINEERS OF THIS PROPOSAL LIKELY ARE WELL AWARE OF THE MASSIVE ENERGIES, FUNDS, DOWNRIGHT PROPAGANDA AND DELIBERATE MISINFORMATION THAT WILL BE THROWN INTO A POLITICAL CAMPAIGN OF THIS SORT BY THE OPPONENTS OF ERA. BY OPPONENTS, I INCLUDE THE FAR RIGHT ELEMENT IN THIS COUNTRY, THE JOHN BIRCHERS AND OTHERS, THE BIGOTS, FASCISTS, RACISTS AND INEVITABLE LUNATIC FRINGE.

THIS IS THE PORTENT OF MY "REVELATION," A PIPELINE THAT, INCIDENTALLY, IS AS AVAILABLE TO WOMEN AS TO MEN.

BY APPROVING AB 301 AND EFFECTIVELY DENYING OUR RESPONSIBILITY AS LEGISLATORS, NONE OF US WILL FOOL THE PEOPLE. AFTER THE STRANGE DEFEAT OF ERA IN THE NEVADA ASSEMBLY, WE WILL ONLY BE ADDING INSULT TO INJURY BY PASSING THIS BILL.

WE WILL BE INSULTING THE INTELLIGENCE OF NEVADANS, WE WILL BE INSULTING THE WORK AND MONEY WHICH THEY POURED INTO OUR PREVIOUS SUCCESSFUL ELECTION CAMPAIGNS, AND WE WILL BE INSULTING THEIR HONEST DESIRE TO BELIEVE IN THEIR ELECTED REPRESENTATIVES AND THE LEGISLATIVE PROCESS. THESE PEOPLE'S INTEGRITY HAS ALREADY BEEN INSULTED BY PHONY CHARGES--LATER RETRACTED--OF ILLEGAL AND ILLICIT LOBBYING TACTICS.

FINALLY, IN THE FRANTIC AND TRANSPARENT EFFORT OF SOME TO GET ERA OFF OUR BACKS AND ONTO THE BACKS OF THE PEOPLE, FINALLY IN THIS EFFORT TO INDIRECTLY SUBVERT THE CONSTITUTIONAL PROCESS, A RATHER IMPORTANT FACTOR SEEMS TO HAVE ESCAPED THE OTHERWISE CLOSE ATTENTION PAID TO CERTAIN POLITICAL CONSIDERATIONS.

CONSIDER THAT THE ARMY OF CAMPAIGN WORKERS, AND THE FUNDING THEY COULD DRUM UP FOR RE-ELECTION EFFORTS IN 1978, WILL HAVE TO BE DIVERTED TO THE BATTLE OF THE ERA ADVISORY REFERENDUM. THESE CAMPAIGN WORKERS AND CONTRIBUTORS WON'T BE ABLE TO TAKE ON BOTH THE BATTLE OF THE REFERENDUM AND EFFORTS TO GET CANDIDATES RE-ELECTED. IN THE FACE OF A FUTURE ENORMOUS ADVERTISING CAMPAIGN, WHICH WE ALL KNOW ERA OPPONENTS WOULD FINANCE IN THE REFERENDUM ELECTION, THE WOMEN AND MEN WHO WORKED SO HARD FOR US EARLIER...WILL HAVE TO DEVOTE ALL THEIR EFFORTS TO THE REFERENDUM. CONSEQUENTLY, THEIR USUAL HARD WORK TO RE-ELECT CANDIDATES WILL NECESSARILY BE LIMITED TO WISHES OF "LOTS A LUCK."

BECAUSE WE SIMPLY CAN'T HAVE IT BOTH WAYS. WE CAN'T APPROVE A BILL THAT WILL RESULT IN PITTING THE LIMITED RESOURCES OF NEVADANS AGAINST THE COLLECTIVE RESOURCES OF THE FAR RIGHT OF THIS COUNTRY, AND THEN EXPECT ANY LEFTOVER NEVADA RESOURCES FOR CANDIDATES IN THEIR RE-ELECTION CAMPAIGNS. WE CAN'T EXPECT THAT. IT'S NOT POSSIBLE. IT'S CONTRARY TO THE LAWS OF NATURE. AND HOW MANY TIMES HAVE WE BEEN TOLD, "YOU CAN'T FOOL MOTHER NATURE."

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I HOPE THIS COMMITTEE IS NOT SWAYED BY THE FICTION OF AB 301. THE FICTION IS THAT A BALLOT QUESTION WOULD MEASURE ERA SENTIMENT IN NEVADA. THE FACT IS, HOWEVER, THAT THE MEASUREMENT WOULD NOT COUNT, ANYWAY. THE BRUTAL FACT IS THAT THE MEASUREMENT WOULD BE TAKEN AT THE EMOTIONAL EXPENSE OF THE CITIZENS OF THIS STATE. AND AN INESCAPABLE FACT IS THAT THE MEASUREMENT WOULD BE AT THE EMOTIONAL EXPENSE OF LEGISLATORS, AS WELL.

AB 301 IS A CRUEL PROPOSAL. IT WOULD BE A TRAGEDY TO FORCE IT ON THE GOOD PEOPLE OF THIS STATE. THEY DESERVE BETTER FROM THEIR LEGISLATORS.

THANK YOU.



Editorials...

BROOKMAN

BROOKMAN

BROOKMAN

# Random Comments On State Legislature

It has been several days since we last looked in on activities at the state legislature, and the solons have been busy during the interim. Following are some random comments on a few of the Carson City events that seem noteworthy.

In the aftermath of the clash over the Equal Rights Amendment, some legislators believe they have discovered a new hiding place called the "advisory referendum." The gimmick would be to place the question of ratification of ERA on the 1978 general election ballot as a means of "polling" the voters of Nevada.

This strikes us as a particularly poor idea. If there is machinery to place the ERA question on the ballot for state voters to actually determine the matter, we could consider support. But to play games with the ballot is entirely inappropriate. And the current proposal is a suggestion for playing games — with the vote of the people to be not final, but only "advisory."

The suggestion apparently comes from members of the legislature who have forgotten that under our system of government the power is held by the people and is delegated, through the election process, to representatives. The "advisory referendum" concept seems to take the pompous position that the people have only an advisory capacity, and that the power is held by the politicians.

No such nonsense as an "advisory referendum" or an "optional mandate" should ever be tolerated.

Statement by  
DENNIS MYERS  
State Chairman, Young Democrats of Nevada  
Member, Reno Commission on the Status of Women  
Nevada Assembly/Committee on Elections  
Hearing on A.B. 301  
February 23, 1977

First, I would like to thank the committee for the opportunity to be heard on this bill to provide for an advisory referendum in Nevada on the subject of the Equal Rights Amendment.

At first glance, the idea may have great appeal. Why not let the public decide? It's hard to find fault with such a position. But I do.

I have three reasons for opposing it:

First, and least important, I believe that neither side in this battle will have the resources to conduct a viable campaign for their position and thus either side will justifiably reject it as a gauge of public sentiment should they lose.

Second, this referendum would further the public's wet-finger-in-the-wind perception of politicians as persons unwilling to take a stand without taking a survey.

Third, and most important, the referendum proposal is a distortion of the constitutional process of government, representing as it does a partial abdication of legislative

responsibility.

When initiative and referendum were first placed into the books of law during the Progressive Era, their purpose was to permit the public a means of ending running lawmakers, of going over the heads of unresponsive legislators. Although in Nevada and a few other states, provisions for legislative referendums are sometimes present, that was not the purpose of the laws.

I don't question the value of referendums initiated by the legislature. But their use should be restricted to certain uses, such as testing sentiment on issues which have traditionally been decided by public vote, such as---here in Nevada---right to work. But to order a legislative referendum simply to test public sentiment on issues that legislators find difficult and controversial constitutes abuse of the referendum law.

Yet, that's exactly how the initiative and referendum laws are used in Nevada now---by the legislature rather than by the public. An exact reversal of the original intent of the laws.

And very frankly, I think the public is becoming weary of public officials who find an issue too controversial and kick it back to the people for advice. The Reno City Council finds obscenity too hot to handle unless they first put it on the ballot to test public sentiment, as happened a couple of years ago. Another reversal---it's the public officials who were elected to make these decisions, and if they cannot

perform that function, something is wrong. The Nevada State Journal has referred to this spectacle editorially as "lawmakers shifting their responsibility for making decision<sup>s</sup> to the voters by placing them on the ballot."

And this referendum is being brought up at a time when the public thinks of political office holders as frightened and intimidate<sup>d</sup> men unsure of their convictions. This is particularly true at this moment in Nevada, since we have just been treated to the widely publicized spectacle of Assemblymen unwilling to exercise their best judgements and instead voting these hairbrained polls on the very subject of this proposed referendum.

Let's face it---today the public thinks you and all politicians are unable to take a position without first taking a poll, unable by their example and leadership to correct and educate public opinion. Is that how you see yourselves?

There is more to public life than the political pulse of the public. John Kennedy once said that to assume a representative is in office just to represent the people's opinion and not their interests "assumes (that) the people of Massachusetts sent me to Washington to serve merely as a seismograph to record shifts in popular opinion." Is that how you see yourselves? and is that how you want to be remembered as a public official? JFK went on to observe that the legislator "must on occasion lead, inform, correct, and sometimes even ignore constituent opinion, if we are to fully exercise that judgement for which we were elected."

How legislators approach that duty will determine the fate of this referendum proposal. It goes deeply to the issue of

what representative government is---whether you need this referendum as a wet finger in the wind, or whether you can perform your constitutional duty of exercising your best, informed judgement to decide the issue in question without flinching from the controversy it generates.

The Constitution of the United States designates state legislatures or state conventions (as the Congress shall decide) to ratify a constitutional amendment. There is nothing a referendum can do to advance that process. It can only add to the taxpayer's already heavy burden.

If there was ever a time for legislators to carry out the usual process of ratification by making a calm reasoned, and especially an informed judgement based on a sensible consideration of all the facts, it is on this issue of ERA, on which conflicting information and misinformation has been backlogged and stored up for five years. For our legislators now to flinch from the controversy in the commission of their ratification duty in this frivolous manner is not wisdom.

I might add that for anyone looking for a referendum, he or she might look to the election returns of 1974 and 1976. There is mandate enough there if anyone wants to find it.

This referendum bill presents you with a choice of what kind of public leaders you want to be. Walter Lippman once

wrote a description of one kind:

With exceptions so rare they are regarded as miracles of nature, successful democratic politicians are insecure and intimidated men. They advance politically only as they placate, appease, bribe, seduce, bamboozle, or otherwise manage to manipulate the demanding threatening elements in their constituencies. The decisive consideration is not whether the proposition is good but whether it is popular---not whether it will work well and prove itself, but whether the active-talking constituents like it immediately.

As an active-talking constituent, I would like my legislature to offer a higher example. I would like to think that my legislators can understand and follow the example of Edmund Burke, when he described the role of an elected representative:

Your representative owes you not his industry, but his judgement, and he betrays, instead of serving you, if he sacrifices it to your opinion ...You choose a member indeed; but when you have chosen him, he is not a member of Bristol, but he is a member of Parliament.

The League of Women Voters opposes A.B. 301. The federal constitution places the responsibility for ratification of amendments to the federal constitution squarely on the shoulders of state legislators. In voting against ratification of the E.R.A. Nevada legislators accepted their constitutional responsibilities and although the League disagrees with your decision, we, nevertheless respect the acceptance of responsibility shown. It is our feeling that you should now stand on the action you have taken. A straw vote by the public has no meaning in law and only serves to transfer your constitutional responsibility to the electorate, seeking by you an endorsement of your actions. That endorsement will come--or fail to come--as the result of the general elections for legislative offices. We ask that you now have the courage to run on your record. While the League opposes A.B. 301, we would appreciate the introduction of a bill which would propose an amendment to the Nevada Constitution giving us a state ERA with exactly the same wording as found in the first section of the proposed national amendment.

*W. L. L. L. L.*

A. B. 244

ASSEMBLY BILL NO. 244—ASSEMBLYMEN DREYER, BROOKMAN, SENA, CRADDOCK AND VERGIELS

FEBRUARY 1, 1977

Referred to Committee on Elections

SUMMARY—Provides for additional penalties and enforcement of election campaign practices law. (BDR 24-346)

FISCAL NOTE: Local Government Impact: No. State or Industrial Insurance Impact: No.

EXPLANATION—Matter in *italics* is new; matter in brackets [ ] is material to be omitted.

AN ACT relating to election campaign practices; providing for enforcement of the chapter and for ineligibility for office of persons who have not filed required reports; and providing other matters properly relating thereto.

*The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:*

- 1 SECTION 1. NRS 294A.010 is hereby amended to read as follows:
- 2 294A.010 1. Every candidate for state, district, county, city or town-
- 3 ship office at a primary or general election shall, within 15 days after the
- 4 primary election and 30 days after the general election, report the total
- 5 amount of all of his campaign contributions to the secretary of state on
- 6 affidavit forms to be designed and provided by the secretary of state.
- 7 2. Each contribution, whether from an individual, association or cor-
- 8 poration, in excess of \$500, shall be separately identified with the name
- 9 and address of the contributor and the date of the contribution, tabulated
- 10 and reported to the secretary of state on the affidavit report form provided
- 11 therefor.
- 12 3. As used in this section, "contribution" means a gift, subscription,
- 13 pledge, loan, conveyance, deposit, payment, transfer or distribution of
- 14 money, and includes the payment by any person other than a candidate, of
- 15 compensation for the personal services of another person which are ren-
- 16 dered to a candidate without charge to the candidate.
- 17 4. *A candidate who has failed to file the reports required by this sec-*
- 18 *tion or NRS 294A.020 is ineligible to hold the office to which he was*
- 19 *elected during the time that the reports remain unfiled.*
- 20 5. Any candidate who willfully violates any of the provisions of this
- 21 section is guilty of a gross misdemeanor.



1 SEC. 2. NRS 294A.080 is hereby amended to read as follows:  
2 294A.080 If it appears to the secretary of state that the provisions of  
3 NRS 218.032 or NRS 294A.010 to 294A.030, inclusive, have been vio-  
4 lated, he shall report the alleged violation:

5 1. To the attorney general in the case of a candidate for an office  
6 which serves territory in more than one county; and

7 2. To the appropriate district attorney ~~and to the attorney general~~ in  
8 the case of a candidate for an office which serves territory in only one  
9 county,

10 and the attorney general or district attorney to whom such report is made  
11 shall cause appropriate proceedings to be instituted and prosecuted in a  
12 court of proper jurisdiction without delay. *If a district attorney fails to*  
13 *institute proceedings based upon a report of the secretary of state within*  
14 *30 days after receiving it, ~~the attorney general shall institute the proceed-~~*

15 *ings he shall be subject to prosecution under NRS*  
*252.190.*