

Members Present:

Chairman Hayes  
Vice Chairman Stewart  
Mr. Banner  
Mr. Brady  
Mr. Coulter  
Mr. Fielding  
Mr. Horn  
Mr. Malone  
Mr. Polish  
Mr. Prengaman

Members Absent:

Mr. Sena

Guests Present:

Virgil Anderson	AAA
Jon Benson	Lawyer
Myram Borders	United Press
Robert E. Cahill	Nevada Resort Associates
Chris Chrystal	Las Vegas Sun
Brian Greenspun	Las Vegas Sun
Bob Heaney	Lawyer
Norman Herring	State Public Defender
Loyal Robert Hibbs	Defense Attorney
Joe Jackson	Reno Newspaper
Peter Neumann	Nevada Trial Lawyers Association
Margo Piscevich	Defense Attorney
Robert W. Ritter	Nevada State Journal
Norman Robison	Attorney General
Julien G. Sourwine	Attorney
George L. Vargas	American Insurance Association
Donald K. Wadsworth	D.A.'s Office
Eugene J. Wait	Defense Attorney

ASSEMBLY BILL 146

Consolidates and clarifies certain provision relating to comparative negligence.

ASSEMBLY BILL 333

Consolidates, clarifies and amends certain provisions relating to comparative negligence.

Mr. Peter Neumann testified on the bills. He stated that most of these cases involve insurance companies and that the Comparative Negligence Act and the Uniform Contribution Among Tortfisers Act was made to allocate liability (fault) to more than one defendant. There is a conflict that exists between

these two statutes. The people who cause injury (Tortfeisers) have never had the right of contribution among each other. Then a statute was enacted in 1973, The Legislature passed the Uniform Contribution Among Tortfeisers Act. This act was for all persons engaged in litigation and it provided a way for the jury to compare the negligence of claim on the one side of the case with the negligence of the defendant or defendants on the other side of the case. This was passed to somehow provide a way of allocating damages among defendants in cases where there was more than one defendant involved. This was on a pro-rata basis. The defendants would share the damages equally, 1/2 and 1/2; 1/3, 1/3, and 1/3, etc.

The Legislature passed at the same time the Comparative Negligence Act which was for a completely different purpose. Under former law the plaintiff who was one percent to blame for the accident could not recover anything, no matter how bad the damages and even though the defendant or defendants caused 99 percent of the damages. When the Legislature passed this act it made it to where if the plaintiff were at least not more than 50 percent to blame for an accident, he could at least get something for his damages. This Act was never intended to allocate or determine the rights of the defendants among each other. The jury or judge could if asked determine the defendants liability in proportion to their negligence. (Allocate fault among the co-defendants or multiple defendants of a case). This statute was a mechanism for deciding plaintiff vs. defendant and to see if the plaintiff should be allowed to recover anything. It says that the negligence of the combined defendants should be compared to the negligence of the plaintiff.

He feels that it is impossible to divide an indivisible injury and that the jury would say that both defendants were equally to blame. If 45 percent of the blame went to defendant #1 with a \$100,000. insurance policy, plaintiff could recover full amount but when he tried to collect the other \$45,000 (45% of the blame) from defendant #2 who had a \$15,000. insurance policy he would only get \$15,000. This would total to \$60,000, thus shortchanged by \$30,000. The jury is not allowed to know if there is or isn't any insurance or how much.

Eugene Wait, Defense Attorney for Insurance Companies, testified for A.B. 146. He has been acquainted with the Tortfeisers Act and he personally asked the Legislature to pass a bill for this in 1968 and it was voted on in 1969. In 1971 the bill came out with equitable contributions; settlements were almost impossible to get.

George L. Vargas, representing the American Insurance Association, testified against A.B. 146. He feels that this would establish the practice of law to assert the contributory negligence of someone else who was the sole cause of the accident.

Mr. Heaney, Nevada Trial Lawyers Association, spoke on A.B. 333. Mr. Heaney is against the fact that if the plaintiff is more than 50% at fault, he does not get any type of settlement. He feels that the defendant will not be found liable in an instance where he is 1% at fault. He stated that the burden should not be placed on the jury to make the decision of deciding who is how much at fault and that this type of legislation could increase welfare because the plaintiff cannot make himself whole again without a settlement. Mr. Heaney feels that A.B. 146 advocates limit recovery of the plaintiff.

Mr. Loyal Hibbs testified on these issues. He felt that Mr. Neumann was wrong because he feels that this does not protect the insurance. Many people these days are under insured, some are not even insured. He also added that we are no longer faced with a 12 person jury; it is either a 6 or an 8 person jury. 3/4 must agree and on a 6 person jury it must be unanimous. He feels that it is unfair to allocate the plaintiff to choose the person who will pay his damages and if we cannot divide the plaintiff's injuries, we cannot divide the negligence of the defendants.

Julien Sourwine, Attorney at Law testified for A.B. 146 and against A.B. 333. Mr. Sourwine stated that the juries are asked to divide injuries; and they do it day in and day out. The fault of each person who is at fault should be the measure of his own liability. If the financial condition of defendant is immaterial and irrelevant, then the amount of insurance that he has should also be immaterial and irrelevant. He feels that A.B. 333 should be amended to read joint and several.

Jon Benson, Attorney at Law, testified on these issues. He feels that you can be the proximate cause of someone's accident without being the only cause. He also feels that the financial condition is irrelevant.

Rene Ashelman, Nevada Trial Lawyers Association, testified on this bill. He feels that there is no way to achieve perfect justice. He stated that the plaintiff will never fully recover even with all of the money in the world. Mr. Ashelman stated that things can never be put back the way that they were before and that the burden should not be placed on the injured party. He stated that the legislature should accept the fact that they are not going to achieve a perfect and fair result no matter what is adopted.

ASSEMBLY BILL 524

Limits dissemination of certain criminal records and provides for their examination and challenge.

Myram Borders, United Press International, testified against A.B. 524. She feels that this bill is an attempt to usurp

newspeoples' rights. With her she brought a petition signed by over 100 people against this bill. She feels that this bill is interfering with the freedom of speech (using the information received from criminal records) and that LEAA has made mistakes before in the past. Her suggestions are for the Legislature to tell LEAA to keep their money. If this legislation is passed, she feels that at least they could adopt an amendment saying that if LEAA ceases to exist in its present form, the law will become null and void.

Brian Greenspun, Las Vegas Sun, testified against A.B. 524. He stated that the 1st Amendment to the Constitution infers that we cannot tell a newspaper what it can or can't print. He feels that you can have decisions made by people who are not honest; they withhold or sell information for a price and you are elected to protect the people from the criminal element. He feels that you are not elected to foreclose the people's right to know who is working in and around their business.

Chris Chrystal, City Editor of the Las Vegas Sun, testified against A.B. 524. She felt that the bill is interfering with the newspeoples' rights. She outlined the basics of the bill and pointed out quite a few discrepancies.

Chief William Tharp, Clark County Police Department, testified against A.B. 524. He feels that this bill is taking away the freedom of press and if you become too restrictive, you will never gain back the freedom that you have lost.

Bob Ritter, Executive Director of the Nevada State Journal and Reno Evening Gazette, testified against A.B. 524. He is opposed to any legislation that might restrict democracy and freedom of the press. He feels that a federal agency has tied the hands of state and local government. He stated that newspapers rarely print rap sheet information and that the decision to print or not print is the responsibility of the Editor.

Don K. Wadsworth, from the District Attorney's Office testified on A.B. 524. His office is concerned with conducting daily business. He stated that the District Attorneys are not criminal justice agencies so therefore, they cannot have information disseminated to them. He would be in favor of amendments to the bill that would help them.

Hank Greenspun, Editor and Publisher of the Las Vegas Sun testified against A.B. 524. Mr. Greenspun stated that the people in the newspaper business have been granted a very unique privilege; under the 1st amendment they have been given the right of freedom of the press. He felt that duties and responsibilities must be assumed, and that they will do everything in their might and power to keep the citizens of the nation informed and resist any attempt to keep this information from

them. Mr. Greenspun feels that this keeps the citizens safe in their homes from the human preying animals and that there is not one person who will not go to jail to make certain that the public will be informed. In his vigorous opposition he stated that he did not care what laws the legislature passed, they cannot limit their access to information that will be passed onto the people. He is asking the legislature to pass laws in the interest of the good people, not in the rights of the criminals.

Larry Ketzenberger, Las Vegas Metropolitan Police Department, testified on A.B. 524. He feels that if we do not comply with the federal government, they will most likely restrict us from getting criminal history records and that if we kill this bill, we would have to gamble with what the government hands the state of Nevada.

Vice Chairman Stewart adjourned the meeting at 10:50 a.m.

Respectfully submitted,

*Judy E. Williams*

Judy E. Williams  
Secretary