

SENATE COMMITTEE ON
RULES AND ELECTIONS

Hearing Room
Tapes 48 -49

MEMBERS PRESENT:

Sen. Randy Miller, Chair
Sen. Paul Phillips, Vice-Chair
Sen. Shirley Gold
Sen. Dick Springer

MEMBER EXCUSED:

Sen. Brady Adams

STAFF PRESENT:

Kristina McNitt, Committee Administrator
Gretchen Haber, Committee Assistant

MEASURES HEARD:

Introduction of Committee Bills
HB 2692: Public Hearing
SJR16: Public Hearing
SB 1120: Public Hearing
SJR41: Public Hearing
Executive Appointment: Robert Vernon, Director, Oregon State Fair and
Exposition Center

These minutes contain materials which paraphrase and/or summarize
statements made during this session. Only text enclosed in quotation marks

report a speaker's exact words. For complete contents of the proceedings,
please refer to the tapes.

TAPE 48, A

003 SEN. GOLD: calls the meeting to order at 9:15 a.m. as a subcommittee
until a quorum is present and opens the hearing on the Governor's
appointment of Robert Vernon as Director of the Oregon State Fair and
Exposition Center.

EXECUTIVE APPOINTMENT OF ROBERT VERNON TO DIRECTOR OF THE OREGON STATE FAIR
AND EXPOSITION CENTER

022 BABETTE HORENSTEIN, CHAIRPERSON, OREGON STATE FAIR ADVISORY COMMISSION:
testifies in favor of Bob Vernon. Presents written testimony (EXHIBIT A)
--Emerged at the top of a highly qualified group of candidates
--Brings to Oregon an outstanding resume

040 ROBERT VERNON: testifies that his career has included the oversight of

large facilities and large, complicated events. Events have included major-league talent, food and beverage, and attendance of over 100,000 people.

074 CHAIR GOLD: closes the public hearing on the appointment of Mr. Vernon pending the arrival of a quorum for purposes of voting on the nomination.

076 Opens public hearing on SJR16.

Witness:
Sen. Bob Kintigh

078 SENATOR BOB KINTIGH, testifies in favor of SJR16. Presents written testimony (EXHIBIT B).

--Key question is who has the final authority over children: parents or the government

--Measure establishes the parent as the ultimate authority

--Limits on parental rights are currently established in the measure, to protect the safety of children

114 SEN. KINTIGH: notes concern by school districts to the measure. Indicates that parental involvement, and the right of parents to object to curriculum they feel inappropriate, is important.

133 SEN. GOLD: asks if the hearing today has been set to hear opposition to the bill.

135 KRISTINA MCNITT, COMMITTEE ADMINISTRATOR: answers that the previous hearing ended before all the testimony could be heard.

158 Closes public hearing on SJR16.

159 Opens public hearing on SJR16, SB 1120, HB 2692, and SJR41.

Witnesses:
Don Wyatt, staff to Senator Shannon
Muriel Goldman, Children First for Oregon
Louise Wright, League of Women Voters of Oregon
Laurie Wimmer, Oregon Commission for Women
Cynthia Helmke, Mid-Valley Women's Crisis Service
David Fidanque, Executive Director, American Civil Liberties
Tevina Benedict, Women's Rights Coalition
Douglas Killian, Program Coordinator, Oregon Coalition For
Michael Powell, Owner, Powell's Books

154 DON WYATT, STAFF TO SENATOR SHANNON: testifies in support of SJR16, of SB 1120, HB 2692 and SJR41. Sen. Shannon's only criticism is that HB 2692 is not strong enough.

186 MURIEL GOLDMAN, LEGISLATIVE CHAIR, CHILDREN FIRST FOR OREGON, testifies against SJR16. Presents written testimony (EXHIBIT C).

-- Children First for Oregon cares for the welfare of children

--The state would incur high cost, whenever a parent feels their rights have been infringed

--It would allow any form of punishment

--It would allow the denial of health care to children

200 GOLDMAN: continues testimony.

250 GOLDMAN: continues testimony.

259 LOUISE WRIGHT, CHILDREN'S ISSUES CHAIR, LEAGUE OF WOMEN VOTERS OF OREGON, testifies against SJR16. Presents written testimony (EXHIBIT D).

--Education may be denied to children
--Immunization may be denied to children

290 WRIGHT: notes that current statutes protect children. Notes that the rights of parents are held highly in the status quo.

302 CHAIR GOLD: notes that written testimony has been received from Janice B. Hall, President, YWCA of Portland, in opposition to SJR16 (EXHIBIT E).

316 CHAIR GOLD: notes that the committee has now achieved a quorum.

316 LAURIE WIMMER, EXECUTIVE DIRECTOR, OREGON COMMISSION FOR WOMEN, testifies against SJR16. Presents written testimony (EXHIBIT F).

--Supports healthy family interaction
--Against setting the proprietary rights of parents above the needs for protection from children

366 WIMMER: testifies that the measure would limit the ability of caregivers to provide help to needy children, or children in abusive situations.

392 CYNTHIA HELMKE, MID-VALLEY WOMEN'S CRISIS SERVICE, testifies against SJR 16. Presents written testimony (EXHIBIT G).

Tape 49, A

006 HELMKE: discusses current regulation, and notes minimal protection of children today.

022 DAVID FIDANQUE, EXECUTIVE DIRECTOR, AMERICAN CIVIL LIBERTIES UNION, testifies against SJR16.

--Notes testimony by chief sponsor as to the intention of the measure in unusual situations
--Discusses possible legal consequences.

051 FIDANQUE: feels there would be undesirable legal consequences.

052 TEVINA BENEDICT, WOMEN'S RIGHTS COALITION, testifies against SJR16. Presents written testimony (EXHIBIT H).

--Parents could interfere with important protections and safety measures for children
--Does not call for a simple slogan, such as the language in the measure
--Notes personal experience with a mentally ill parent

091 CHAIR MILLER: closes public hearing on SJR16.

093 CHAIR: notes Democratic Caucus scheduled for 10:00 a.m., and the Senate floor session scheduled for 10:15 a.m.

108 DOUGLAS KILLIAN, PROGRAM COORDINATOR, OREGON COALITION FOR FREE EXPRESSION: testifies against SJR41 and SB 1120, and in support of HB 2692. Presents written testimony (EXHIBIT I).

--Citizens have ability to determine what materials are viewed
--Voters call for need to limit government

158 MICHAEL POWELL, OWNER, POWELL'S BOOKS, testifies against SJR41.

--Feels it would turn around Ballot Measure 19, which was defeated in the last election

--Notes that the voters chose to respect free speech and to uphold the constitution

--Oregonians have a long history of respecting freedom of expression

--Remedy ought to equal cost of the loss of the freedoms

--Discusses coordination of the federal and state standards

199 POWELL: feels there should be a greatly demonstrated need for the infringement of rights. States that, although he sells tens of millions of

books, that he has not received a complaint about an obscene book in his store.

208 POWELL: notes vague nature of federal standard.

228 POWELL: supports HB 2692. Testifies that the measure addresses child abuse in the appropriate manner.

236 Closes public hearing on SJR41.

240 Opens work session on the appointment of Robert R. Vernon as Director of the Oregon State Fair and Exposition Center.

254 MOTION: SEN. SPRINGER moves that the committee recommend to the Senate the confirmation of Mr. Robert R. Vernon as Director of the Oregon State Fair and Exposition Center.

261 VOTE: In a roll call vote all members present vote AYE. REP. ADAMS IS EXCUSED.

264 CHAIR MILLER declares the motion PASSED.

256 Closes work session on the appointment of Mr. Vernon.

264 Opens public hearing on SJR41.

Witnesses:

John Berger, Owner, Book Vault, Beaverton, Member Of Booksellers Association, and a Director and Treasurer of The Pacific Northwest Booksellers Association

Marian Saunts, General Manager, Powell's Books, Portland

Jim Arneson, Oregon Criminal Defense Lawyers Association

Deborah Garman, Secretary, Oregon Coalition For Free Expression

Tom Hall, Owner, Trilogy

David Fidanque, Executive Director, American Civil Liberties Union

286 JOHN BERGER, OWNER, BOOK VAULT, BEAVERTON, MEMBER OF BOOKSELLERS ASSOCIATION, AND A DIRECTOR AND TREASURER OF THE PACIFIC NORTHWEST

BOOKSELLERS ASSOCIATION: testifies against SJR41.

--Will not solve complex problems with simple resolution

--Voters were against the measure in the last election

--Would not want to defend himself under the U. S. Constitution free speech

provisions if someone feels there is something obscene or offensive in his store

--Supports HB 2692

323 SEN. PHILLIPS: asks if he supports HB 2692.

310 BERGER: answers yes.

312 MARIAN SAUNTS, GENERAL MANAGER, POWELL'S BOOKS, PORTLAND: testifies against SJR41.

--Feels the measure is the same as Measure 19 in the last election and people defeated the proposal

--Bill would have same unintended consequences as Measure 19

--Abhors child pornography, but feels SJR41 does not solve the issue.

--Supports HB 2692 because it addresses the issue

383 JIM ARNESON, OREGON CRIMINAL DEFENSE LAWYERS ASSOCIATION: testifies in opposition to SJR41

--Opposition is based on same opposition position to amend the Oregon Bill of Rights

--Prefer to have consistent standard that protects civil liberties; would provide greater protection than the Oregon Constitution

--Article I, Section 8 of the Oregon Constitution is a relatively clear statement of standard

--Bill is a short-sighted attempt to reach a means instead of developing legislation that does not violate the principles of free speech

Tape 48, B

003 SEN. PHILLIPS: notes a case on appeal to the Oregon Supreme Court, which creates a substantive change to the ways the laws are interpreted. There has been a substantive change since the November election and therefore there is justification to trying it again. Asks for a response.

014 ARNESON: answers that his understanding of State vs. Stoneman is that the case enunciates the same standard that the Supreme Court has been saying existed. One must look at any legislation that affects speech by attempting to see if it affects the content of the speech, rather than the secondary consequences of it. Feels that would not change the Constitution

standard. Feels HB 2692 is an attempt to meet that standard.

035 SEN. PHILLIPS: asked if there would be opposition based on support for freedom of speech.

038 ARNESON: answers that free speech is not the primary issue; rather, the organization is concerned with the protection of the Bill of Rights of the Oregon Constitution and to reduce the standard to simply say it would meet the U.S. standard.

054 DEBORAH GARMAN, SECRETARY, OREGON COALITION FOR FREE EXPRESSION: testifies against SJR41 and SB 1120 and in support for HB 2692. Presents written testimony (EXHIBIT J).

--Need for freedom of expression

--Against child pornography, yet feels a constitutional method is not the solution

--Suggests HB 2692 is a strong remedy

079 GARMAN: adds that she has been asked to express opposition to SJR41 by Jackson's Books, Salem (EXHIBIT O) and Borders Books and Music, Portland (EXHIBIT M).

100 CHAIR: notes example of the "Close Trojan" ballot initiatives repeatedly in Oregon and asks Ms. Garman if she is opposed to that process.

GARMAN: responds.

Discussion continues on ballot measures campaigns.

128 TOM HALL, OWNER, TRILOGY, testifies against SJR41. Presents written testimony (EXHIBIT K).

--Censorship belongs at home

--Cannot define obscenity

--Calls for need to protect freedom of speech

173 HALL: notes recent discussion in Junction City, Oregon, about the removal of Alice Walker's *The Color Purple* from school reading lists.

187 HALL: notes support for HB 2692.

194 DAVID FIDANQUE, EXECUTIVE DIRECTOR, AMERICAN CIVIL LIBERTIES UNION: testifies against SJR41. Presents written testimony (EXHIBIT N).
--Discusses vote on Ballot Measure 19

210 FIDANQUE: discusses State vs. Stoneman.

233 FIDANQUE: states ACLU is opposed to HB 2692 on policy grounds, rather than on constitutional grounds and believes it would pass mustard under the Oregon Bill of Rights without amendment.

248 FIDANQUE: states that by making an exception for one type of expression under the Oregon Bill of Rights, the door is opened for later exceptions. Since 1974, ACLU has opposed restrictions on free expression. ACLU opposed Measures 6 and 9, and expects to be involved at least as a Friend of the Court when the measures are challenged; they should be overturned by the courts. ACLU also opposes restrictions on commercial speech. Laws must be aimed at the negative effects caused by speech, not at preventing speech itself.

279 FIDANQUE: responds to Chair Miller's earlier question, with regard to the frequency of initiative measures appearing on the ballot. Feels it should not be the legislature's role to reintroduce issues; notes that is the appropriate role of the citizens.

Statements received by the Committee but not presented are hereby made a part of these minutes: letter from Ray Horowitz, Oregon Independent Booksellers Association (EXHIBIT P); list of endorsements/supports of Measure 19 dated 10/31/94 submitted by D. Killian (EXHIBIT Q); and a letter from Sen. Peter Sorenson (EXHIBIT R).

309 Closes public hearing on SJR41.

304 CHAIR: adjourns meeting at 10:30 a.m.

Submitted by,

Annetta Mullins
Committee Assistant

EXHIBIT SUMMARY:

A - Testimony on executive appointment of Vernon - B. Horenstein - 1 page
B - Testimony on SJR16 - B. Kintigh - 2 pages
C - Testimony on SJR16 - M. Goldman - 2 pages
D - Testimony on SJR16 - L. Wright - 1 page
E - Testimony on SJR16 - J. Hall - 2 pages
F - Testimony on SJR16 - L. Wimmer - 2 pages
G - Testimony on SJR16 - C. Helmke - 2 pages
H - Testimony on SJR16 - T. Benedict - 1 page
I - Testimony on SJR41 - D. Killian - 2 pages

J - Testimony on SJR41, SB 1120, HB 2692 - Deborah Garman - 3 pages
K - Testimony on SJR41 - T. Hall - 3 pages
L - NOT USED
M - Testimony on HB 2692 - Borders Books and Music, Deborah Garman - 1 page
N - Testimony on SJR41 - D. Fidanque - 3 pages
O - Testimony on SJR41 - Jackson's Books, Deborah Garman, 1 page
P - Testimony on SJR41 - R. Horowitz - 1 page
Q - Testimony on SJR41 - D. Killian - 2 pages
R - Testimony on HB 2692 - P. Sorenson - 1 page