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FOREWORD

By Richard H. Bryan, United States Senator (Ret.)

Welcome to this year's *Nevada Gaming Lawyer*. When Jeff Rodefer called to see if I would be interested in writing the *Foreword*, I asked what should I discuss? He told me that I could address anything I felt appropriate, but he inquired if I might consider writing about my life and career, as he thought this would be “extraordinarily fascinating and inspirational to so many people.” With that as my introduction to the *Foreword*, I hope you enjoy reading it as much as I enjoyed writing it while fondly recalling these great memories.

My Nevada odyssey began in January 1942. My father had just graduated from law school in Washington D.C. and our family was heading to Las Vegas, which had been his home since 1926 when he enrolled as a senior at Las Vegas High School.

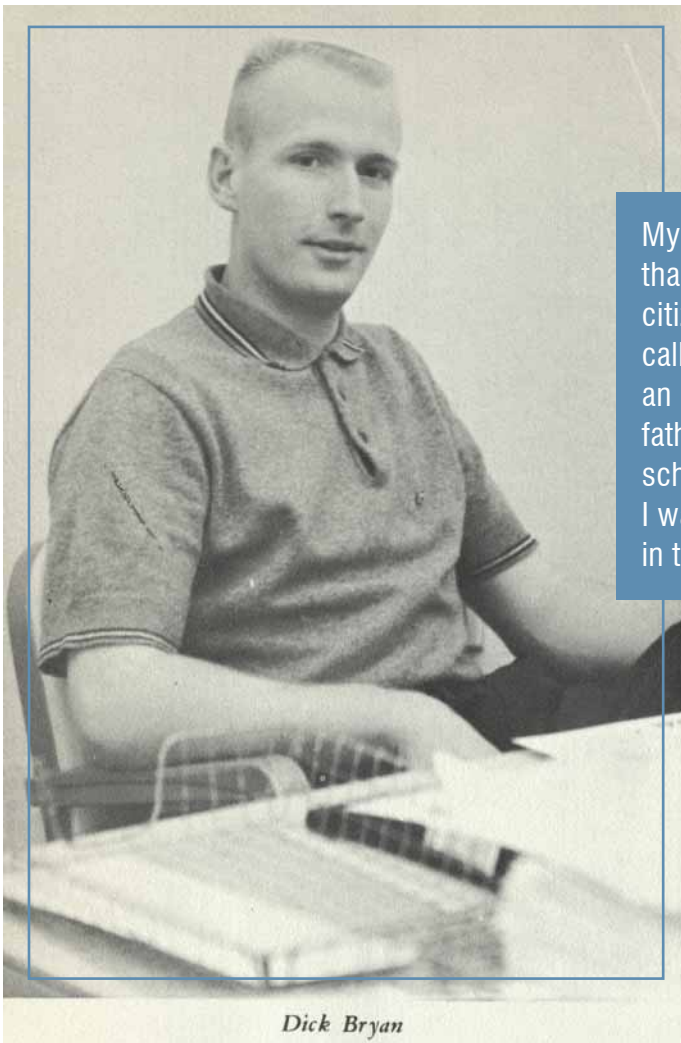
In 1942, Las Vegas was still a railroad town with a population of 8,500 residents. Nevada's population then was 110,000 – the least populated of the then 48 states. Astute observers may have noticed that there were a couple of new developments around that time. In 1941, the El Rancho Vegas Hotel & Casino opened just a few miles out of town on the LA Highway. The following year, the El Rancho Vegas Hotel & Casino was joined by the Last Frontier on what would later be called the Las Vegas Strip. World War II was about to transform Las Vegas. The U.S. Army opened a huge airbase that later became Nellis Air Force Base. As part of the war effort, a magnesium plant had opened in Henderson.

For me, the biggest event in my life was starting school at the 5th Street Grammar School. My kindergarten teacher was the legendary Doris Hancock. One assignment Ms. Hancock gave us may have been

prophetic. We were given a blank piece of paper with the outline of a kite on it. The assignment was to color the kite. Alas, my effort was inadequate and Ms. Hancock pinned a note to my collar for my mother that said, “Richard needs to learn to stay within the lines.” Many years later, I saw her and told her I thought she was right.



Senator Bryan with his father's portrait at the Oscar W. Bryan Seminar Room unveiling. Photo courtesy of University of Nevada, Reno Faculty Emerita Theresa Danna



Dick Bryan

Senator Bryan as President of the Associated Students of the University of Nevada (ASUN) from 1959. Photo courtesy of 1959 Artemisia Yearbook, Special Collections and University Archives Department, University of Nevada, Reno.

My father was very active in the community and on more than one occasion shared with me his belief that every citizen in the community was obligated to pay what he called, “your civic rent.” By that he meant that everyone had an obligation to give back to their community. I admired my father’s civic activities. I was active in grade school, high school, and university in all kinds of extracurricular activities. I wanted to be a lawyer like my father and by the time I was in the 8th grade I had set my goal to be Governor of Nevada.

Returning to Las Vegas after completing law school, I became a Clark County Deputy District Attorney. I was one of a handful of deputies assigned to the Criminal Division. Parenthetically, that is where my father got his start 20 years earlier.

My first assignment was in Justice Court where I handled preliminary hearings. Two such hearings stand out. In the first, I was trying a robbery case in Judge Tom Purcell’s courtroom. The defendant was in custody and was brought into court handcuffed by Deputy Sheriff, Steve Whitaker. Harry Claiborne was his attorney and was running late. I left the courtroom for a moment to place a call to Claiborne. A moment later, I heard quite a racket in the courtroom. As I returned, Whitaker was lying on his back. On top of him was the defendant who

was bearing down on him with a dirk fashioned out of a toothbrush handle. With a surge of adrenalin coursing through his system, he was somehow able to unholster his gun and shoot the defendant in the stomach. Word spread through the courthouse like a prairie fire. Lloyd Bell, the Undersheriff, and a couple of his deputies raced to the courtroom. Whitaker was shaking so badly I thought he might accidentally fire his weapon again.

There is a postscript to this event, which could have been tragic. The Sheriff's office changed its policy. In the future, all inmates in custody would be brought to court shackled as well as handcuffed. The next day, I was in District Court when Judge Purcell's brother, Bill Purcell, an insurance agent, called out to me. "Dick," he said, "you are in a dangerous line of work with all of those criminals. You have a wife and two small children at home. What you need is a Disability Insurance Policy." Good old Bill had made another sale and I kept the policy for at least another 40 years. Another only in Nevada story.

The other memorable experience for me in Justice Court was also before Judge Purcell. George Foley was the defendant's attorney and subpoenaed my boss, District Attorney Ted Marshall, to appear in court on the day the preliminary hearing was scheduled to begin. I had never seen any defendant put on a case at a preliminary hearing. In any event, the defendant would not have the opportunity to present a case until after the prosecution had completed presenting its case. I told Ted that I would call him after the State had rested its case. The fact pattern of the case was somewhat complicated, and it took a couple of days to complete the prosecution's case. I called Ted and told him it was time for him to come to Judge Purcell's courtroom. When Ted arrived, Purcell asked him where he was on the day on which the subpoena directed him to appear. Ted responded that I had told him that I had not yet completed the prosecution's case and that I would let him know when I had rested. Purcell was unmoved by Ted's exclamation. He held Ted in contempt of court and remanded him to the custody of the Sheriff Department to be taken to jail. Not exactly a career-enhancing move getting your boss tossed into jail.

In the 1960s, there were nine Deputy District Attorneys ("DAs") assigned to the Criminal Division. The criminal defense bar was small as well. Lulu's, a bar on 1st and Carson Street, was frequently the place where the Deputy DAs and the defense bar would congregate at the end of the day or while waiting for a jury verdict. On any given afternoon, you might find George Foley, Nevada's greatest storyteller holding forth. Jim Brennan, later a Justice of the Peace ("JP") and District Court Judge, could be found playing pool and running the

table. Herman Fisher, later a JP, after a few of his preferred beverages challenged anyone who would accept to an arm-wrestling challenge. Then there was Charlie Garner, whose tie collected cigarette ashes and, frequently, remnants of his lunch. No one who lived through that era could ever forget it. They are wonderful memories that remind us of when the town was still small as was the number of members of the Clark County Bar. During the day we battled in the courtroom and fought it out, but when the judge's gravel came down, we all headed to Lulu's.

During my time in the DA's Office and later as the Public Defender, I had no involvement with gaming issues. That would soon change. In 1968, I was elected to the State Assembly along with Harry Reid. We were assigned to the Assembly Judiciary Committee. In 1967, in his State of the State Message to the Legislature, Governor Paul Laxalt recommended a bill that would bring a major change in the state's gaming license requirements. At that time, no corporation could hold a Nevada gaming license. Every person who had a financial interest in a gaming property had to be individually licensed. Laxalt's proposal was very controversial, with some fearing it may lead to a loss of control by Nevada gaming regulators. Laxalt, however, correctly foresaw that as Nevada gaming properties grew in size and sophistication, the current system made it difficult, if not impossible, to raise the amount of capital needed to build them. The bill passed and in 1969 the Assembly Judiciary Committee, on which I served, added the finishing touches.



When New Jersey authorized casino gaming, Nevada's casino gaming monopoly had ended. Several issues arose. Would New Jersey hold its licensees to the same standard as Nevada? How would Nevada regulators regulate Nevada licensees who had been approved in New Jersey

for a gaming license and committed a violation in New Jersey? As a member of the State Senate Judiciary Committee, we wrestled with the answer to these questions and many more. The answer was “The Foreign Gaming Act.” The Foreign Gaming Act required all Nevada gaming licensees operating in New Jersey to abide by Nevada standards, even if New Jersey had a different standard. Failure to do so on the part of a Nevada licensee could result in disciplinary action in Nevada.

In 1979, I became Attorney General. A few months into my term, the principals of the Aladdin Hotel in Las Vegas, James Abraham, James Tamer, Charles Goldfarb, and Edward Monazym, were convicted of racketeering in Detroit. Closing the Aladdin Hotel would put a lot of people out of work. My deputies assigned to the gaming division, primarily Ray Pike and Phil Pro (the latter later became a federal district court judge), devised a plan to remove the management team and install a supervisor approved by the Nevada Gaming Commission (“Commission”). There was no statutory or regulatory authority for the appointment of a supervisor. The



management team sought an injunction to prevent the gaming authorities from removing them and appointing a supervisor. Federal District Judge Harry Claiborne granted them an injunction. We appealed to the Ninth Circuit Court of Appeals. I personally argued the case and the Ninth Circuit reversed Claiborne and upheld the appointment of the supervisor.¹

Trouble soon arose at the Tropicana Hotel in Las Vegas. Wiretaps revealed that the Civella brothers, Nicholas and Carl, who led the Kansas City Mob, had been skimming. The wiretaps also implicated Joe Augusto and Carl Thomas. Thomas was then a highly respected person in the gaming industry. Once the wiretaps were released and made public, they were finished.

The next two years of my term were dominated by several high-profile challenges to Nevada’s gaming control regimen. The Desert Inn Hotel had issued a number of markers and failed to collect them. They sought to deduct their marker losses from the gaming taxes they owed to the state. Markers are legitimately issued to enhance casino play, but at the Desert Inn, the markers had been issued as a way of skimming money. No effort was made by the Desert Inn to collect the markers. To eliminate this subterfuge, the Commission adopted regulations requiring casinos to use due diligence to collect markers before allowing any deductions from their gaming taxes. The casino challenged the regulations. On appeal, the Nevada Supreme Court upheld the due diligence regulations adopted by the Commission.²

Two more significant gaming cases went to the Nevada Supreme Court during my tenure as Attorney General. One upholding the constitutionality of the so-called Black Book, the list of excluded persons from gaming properties,³ and the other upholding the authority of gaming regulators to call forward for suitability persons who are not gaming licensees but who are closely associated with the gaming operators.⁴ All of these cases were successfully argued by Patty Becker.





In my first year as Governor, the Stardust made national news. Gaming investigators had described a skim- ming operation at the casino. Paul Bible was my newly appointed Commission Chairman and an experienced gaming lawyer. He had an extensive background in gaming law. I received a call from Paul requesting an appointment. I could tell from the tone of his voice it was urgent. By coincidence, Bonnie and I were going to Reno to attend a Christmas party that evening. I met Paul in his Reno office and he laid out the facts contained in a 55-page affidavit prepared by the Nevada Gaming Control Board investigators. Paul asked me what I thought. In my six years of Governor, I never tried to influence the decision of a gaming regulator. I said “Paul, I have complete confidence in you. You do what the facts dictate.” Bonnie and I then left for the Christmas party in Reno. Paul commenced revocation proceedings against the gaming operators and after an extensive legal challenge the court ultimately upheld the Commission’s decision to revoke the operator’s license.⁵ Acting under the supervisor statute from the new bill I mentioned above, the Boyd Group was appointed the supervisor of the casino and ultimately purchased the casino.



January 1987 Swearing-In for second term as Governor of Nevada (L-R seated Secretary of State Frankie Sue Del Papa, Governor Richard H. Bryan, First Lady Bonnie Bryan, and Chief Justice of the Nevada Supreme Court E.M. “Al” Gunderson).

For decades, Nevada, as the only state with casino gaming, was viewed as a pariah and a potential target for the Federal Government. There were no natural allies. In fact, as a matter of public policy, gaming debts were unenforceable and that remained the law in Nevada until the mid-1970s. In 1932, Pat McCarran was elected to the United States Senate. He became a powerful force in the Senate. McCarran's shortcomings have been well documented, but Nevada was fortunate to have him as a protector of Nevada's gaming industry. When I joined Senator Reid in the Senate in 1989, New Jersey and Mississippi had approved casino gaming. Unlike Nevada, in New Jersey and Mississippi, gaming was not the dominant industry and support of the industry by the state's political leaders was tepid at best. I got a preview of that attitude when New Jersey Governor Tom Kean refused to attend an Atlantic City Gaming Conference and make opening remarks. I got the call and agreed to make opening remarks at the conference.

New Jersey's senior Senator, Bill Bradley, who had been an All-American Basketball player at Princeton, was a critic of gaming and supportive of a ban on sports betting. His colleague, Senator Frank Lautenberg, generally followed Bradley's lead. It was a different

time, but much like McCarran's era, it was Nevada's senate delegation, Reid and I, who would be required to do the heavy lifting to protect Nevada's largest industry.

The first challenge I faced was the introduction of The Professional and Amateur Sports Protection Act (PASPA). Its avowed purpose was to outlaw sports betting nationally. Professional sports betting and bookmaking were already against the law in most states. Nevada was the only state in which the activities were licensed and regulated. Nevada was clearly a target. Reid and I persuaded Arizona Senator Denis DeConcini, who chaired the sub-committee with jurisdiction of the bill, to carve out an exemption for Nevada. The Supreme Court later declared PASPA unconstitutional.⁶

Four years later, gaming was once again on the congressional front burner with the creation of The National Gambling Impact Study Commission. It was obvious that opponents of gambling would try to stack the deck against Nevada. The appointment of Kay James and James Dobson confirmed our worse fears. Reid and I were successful in arguing for a more balanced commission and secured the appointment of Nevada Gaming Control Board Chairman, Bill Bible; Hotel and Restaurant Employees Union President, John Wilhelm;



and MGM Grand Chairman, Terri Lanni. Ultimately the commission's final report recommended only two areas for appropriate federal regulation – tribal gaming and the internet gaming.

In 2000, my last year in the Senate, the Amateur Sports Integrity and Gambling in Amateur Sports Act was proposed. The purpose of the legislation was to close the Las Vegas loophole that allowed legalized gambling in Nevada on amateur sports. Brian Sandoval; then Chairman of the Commission, Bobby Siller, then a Member of the Nevada Gaming Control Board; and American Gaming Association President, Frank Fahrenkopf, offered an effective rebuttal and the bill never became law.

Gaming issues continued to take up much of my time. Senator Conrad Burns of Montana had introduced legislation to assist his state's agriculture industry. Under Senate Rules in force at that time called "Pay Go Rules," any legislation that required additional expenditures had to be offset by new revenue. Burns proposed to add new gaming taxes to offset the cost of his proposal. I called Majority Leader Trent Lott, from Mississippi, and he told Senator Burns that he had to find a new offset. On the way out of his office, I thanked him. Lott replied "Please don't tell anyone I was helpful."

For 32 years as a State Legislator, Attorney General, Governor, and U.S. Senator, I was privileged to be a participant in shaping the changes that have transformed our state. I am most grateful to my fellow Nevadans for giving me this opportunity. I hope my father would agree that I have paid my civic rent.



Former U.S. Senator Richard H. Bryan recently retired from the law firm of Fennemore Craig, where his practice focused on government relations at the federal, state, and local levels, particularly in the area of public land use issues. He began his career in 1964 as a Deputy District Attorney in Clark County, Nevada. Two years later, he was named Clark County's first Public Defender. From 1968-1972, he served two terms in the Nevada State Assembly. In 1972, he was elected to the Nevada State Senate and re-elected in 1976. In 1978, Senator Bryan was elected to serve in his first statewide office as Nevada's Attorney General where he played a major role in successfully defending Nevada's gaming regulatory structure in the federal courts. In 1982, he was elected to the first of his two terms as Nevada's Governor. Under his leadership, economic diversification and the attraction of new businesses to Nevada became a priority. In 1988, he was elected to the first of his two terms in the United States Senate. He was the only Senator to simultaneously serve on the Senate Committees for Finance, Banking and Commerce. He also authored the Southern Nevada Public Land Management Act of 1998.



¹ *Aladdin Hotel Corp. v. Nev. Gaming Comm'n*, 637 F.2d 582 (9th Cir. 1980).

² *Summa Corp. v. State Gaming Control Bd.*, 649 P.2d 1363 (Nev. 1982).

³ *Spilotro v. State ex rel, Nev. Gaming Comm'n*, 661 P.2d 467 (Nev. 1983).

⁴ *Rosenthal v. State ex rel., Nev. Gaming Comm'n*, 620 P.2d 874 (Nev. 1980).

⁵ *Trans-Sterling, et al., v. Bible, et al.*, 804 F.2d 525 (9th Cir. 1986).

⁶ *Murphy v. Nat'l Collegiate Athletic Ass'n.*, 138 S. Ct. 1461 (2018).