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SENATE JUDICIARY COMMITTEE

MINUTES

March 31, 1971

Chairman Monroe called the meeting to order at 8:40 a.m.

Committee Members Present: Chairman Monroe
Senator Close
Senator Dodge
Senator Foley
Senator Swobe
Senator Wilson
Senator Young

Others Present: Miss Sharon Greene, Executive Director, Nevada
Hospital Association
Mr. Richard Morgan, Executive Director, Nevada
State Education Association
Mr. Robert Hess, Executive Secretary, State Bar
of Nevada
Assemblyman Richard H. Bryan
Assemblyman Virgil Getto
Grant Davis - Legislative Counsel Bureau
Press

A.B. # 74 - Requires production of medical records to attorneys
and makes records of Nevada Industrial Commission
confidential.
Committee on Commerce.

Miss Sharon Greene, Executive Director of the Nevada Hospital Association
testified against this bill. Her statement is attached (Attachment 1).

Senator Dodge made a motion to "kill" this bill. Senator Young seconded
the motion. Motion carried.

A.B. #242 - Increases penalty for issuance of wage check
without sufficient funds.
Assemblyman Roy L. Torvinen.

Senator Dodge made a motion to "kill" this bill. Senator Foley seconded
the motion. Motion carried.

A.B. #253 - Redefines obscenity and other related terms.
Lowman, Dreyer, and Schofield.

Grant Davis explained that this bill would conform the language of the
obscenity law to the supreme court ruling.

Senator Foley made a motion to "do pass." Senator Dodge seconded the
motion. Motion carried.

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A.B. #259 - Clarifies and supplements alibi witness procedure,
Assemblyman William D. Swackhamer.

Chairman Monroe noted that this is almost the same as S.B. #183 which we passed on March 10. Senator Foley felt it was fairer than our bill because it provides that the District Attorney has to disclose also.

Senator Young made a motion to "do pass." Senator Wilson seconded the motion. Motion carried.

The Assembly Judiciary Committee was asked to "kill" S.B. #183 because this one was passed.

A.B. #571 - Modifies provisions relating to dismissal, removal, and determinations not to reemploy teachers.
Lowman, Smith, Glaser, Ashworth, Capurro, and Torvinen.

Mr. Richard Morgan, Executive Director of the Nevada State Education Association testified for this bill. He said this is a composite of two bills since the Assembly took some provisions from A.B. #609 and amended them into A.B. #571. He said this bill is supported by his association, Clark and Washoe County School Districts, and the Department of Education.

This bill would change the definition of probation for teachers, corrects some problems in the professional practices act, and provides a hearing if the renewal of a contract is in question.

He said there was one problem with Line 14 on Page 4 because it provides for a probationary period of 2 years, and the Assembly Education Committee passed a bill, A.B. #446, which makes probation 3 years. They recommended we amend this bill to comply with the three year provision in A.B. #446, and ask the Assembly to kill A.B. #446.

Senator Young made a motion to amend and "do pass." Senator Wilson seconded the motion. Motion carried.

A.B. #339 - Grants powers of peace officers to brand inspectors.
Assemblyman William D. Swackhamer.

Senator Young made a motion to "do pass." Senator Dodge seconded the motion. Motion carried.

A.B. #355 - Permits city attorney to appeal granting of writ of habeas corpus.
Committee on Judiciary.

Senator Foley made a motion to "do pass." Senator Dodge seconded the motion. Motion carried.

S.B. #527 - Enlarges eligibility for examination to practice law.
Committee on Judiciary.

Mr. Robert Hess, Executive Secretary of the State Bar of Nevada testified against this bill. He said that if the legislature initiates legislation

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designed to make exceptions to the supreme court rules governing admissions, the state bar and supreme court will loose control over admission and competency. He said the present rules were set up not to protect the profession, but to protect the public from dishonest lawyers.

Senator Dodge asked if the bar examination wasn't supposed to be some valid determination of qualifications and ability, and asked if there couldn't be a distinction made between the older practitioner who has qualified in other states and is just asking to take the exam, and the first-time applicant.

Mr. Hess replied that they are not unaware of the problems involved in this particular type of case, and that in fact, the supreme court has appointed a committee to revise the present supreme court rules. He said he was not promising it would change this rule as applies to Mr. Kadens.

He said that regardless of the inequities that might apply in this case, if the states were to abandon the rules and requirements for graduation from an ABA approved law school, ABA and the legal profession would loose a powerful tool to require law schools to upgrade their standards which has benefited the public. He felt if there are special circumstances for Mr. Kadens, we should let the Supreme Court be the judge.

Senator Close felt that there should be an exception written into the rules that anybody who graduated from law school prior to the time the supreme court adopted that rule, could take the bar exam. He also suggested drafting a Senate Resolution to memorialize the State Bar and the Supreme Court to consider changing their rules.

Senator Young asked Mr. Hess if he thought the legislature has the constitutional power to enact S.B. #527. Mr. Hess replied that there would be a definite constitutional conflict.

No final action was taken.

A.B. #111 - Provides additional requirements for summary administration of estates.
Assemblyman Richard H. Bryan.

Assemblyman Richard Bryan testified for this bill. He said there is a conflict in the present law because Chapter 144 requires every executor to file an inventory and appraisement and Chapter 145 says it isn't needed except in a few cases. Half of the judges interpret Chapter 145 as succeeding Chapter 144, and the other half says an inventory and appraisement must be filed.

Assemblyman Bryan said the bill as originally drafted required filing an inventory and appraisement, but the Assembly Judiciary Committee felt that this was not necessary. Senator Dodge informed Mr. Bryan that this committee raised the limits to \$10,000 when this inventory and appraisement should be filed. Assemblyman Bryan agreed and felt the bill as originally introduced should be passed.

Senator Dodge made a motion to amend and "do pass." Senator Young seconded the motion. Motion carried.

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A.B. #316 - Requires a psychiatrist to concur before a sanity commission may find a defendant competent to stand trial.
Assemblyman Richard H. Bryan.

Assemblyman Bryan testified that presently the sanity commission is made up of three physicians, none of whom are psychiatrists.

Senator Dodge made a motion to "do pass." Senator Wilson seconded the motion. Motion carried.

A.B. # 19 - Provides exemption from jury duty for certain firemen, Getto, Howard, and Dini.

Assemblyman Virgil Getto testified for this bill. He said they have a problem with this in small counties where they need all the volunteers they can get. Senator Wilson questioned the provision that members of any organization or association of firemen be exempt after serving three years. Mr. Getto replied that these people are not qualified until they have served for three years. Senator Wilson felt that in that case, the three year provision was not necessary.

Senator Wilson made a motion to amend and "do pass." Senator Dodge seconded the motion. Motion carried.

Meeting adjourned at 10:45 a.m.

Respectfully submitted,


Eileen Wynkoop, Secretary

Approved: _____

TESTIMONY ON A. B. 74

PRIVILEGED COMMUNICATIONS

The hospitals in the State are presently cooperating with various attorneys regarding disclosure of patients' medical records, after receiving permission of the patient and attending physician.

A good deal of care has to be exercised in this process and this concern does not only relate to potential liabilities that may exist by either the doctor or hospital. It is our opinion that if these records were made subject to disclosure by the simple act of a request from any attorney, we would see " fishing expeditions " arise in unprecedented numbers.

Another consideration in evaluating A. B. 74 is the cancer or mental patient who may not be fully appraised of his condition. This is information that should be given at the attending physician's discretion, *by the physicians,* not over an attorney's desk.

As you well know, if the hospital and doctor refuse to give the patient access to his records through the usual request process, there is always recourse to the judicial process. I do not know of any other business or profession that is currently subjected to such absolute disclosure as hospitals would be if A. B. 74 is enacted into law. We sincerely hope you ~~and the other members of the~~ ~~Legislature~~ will concur with our opinions.



NEVADA HOSPITAL ASSOCIATION

SHARON GREENE
EXECUTIVE DIRECTOR